

B
L.2

~~L.193.~~

~~X.206.e.~~

~~X.206.f.~~

father.



Junto
Jupiter.

ed with laurel, in vestments edged with purple. This pompous company, going through the *Vicus Jugarius*, had a dance in the great field of Rome; from thence they proceeded through the *Forum Boarium* to the temple of Juno, where the victims were sacrificed by the decemviri, and the cypress images were left standing. This festival is not mentioned in the *festi* of Ovid, but is fully described by Livy, lib. vii. dec. 3. The hymn used upon the occasion was composed by Livius the poet.

JUNTO, in matters of government, denotes a select council for taking cognizance of affairs of great consequence, which require secrecy.

In Spain and Portugal, it signifies much the same with convention, assembly, or board, among us: thus we meet with the junto of the three estates, of commerce, of tobacco, &c. See BOARD, &c.

IVORY, in *Natural History*, &c. a hard, solid, and firm substance, of a white colour, and capable of a very good polish. It is the tusk of the elephant; and is hollow from the base to a certain height, the cavity being filled up with a compact medullary substance, seeming to have a great number of glands in it. It is observed, that the Ceylon ivory, and that of the island of Achem, do not become yellow in the wearing, as all other ivory does; for this reason the teeth of these places bear a larger price than those of the coast of Guinea.

Hardening, Softening, and Staining of Irons. See BONES and HORNS.

JUPITER, the supreme god of the ancient Pagans. The theologians, according to Cicero, reckoned up three Jupiters; the first and second of whom were born in Arcadia: of these two, the one sprang from Æther, the other from Cœlus. The third Jupiter was the son of Saturn, and born in Crete, where they pretended to show his sepulchre. Cicero in other places speaks of several Jupiters who reigned in different countries. The Jupiter, by whom the poets and divines understand the supreme god, was the son of Saturn king of Crete. He would have been devoured by his father as soon as born, had not his mother Rhea substituted a stone instead of the child, which Saturn immediately swallowed. Saturn took this method to destroy all his male children, because it had been foretold by Cœlus and Terra, that one of his sons should deprive him of his kingdom. Jupiter, being thus saved from his father's jaws, was brought up by the Curetes in a den on Mount Ida. Virgil tells us, that he was fed by the bees; out of gratitude for which, he changed them from an iron to a golden colour. Some say, that his nurses were Amalthea and Melissa, who gave him goats milk and honey; and others, that Amalthea was the name of the goat which nourished him, and which, as a reward for her great services, was changed into a constellation. According to others, he was fed by wild pigeons, who brought him ambrosia from Oceanus; and by an eagle, who carried nectar in his beak from a steep rock: for which he rewarded the former, by making them the foretellers of winter and summer; and the last by giving him immortality, and making him his thunder-bearer. When grown up, he drove his father out of heaven, and divided the empire of the world with his brothers. For himself, he had heaven and earth.

VOL. XI. Part II.

Neptune had the sea and waters; and Pluto hell. The Titans undertook to destroy Jupiter, as he had done his father. These Titans were giants, the sons of Titan and the Earth. They declared war against Jupiter, and heaped mountains upon mountains, in order to scale heaven: but their efforts were unsuccessful. Jupiter overthrew them with his thunder, and shut them up under the waters and mountains, from which they were not able to get out.

Jupiter had several wives: the first of whom, named *Metis*, he is said to have devoured when big with child, by which he himself became pregnant; and Minerva issued out of his head, completely armed and fully grown. His second was *Themis*; the name of his third is not known; his fourth was the celebrated *Juno*, whom he deceived under the form of a cuckoo, which to shun the violence of a storm fled for shelter to her lap. He was the father of the Muses and Graces; and had a prodigious number of children by his mistresses. He metamorphosed himself into a satyr to enjoy *Antiope*; into a bull, to carry off *Europa*; into a swan, to abuse *Leda*; into a shower of gold, to corrupt *Danaë*; and into several other forms to gratify his passions. He had *Bacchus* by *Semele*, *Diana* and *Apollo* by *Latona*, and was the father of *Mercury* and the other gods.

The heathens in general believed that there was but one supreme God; but when they considered this one great being as influencing the affairs of the world, they gave him as many different names: and hence proceeded their variety of nominal gods. When he thundered or lightened, they called him *Jupiter*; when he calmed the sea, *Neptune*; when he guided their councils, *Minerva*; and when he gave them strength in battle, *Mars*. In process of time they used different representations of this Jupiter, &c. and considered them, vulgarly at least, as so many different persons. They afterward regarded each of them in different views: e. g. The Jupiter that showed down blessings was called the *Kind Jupiter*; and when punishing, the *Terrible Jupiter*. There was also one Jupiter for Europe, and another for Africa; and in Europe, there was one great Jupiter who was the particular friend of the Athenians, and another who was the special protector of the Romans; nay, there was scarce a town or hamlet perhaps, in Italy, that had not a Jupiter of its own: and the Jupiter of Terracina or *Jupiter Anxur*, represented in medals as young and beardless, with rays round his head, more resembled Apollo than the great Jupiter at the Capitol. In this way Jupiter at length had temples and different characters almost everywhere: at Carthage, he was called *Ammon*; in Egypt, *Serapis*; at Athens, the great Jupiter was the Olympian Jupiter; and at Rome the greatest Jupiter was the Capitoline Jupiter, who was the guardian and benefactor of the Romans, and whom they called the "best and greatest Jupiter;" *Jupiter optimus maximus*. The figure of this Jupiter was represented in his chief temple on the Capitoline hill, as sitting on a curule chair; with the fulmen or thunder, or rather lightning in one hand, and a sceptre in the other. This fulmen in the figures of the old artists was always adapted to the character under which they were to represent Jupiter. If his appearance was to be mild and calm, they gave him the comic fulmen or

Jupiter. bundle of flames wreathed close together, held down in his hand: When punishing, he holds up the same figure, with two transverse darts of lightning, sometimes with wings added to each side of it, to denote its swiftness; this was called by the poets the three-forked bolt of Jove: and when he was going to do some exemplary execution, they put in his hand a handful of flames, all let loose in their utmost fury; and sometimes filled both his hands with flames. The superiority of Jupiter was principally manifested in that air of majesty which the ancient artists endeavoured to express in his countenance: particular attention was paid to the head of hair, the eyebrows, and the beard. There are several heads of the mild Jupiter on ancient seals; where his face has a mixture of dignity and ease in it, admirably described by Virgil, *Æn.* i. ver. 256. The statues of the Terrible Jupiter were generally of black marble, as those of the former were of white: the one sitting with an air of tranquillity; the other standing, more or less disturbed. The face of the one is pacific and serene; of the other angry or clouded. On the head of the one the hair is regular and composed; in the other it is so discomposed, that it falls half way down the forehead. The face of the Jupiter Tonans resembles that of the Terrible Jupiter; he is represented on gems and medals as holding up the triple bolt in his right hand, and standing in a chariot which seems to be whirled on impetuously by four horses. Thus he is also described by the poets. Ovid, *Dian.* Herc. v. 28.; Horace, lib. i. od. 4. v. 8. Jupiter, as the intelligence presiding over a single planet, is represented only in a chariot and pair: on all other occasions, if represented in a chariot, he is always drawn by four horses. Jupiter is well known as the chief ruler of the air, whose particular province was to direct the rains, the thunders, and the lightnings. As the dispenser of rain, he was called *Jupiter Pluvius*; under which character he is exhibited seated in the clouds, holding up his right hand, or extending his arms almost in a straight line each way, and pouring a stream of hail and rain from his right hand upon the earth; whilst the fulmen is held down in his left. The wings that are given him relate to his character of presiding over the air: his hair and beard in the Antonine pillar are all spread down by the rain, which descends in a sheet from him, and falls for the refreshment of the Romans; whilst their enemies are represented as struck with the lightnings, and lying dead at their feet.

Some consider a great part of the fable of Jupiter to include the history of Noah and his three sons; and that Saturn is Noah, who saw all mankind perish in the waters of the deluge; and who, in some sort, swallowed them up, by not receiving them into the ark. Jupiter is Ham; Neptune, Japheth; and Shem, Pluto.

The Titans, it is thought, represent the old giants, who built the tower of Babel, and whose pride and presumption God had confounded, by changing their language, and pouring out the spirit of discord and division among them. The name of *Jupiter*, or *Jovis Pater*, is thought to be derived from Jehovah, pronounced with the Latin-termination *Jovis* instead of *Jova*; and in medals we meet with *Jovis* in the nominative, as well as oblique cases: for example, *Jovis custos*, *Jovis propugnator*, *Jovis sator*. To the name *Jov-*

vis was added *pater*; and afterwards, instead of "*Jovis pater*," *Jupiter* was used by abbreviation.

Jupiter, Jura.

The name *Jupiter* was not known to the Hebrews till the reign of Alexander the Great, and the kings his successors. Antiochus Epiphanes commanded the idol of Jupiter Olympius to be placed in the temple at Jerusalem; and that of Jupiter the defender of strangers in the temple on Mount Gerizim, 2 Macc. vi. 2. While St Paul and St Barnabas were at Lystra, they were taken for gods, because they cured one who had been lame from his birth, and that by an expression only; St Paul was taken for Mercury, by reason of his eloquence; and St Barnabas for Jupiter (*Acts* xiv. 11, 12.), on account probably of his good mind.

JUPITER, ♃, in *Astronomy*, one of the superior planets, remarkable for its brightness; and which by its proper motion seems to revolve round the earth in about twelve years. See *ASTRONOMY Index*.

JURA, one of the Hebrides, or Western Islands of Scotland, lying opposite to Knapdale in Argyleshire, is supposed to be about 34 miles long and 10 broad. It is the most rugged of all the Hebrides; and is composed chiefly of vast mountains, naked, and without a possibility of cultivation. Some of the south and western sides only are improveable, and in good seasons as much bear and oats are raised as will maintain the inhabitants; though by the distillation, as Mr Pennant supposes, of their grain, they sometimes want. Bear produces four or five fold, and oats threefold. Sloes are the only fruits of the island; besides the berries of the mountain-ash, from which an acid for punch is obtained, and a kind of spirit is also distilled. Necessity hath instructed the inhabitants in the use of native dyes. Thus the juice of the tops of heath boiled supplies them with a yellow; the roots of the white water lily with a dark brown; those of the yellow water iris with a black; and the *galium verum*, *ru* of the islanders, with a very fine red, not inferior to madder. On the hills is some pasture for cattle; and the produce, when Mr Pennant visited the island, amounted to about 300 or 400 head of black cattle, sold annually at 3l. each; in 1805, the number of black cattle annually exported amounted to 500, which bring at an average 8l. each; and about 1000 sheep, which bring 1l. each; but goats are less numerous than formerly: about 100 horses are also sold annually. The other animals of Jura are about 100 stags; though these must formerly have been much more numerous, as the original name of the island was *Deir-ay*, or the *isle of deer*, so called by the Norwegians on account of the abundance of deer found in it. Here also Mr Pennant had some obscure account of a worm that, in a less pernicious degree, resembles the *FURIA infernalis* of Linnæus. The *fillan*, a little worm of Jura, small as a thread, and not an inch in length, insinuates itself under the skin, causes a redness and great pain, flies swiftly from place to place; but is cured by a poultice of cheese and honey. Of the mountains of Jura, those from their shape called the *paps*, are the most remarkable. There are only three very large ones: the biggest called *Beinn-an-air*, or the *mountain of gold*, lies farthest to the north; the second is called *Beinn-sheunta*, or the *hallowed mountain*; and the third, *Beinn-a-chaolais*, or the *mountain of the sound*, is the least of the three. Mr Pennant

Jura.

Pennant ascended the first with great labour and difficulty. It is composed of vast stones, covered with moss near the base; but all above bare and unconnected with each other. The whole, he says, seems a *cairn*, the work of the sons of Saturn. The grandeur of the prospect from the top abundantly made amends for the fatigue of ascending the mountain. Jura itself afforded a stupendous scene of rock, varied with innumerable little lakes. From the west side of the hill ran a narrow stripe of rock terminating in the sea, and called *the slide of the old hag*. To the south appeared Ilay extended like a map beneath his feet; and beyond that the north of Ireland; to the east two other islands, Cantyre, Arran, and the frith of Clyde bounded by Ayrshire; an amazing tract of mountains to the north-east as far as Benlomond; Skarba finished the northern view; and over the western ocean were scattered Colonsay and Oransay, Mull, Iona, and its neighbouring isles; and still further, the long extents of Tirey and Col, just apparent. The other paps are seen very distinctly, but all of them inferior in height. Mr Banks and his friends mounted that to the south, and found the height to be 2359 feet; but this is far overtopped by Beinn-an-oir. The stones of this mountain are white, a few red, quartz, and composed of small grains; but some are *brecciated*, or filled with crystalline kernels of an amethystine colour. The other stones of the island are, a cinereous slate, veined with red, and used here as a whetstone; a micaceous sandstone; and between the small isles and Arfin, a micaceous quartz rock stone. On the west side of the island there is an anchoring place called *Whitfarlan*; towards the north end is a bay called *Da'lyaul*; and on the same coast is formed another riding place for vessels among several small islands. Between the north end of Jura and the small isle of Skarba, there is a famous whirlpool, called *Cory Bhreacan*, from Breacan son to a king of Denmark, who perished in this gulf. His body being cast ashore on the north side of Jura, was buried in a cave, and his grave is still distinguished by a tombstone and altar. In this vortex, which extends about a mile in breadth, the sea begins to boil and ferment with the tide of flood, increasing gradually to a number of whirlpools, which, in the form of pyramids, spout up the water with a great noise, as high as the mast of a small vessel, agitated into such a foam as makes the sea appear white even at the distance of two leagues. About half flood the violence begins to decrease, and continues to do so till about half an hour after high water: then it boils as before, till within an hour of low water, when the smallest fishing boat may cross it without danger.

Jura is furnished with many rivulets and springs of excellent water, and the air is remarkably healthy; its salubrity being increased by the high situation, perpetually fanned by breezes. It is, however, but ill peopled; and did not contain above 700 or 800 inhabitants at the time it was visited by Mr Pennant. The number in 1805 has increased to 1100. The women are prolific, and very often bear twins. The inhabitants live to a great age, and are liable to few distempers. Men of 90 can work; and there was living in Pennant's time a woman of 80, who could run down a sheep. The inhabitants are all Protestants, but addicted to

some superstitions. The parish is supposed to be the largest in Great Britain, and the duty the most dangerous and troublesome: it consists of Jura, Oransay, Colonsay, Skarba, and several little isles divided by narrow and dangerous sounds; forming a length of not less than 60 miles; supplied by only one minister and an assistant.

The very old clans of Jura are the *Macilvuys* and the *Macraimes*; but it seems to have changed masters more than once. In 1549, Donald of Cantyre, Macguillayne of Doward, Macguillayne of Kinlochbuy, and Macduffie of Colonsay, were the proprietors: Maclean of Mull had also a share in 1586. Mr Campbell of Jura, and Mr Macneil of Colonsay, are now (1807) the only proprietors of this island; but by far the greatest part belongs to the former.

JURA is also the name of a chain of mountains in Switzerland, beginning in the canton of Zurich, extending from thence along the Rhine into the canton and bishopric of Basle, stretching into the canton of Soleure and the principality of Neuchatel, and branching out towards the Pays de Vaud; separating that country from Franche Comte and Burgundy, and continued beyond the Genevan territories as far as the Rhone. Many elevated valleys are formed by different parts of this chain in the country of the Pays de Vaud; among which one of the most remarkable is the valley of the lake of Joux, on the top of that part of the chain named *Mont Joux*. It contains several populous villages, and is beautifully diversified with wood, arable land, and pasture. It is watered by two lakes; the largest of which is that of Joux already mentioned. This has one shore of a high rock covered with wood; the opposite banks forming a gentle ascent, fertile and well cultivated; behind which is a ridge covered with pines, beech, and oak wood. The smaller lake, named *Brenet*, is bordered with fine corn fields and villages; and the stream which issues from it is lost in a gulf named *Entonnoir*, or the *Funnel*, where the people have placed several mills which are turned by the force of the falling current. The river Orbe issues from the other side of the mountain, about two miles from this place; and probably owes its origin to the subterraneous stream just mentioned. The largest lake is supplied by a rivulet which issues from the bottom of a rock, and loses itself in it. The valley contains about 3000 inhabitants, remarkable for their industry. Some are watchmakers; but the greatest number employ themselves in polishing crystals, granites, and marcasites. The country is much infested with bears and wolves. In ascending to this place there is a very extensive prospect of great part of the Pays de Vaud, the lake of Geneva, and that of Neuchatel, which from that high point of view appear to be nearly on a level; though M. de Luc found the latter to be 159 feet above the level of the lake of Geneva.

JURATS, JURATI, magistrates in the nature of ALDERMEN, for the government of several corporations. Thus we meet with the mayor and jurats of Maidstone, Rye, Winchelsea, &c.—So also Jersey has a bailiff and twelve jurats, or sworn assistants, to govern the island.

IVREA, an ancient and strong town of Italy, in Piedmont, and capital of Canavez, with a strong fort,

Jura
||
Ivrea.

Jurien
||
Jurisconsultus.

a bishop's see, the title of a marquisate, and an ancient castle. It is subject to the king of Sardinia, and seated on the river Doria between two hills, in E. Long. 7. 48. N. Lat. 45. 12.

JURIEU, PETER, an eminent French Protestant divine, called ironically by the Papists the *Goliath* of the Protestants, was born in 1637. He was educated in England under his maternal uncle Peter du Moulin, and took orders in the English church; but returning to succeed his father as pastor of a reformed congregation at Mer in the diocese of Blois, he was made professor of divinity and Hebrew at Sedan, where he acquired great reputation. This university being taken from the Protestants, a professorship of divinity was founded for him at Rotterdam; and he was also appointed minister of the Walloon church in the same town. Being now in a place of liberty, he gave full scope to an imagination naturally warm, and applied himself to study the book of Revelation, of which he fancied he had by a kind of inspiration discovered the true meaning; a notion that led him to many enthusiastic conjectures. He was moreover so unfortunate as to quarrel with his best friends for opposing his visionary opinions, which produced violent disputes between him and Messrs Bayle and de Beauval. He died in 1713; and left a great number of esteemed works behind him.

JURIN, DR JAMES, a distinguished person, who cultivated medicine and mathematics with equal success. He was secretary of the Royal Society in London, as well as president of the College of Physicians there. He had great disputes with Michelotti upon the moment of running waters, with Robins upon distinct vision, and with the partizans of Leibnitz upon moving bodies. A treatise of his "upon Vision" is printed in Smith's "Optics." He died in 1750.

JURISCONSULTUS (*ICtus*), among the Romans, was a person learned in the law; a master of the Roman jurisprudence; who was consulted on the interpretation of the laws and customs, and on the difficult points in law suits. The fifteen books of the Digests were compiled wholly from the answers or reports of the ancient jurisconsulti. Tribonianus, in destroying the 2000 volumes from whence the Code and Digest were taken, has deprived the public of a world of things which would have given them light into the ancient office of the jurisconsulti. We should scarcely have known any thing beyond their bare names, had not Pomponius, who lived in the second century, taken care to preserve some circumstances of their office.

The Roman jurisconsulti seem to have been the same with our chamber counsellors, who arrived at the honour of being consulted through age and experience, but never pleaded at the bar. Their pleading advocates or lawyers never became jurisconsulti. See **ADVOCATE**.

In the times of the commonwealth, the advocati had by much the more honourable employment, as being in the ready way to attain the highest preferments. They then despised the jurisconsulti, calling them in derision *formularii* and *legulei*, as having invented certain forms and monosyllables, in order to give their answers the greater appearance of gravity and mystery.

But in process of time they became so much esteemed, that they were called *prudenter* and *sapienter*, and the emperors appointed the judges to follow their advice. Augustus advanced them to be public officers of the empire; so that they were no longer confined to the petty councils of private persons.—Bern. Rutilius has written the lives of the most famous jurisconsulti who have lived within these 2000 years.

JURISDICTION, a power or authority which a man has to do justice in cases of complaint made before him. There are two kinds of jurisdiction, the one *ecclesiastical*, the other *secular*.

Secular JURISDICTION belongs to the king and his justices or delegates. The courts and judges at Westminster have jurisdiction all over England, and are not restrained to any county or place; but all other courts are confined to their particular jurisdictions, which if they exceed, whatever they do is erroneous. There are three sorts of inferior jurisdictions; the first is *tenerre placita*, to hold pleas, and the plaintiff may sue either there or in the king's courts. Another is the consanguinity of pleas, where a right is invested in the lord of the franchise to hold pleas: and he is the only person that can take advantage of it, by claiming his franchise. The third sort is an exempt jurisdiction, as where the king grants to some city, that the inhabitants shall be sued within their city, and not elsewhere; though there is no jurisdiction that can withstand a *certiorari* to the superior courts.

Ecclesiastical JURISDICTION belongs to bishops and their deputies.

Bishops, &c. have two kinds of jurisdiction; the one *internal*, which is exercised over the conscience in things purely spiritual; and this they are supposed to hold immediately of God.

The other is *contentious*, which is a privilege some princes have given them of terminating disputes between ecclesiastics and laymen.

JURISPRUDENCE, the science of what is just or unjust; or the knowledge of laws, rights, customs, statutes, &c. necessary for the administration of justice. See **LAW**.

JUROR, JURATOR, in a legal sense, is one of those twenty-four or twelve men who are sworn to deliver truth upon such evidence as shall be given them touching any matter in question. The punishment of petty jurors attainted of giving a verdict contrary to evidence, willingly, is very severe.

JURY, a certain number of men sworn to inquire into and try a matter of fact, and to declare the truth upon such evidence as shall appear before them.

Juries are, in these kingdoms, the supreme judges in all courts and in all causes in which either the life, property, or reputation, of any man is concerned: this is the distinguishing privilege of every Briton, and one of the most glorious advantages of our constitution; for as every one is tried by his peers, the meanest subject is as safe and as free as the greatest. See the article **TRIAL**.

Jurr Mast, whatever is set up in room of a mast that has been lost in a storm or an engagement, and to which a lesser yard, ropes, and sails, are affixed.

JUS CORONÆ. See **HEREDITARY Right**, and **SUCCESSION**.

Jurisdiction
||
Jus

Jus Deliberandi, in Scots Law, that right which an heir has by law of deliberating for a certain time whether he will represent his predecessor.

Jus Devolutum, in Scots Law, the right of the church, of presenting a minister to a vacant parish, in case the patron shall neglect to use that right within the time limited by law.

Jus Mariti, in Scots Law, the right the husband acquires to his wife's moveable estate, in virtue of the marriage.

Jus Relicta, in Scots Law, the right the wife has in the goods in communion, in case of the previous decease of the husband.

Jus Preventionis, in Scots Law, the preferable right of jurisdiction acquired by a court, in any cause to which other courts are equally competent, by having exercised the first act of jurisdiction.

Jus Civile, amongst the Romans, signified no more than the interpretation given by the learned, of the laws of the twelve tables, though the phrase now extends to the whole system of the Roman laws.

Jus Civitatis, signifies freedom of the city of Rome, which entitled those persons who had obtained it to most of the privileges of Roman citizens—yet it differs from *Jus Quiritium*, which extended to all the advantages which a free native of Rome was entitled to—the difference is much the same as betwixt *denization* and *naturalization* with us.

Jus Honorarium, was a name given to those Roman laws which were made up of edicts of the supreme magistrates, particularly the *prætors*.

Jus Imaginis, was the right of using pictures and statues amongst the Romans, and had some resemblance to the right of bearing a coat of arms amongst us. This honour was allowed to none but those whose ancestors or themselves had borne some *curule office*, that is, had been *Curule Ædile*, *Censor*, *Prætor*, or *Consul*.

The use of statues, &c. which the *Jus Imaginis* gave, was the exhibiting them in funeral processions, &c. See IMAGE.

Jus Papirianum, was the laws of Romulus, Numa, and other kings of Rome, collected into a body by Sextus Papirius, who lived in the time of Tarquin the Proud; which accounts for the name.

Jus Trium Liberorum, was a privilege granted to such persons in the city of Rome as had three children, by which they were exempted from all troublesome offices. The same exemption was granted to any person who lived in other parts of Italy, having four children; and those that lived in the provinces, provided they had five (or as some say seven) children, were entitled to the same immunities. This was good policy, and tended to the population of the empire. For a further account of these privileges, see CHILDREN.

JUSSICA, a genus of plants belonging to the decandria class; and in the natural method ranking under the 17th order, *Calycanthemæ*. See BOTANY Index.

JUST, a sportive kind of combat on horseback, man against man, armed with lances. The word is by some derived from the French *jouste*, of the Latin *juxta*, because the combatants fought near one another. Salmasius derives it from the modern Greek *zoustra*, or rather *ζυστρα*, which is used in this sense by Nicepho-

rus Gregorius. Others derive it from *justa*, which in the corrupt age of the Latin tongue was used for this exercise, by reason it was supposed a more just and equal combat than the tournament.

The difference between jousts and tournaments consists in this, that the latter is the genus, of which the former is only a species. Tournaments included all kinds of military sports and engagements made out of gallantry and diversions: Jousts were those particular combats where the parties were near each other, and engaged with lance and sword. Add, that the tournament was frequently performed by a number of cavaliers, who fought in a body: The joust was a single combat of one man against another.—Though the jousts were usually made in tournaments after a general encounter of all the cavaliers, yet they were sometimes singly, and independent of any tournament. See TOURNAMENT.

He who appeared for the first time at a joust, forfeited his helm or casque unless he had forfeited before at a tournament.

JUSTICE, in a moral sense, is one of the four cardinal virtues, which gives every person his due.

Civilians distinguish justice into two kinds: *communicative* and *distributive*. The former establishes fair dealing in the mutual commerce between man and man; and includes sincerity in our discourse, and integrity in our dealings. The effect of sincerity is mutual confidence, so necessary among the members of the same community; and this mutual confidence is sustained and preserved by the integrity of our conduct.

Distributive justice is that by which the differences of mankind are decided, according to the rules of equity. The former is the justice of private individuals; the latter of princes and magistrates.

Fidelity and truth are the foundation of justice. As to be perfectly just is an attribute of the Divine Nature, to be so to the utmost of our ability is the glory of man.

The following examples of this virtue are extracted from various authors.

I. Among the several virtues of Aristides, that for which he was most renowned was justice; because this virtue is of most general use, its benefits extending to a greater number of persons, as it is the foundation, and in a manner the soul, of every public office and employment. Hence it was that Aristides, though in low circumstances, and of mean extraction, obtained the glorious surname of the *Just*; a title, says Plutarch, truly royal, or rather truly divine: but of which princes are seldom ambitious, because generally ignorant of its beauty and excellency. They choose rather to be called the conquerors of cities and the thunderbolts of war, preferring the vain honour of pompous titles, which convey no other idea than violence and slaughter, to the solid glory of those expressive of goodness and virtue. How much Aristides deserved the title given him, will appear in the following instances; though it ought to be observed, that he acquired it not by one or two particular actions, but by the whole tenor of his conduct.

Themistocles having conceived the design of supplanting the Lacedæmonians, and of taking the government of Greece out of their hands, in order to put it into those of the Athenians, kept his eye and his thoughts

Justice. thoughts continually fixed upon that great project; and as he was not very nice or scrupulous in the choice of his measures, whatever tended towards the accomplishing of the end he had in view he looked upon as just and lawful.

On a certain day then he declared in a full assembly of the people, that he had a very important design to propose; but that he could not communicate it to the people, because its success required it should be carried on with the greatest secrecy: he therefore desired they would appoint a person to whom he might explain himself upon the matter in question. Aristides was unanimously fixed upon by the whole assembly, who referred themselves entirely to his opinion of the affair; so great a confidence had they both in his probity and prudence. Themistocles, therefore, having taken him aside, told him that the design he had conceived was to burn the fleet belonging to the rest of the Grecian states, which then lay in a neighbouring port; and by this means Athens would certainly become mistress of all Greece. Aristides hereupon returned to the assembly, and only declared to them that indeed nothing could be more advantageous to the commonwealth than Themistocles's project, but that at the same time nothing in the world could be more unjust. All the people unanimously ordained that Themistocles should entirely desist from his project.

There is not perhaps in all history a fact more worthy of admiration than this. It is not a company of philosophers (to whom it costs nothing to establish fine maxims and sublime notions of morality in the school) who determine on this occasion that the consideration of profit and advantage ought never to prevail in preference to what is honest and just; but the whole people who are highly interested in the proposal made to them, that are convinced it is of the greatest importance to the welfare of the state, and who, however, reject it with unanimous consent, and without a moment's hesitation; and for this only reason, that it is contrary to justice. How black and perfidious, on the other hand, was the design which Themistocles proposed to them, of burning the fleet of their Grecian confederates at a time of entire peace, solely to aggrandize the power of the Athenians! Had he a hundred times the merit ascribed to him, this single action would be sufficient to sully all his glory; for it is the heart, that is to say, integrity and probity, which constitutes and distinguishes true merit.

2. The government of Greece having passed from Sparta to the Athenians, it was thought proper under this new government to lodge in the island of Delos the common treasure of Greece; to fix new regulations with regard to the public money; and to lay such a tax as might be regulated according to the revenue of each city and state, in order that the expences being equally borne by the several individuals who composed the body of the allies, no one might have reason to murmur. The difficulty was to find a person of so honest and incorrupt a mind, as to discharge faithfully an employment of so delicate and dangerous a kind, the due administration of which so nearly concerned the public welfare. All the allies cast their eyes on Aristides; accordingly they invested him with full powers, and appointed him to levy a tax on each of them, relying entirely on his wisdom and

Justice. The citizens had no cause to repent their choice. He presided over the treasury with the fidelity and disinterestedness of a man who looks upon it as a capital crime to embezzle the smallest portion of another's possessions, with the care and activity of a father of a family in the management of his own estate, and with the caution and integrity of a person who considers the public money as sacred. In fine, he succeeded in what is equally difficult and extraordinary, viz. to acquire the love of all in an office in which he who escapes the public odium gains a great point. Such is the glorious character which Seneca gives of a person charged with an employment of almost the same kind, and the noblest eulogium that can be given to such as administer public revenues. It is the exact picture of Aristides. He discovered so much probity and wisdom in the exercise of this office, that no man complained; and those times were considered ever after as the golden age; that is, the period in which Greece had attained the highest pitch of virtue and happiness.

While he was treasurer-general of the republic, he made it appear that his predecessors in that office had cheated the state of vast sums of money, and among the rest Themistocles in particular; for this great man, with all his merit, was not irreproachable on that head; for which reason, when Aristides came to pass his account, Themistocles raised a mighty faction against him, accused him of having embezzled the public treasure, and prevailed so far as to have him condemned and fined. But the principal inhabitants, and the most virtuous part of the citizens, rising up against so unjust a sentence, not only the judgement was reversed and the fine remitted, but he was elected treasurer again for the year ensuing. He then seemed to repent of his former administration; and by showing himself more tractable and indulgent towards others, he found out the secret of pleasing all that plundered the commonwealth; for as he neither reprov'd them nor narrowly inspected their accounts, all these plunderers, grown fat with spoil and rapine, now extolled Aristides to the skies. It would have been easy for him, as we perceive, to have enriched himself in a post of that nature, which seems, as it were, to invite a man to it by the many favourable opportunities it lays in his way; especially as he had to do with officers, who for their part were intent upon nothing but robbing the public, and would have been ready to conceal the frauds of the treasurer their master, upon condition he did them the same favour. These very officers now made interest with the people to have him continued a third year in the same employment: but when the time of election was come, just as they were on the point of electing Aristides unanimously, he rose up, and warmly reprov'd the Athenian people: "What (says he), when I managed your treasure with all the fidelity and diligence an honest man is capable of, I met with the most cruel treatment, and the most mortifying returns; and now that I have abandoned it to the mercy of these robbers of the republic, I am an admirable man and the best of citizens! I cannot help declaring to you, that I am more ashamed of the honour you do me this day, than I was of the condemnation you passed against me this time twelve months; and with grief I find that it is more glorious with

Justice.

with us to be complaisant to knaves than to save the treasures of the republic." By this declaration he silenced the public plunderers and gained the esteem of all good men.

3. In the Universal History we meet with the following remarkable instance of a scrupulous regard to justice in a Persian king named Noufschirvan. Having been out a hunting, and desirous of eating some of the venison in the field, several of his attendants went to a neighbouring village and took away a quantity of salt to season it. The king suspecting how they had acted, ordered that they should immediately go and pay for it. Then turning to his attendants, he said, "This is a small matter in itself, but a great one as it regards me: for a king ought ever to be just, because he is an example to his subjects; and if he swerves in trifles, they will become dissolute. If I cannot make all my people just in the smallest things, I can at least show them it is possible to be so."

These examples, to which many more might be added, are highly pleasing to a sagacious and virtuous mind; but the sensual and brutal part of mankind, who regard only the present moment, who see no objects but those which fall under the cognizance of the corporeal eye, and estimate the merit of every action by the gain which it produces, have always considered justice and utility as independent of each other. They put utility in the balance against honesty every day; and never fail to incline the beam in favour of the former, if the supposed advantage is thought to be considerable. They have no regard to justice but as they reckon to gain by it, or at least not to lose; and are always ready to desert it when it exposes them to any danger or threatens them with any loss. From this disposition of mind proceeds that avidity of wealth and that habitual fraud which perpetually embroil civil society: from this fatal source arises that deluge of iniquity which has overflowed the world; from this preference of interest to honesty proceed every unjust litigation and every act of violence. And yet nothing is more certain than that "Whatever is unjust must, upon the whole, be disadvantageous;" which might be proved thus:

Nothing is advantageous or useful but that which has a tendency to render us happy: the highest advantage, or absolute utility, is complete happiness; and to this happiness, whatever is advantageous or useful is relative as to an ultimate end; and nothing that is not thus relative to happiness can properly be said to be advantageous or useful. But whatever is unjust, is so far from tending to promote, that it destroys our happiness; for whatever is unjust is contrary to the Divine will: but it is not possible that we should become happy by resisting that will; because of this will our happiness is the immediate object. God is not a tyrant, proud of uncontroulable power, who imposes capricious laws only as tests of our obedience, and to make us feel the weight of his yoke; all his precepts are lessons which teach us how to be happy. But it is the will of God that we should be just; from whence it follows, that no true happiness can be acquired by those who are unjust. An action, therefore, which is contrary to the will of God, must be inconsistent with our true interest; and consequently, so far from being useful or expedient, it must inevitably produce ruin

and misery. Injustice sometimes meets with the punishment it deserves in this world; but if it should escape here, it does not follow that it will for ever escape. It proves, on the contrary, that there is another world in which the fates of mankind will be impartially decided.

To prevent the dreadful confusion which the mistaken notion of interest had introduced among mankind, it became necessary to have recourse to the innate principles of justice; to suspend the balance and display the sword, for the determination of differences and the punishment of guilt. This is the reason and origin of distributive justice, which became the necessary appendage of sovereignty. Accordingly, in ancient times, princes administered justice in person and without delay; but at length being embarrassed and oppressed by the multiplicity of business which increased with their dominions, or diverted from their attention to civil government by the command of armies, certain laws were established with great solemnity to adjust and determine the differences which might arise among the members of the same community, and to repress the insolence of those who dared to violate the public peace, by possessing them with the dread either of corporeal punishment or infamy. The execution of these laws was put into the hands of subordinate judges. These delegates of the sovereign power were called magistrates; and these are the persons by whom justice is at this time administered, except in particular cases, in which the sovereign himself interferes. But by whomsoever this kind of justice is administered, it ought to be done speedily, impartially, and without expence to the parties.

4. Aristides being judge between two private persons, one of them declared, that his adversary had greatly injured Aristides. "Relate rather, good friend (said he, interrupting him), what wrong he hath done thee; for it is thy cause, not mine, that I now sit judge of."—Again: Being desired by Simonides, a poet of Chios, who had a cause to try before him, to stretch a point in his favour, he replied, "As you would not be a good poet if your lines ran contrary to the just measures and rules of your art; so I should neither be a good judge nor an honest man if I decided aught in opposition to law and justice."

5. Artabazanes, an officer of Artaxerxes king of Persia, begged his majesty to confer a favour upon him; which if complied with would be an act of injustice. The king being informed that the promise of a considerable sum of money was the only motive that induced the officer to make so unreasonable a request, ordered his treasurer to give him thirty thousand dariuses, being a present of equal value with that which he was to have received. Giving him the order for the money, "Here, take (says the king) this token of my friendship for you: a gift of this nature cannot make me poor; but complying with your request would make me poor indeed, for it would make me unjust."

6. Cambyfes king of Persia was remarkable for the severity of his government and his inexorable regard to justice. The prince had a particular favourite whom he made a judge; and this judge reckoned himself so secure in the credit he had with his master, that without any more ado causes were bought and sold in the

Justice.

Justice.

the courts of judicature as openly as provisions in the market. But when Cambyfes was informed of these proceedings, enraged to find his friendship so ungratefully abused, the honour of his government prostituted, and the liberty and property of his subjects sacrificed to the avarice of his wretched minion, he ordered him to be seized and publicly degraded; after which he commanded his skin to be stripped over his ears, and the seat of judgement to be covered with it as a warning to others. At the same time, to convince the world that this severity proceeded only from the love of justice, he permitted the son to succeed his father in the honours and office of prime minister.

7. When Charles duke of Burgundy, surnamed the *Bold*, reigned over spacious dominions, now swallowed up by the power of France, he heaped many favours and honours upon Claudius Rynfault, a German, who had served him in his wars against the insults of his neighbours. The prince himself was a person of singular humanity and justice; and being prepossessed in favour of Rynfault, upon the decease of the governor of the chief town of Zealand gave him that command. He was not long seated in that government before he cast his eyes upon Sapphira, a woman of exquisite beauty, the wife of Paul Danvelt, a wealthy merchant of the city under his protection and government. Rynfault was a man of a warm constitution, and violent inclination to women. He knew what it was to enjoy the satisfactions which are reaped from the possession of beauty; but was an utter stranger to the decencies, honours, and delicacies, that attend the passion toward them in elegant minds. He could with his tongue utter a passion with which his heart was wholly untouched. In short, he was one of those brutal minds which can be gratified with the violation of innocence and beauty, without the least pity, passion, or love for that with which they are so much delighted.

Rynfault being resolved to accomplish his will on the wife of Danvelt, left no arts untried to get into a familiarity at her house; but she knew his character and disposition too well not to shun all occasions that might ensnare her into his conversation. The governor, despairing of success by ordinary means, apprehended and imprisoned her husband, under pretence of an information that he was guilty of a correspondence with the enemies of the duke to betray the town into their possession. This design had its desired effect; and the wife of the unfortunate Danvelt, the day before that which was appointed for his execution, presented herself in the hall of the governor's house, and as he passed through the apartment threw herself at his feet, and holding his knees, beseeched his mercy. Rynfault beheld her with a dissembled satisfaction; and assuming an air of thought and authority, he bid her rise, and told her she must follow him to his closet; and asking her whether she knew the hand of the letter he pulled out of his pocket, went from her, leaving this admonition aloud: "If you would save your husband, you must give me an account of all you know, without prevarication; for every body is satisfied that he is too fond of you to be able to hide from you the names of the rest of the conspirators, or any other particulars whatsoever." He went to his closet, and soon after the lady was sent for to an

audience. The servant knew his distance when matters of state were to be debated; and the governor, laying aside the air with which he had appeared in public, began to be the supplicant, and to rally an affliction which it was in her power easily to remove. She easily perceived his intention; and, bathed in tears, began to deprecate so wicked a design. Lust, like ambition, takes all the faculties of the mind and body into its service and subjection. Her becoming tears, her honest anguish, the winging of her hands, and the many changes of her posture and figure in the vehemence of speaking, were but so many attitudes in which he beheld her beauty, and farther incentives of his desire. All humanity was lost in that one appetite; and he signified to her in so many plain terms, that he was unhappy till he possessed her, and nothing less should be the price of her husband's life; and she must, before the following noon, pronounce the death or enlargement of Danvelt. After this notification, when he saw Sapphira enough distracted to make the subject of their discourse to common eyes appear different from what it was, he called his servants to conduct her to the gate. Loaded with insupportable affliction, she immediately repairs to her husband, and having signified to the gaolers that she had a proposal to make to her husband from the governor, she was left alone with him, revealed to him all that had passed, and represented the endless conflict she was in between love to his person and fidelity to his bed. It is easy to imagine the sharp affliction this honest pair were in upon such an incident, in lives not used to any but ordinary occurrences. The man was bridled by shame from speaking what his fear prompted upon so near an approach of death; but let fall words that signified to her, he should not think her polluted, though she had not confessed to him that the governor had violated her person, since he knew her will had no part in the action. She parted from him with this oblique permission, to save a life he had not resolution enough to resign for the safety of his honour.

The next morning the unhappy Sapphira attended the governor, and being led into a remote apartment, submitted to his desires. Rynfault commended her charms; claimed a familiarity after what had passed between them; and with an air of gaiety, in the language of a gallant, bid her return and take her husband out of prison: but, continued he, my fair one must not be offended that I have taken care he should not be an interruption to our future assignations. These last words foreboded what she found when she came to the gaol, her husband executed by the order of Rynfault.

It was remarkable, that the woman, who was full of tears and lamentations during the whole course of her affliction, uttered neither sigh nor complaint, but stood fixed with grief at this consummation of her misfortunes. She betook herself to her abode; and, after having in solitude paid her devotion to Him who is the avenger of innocence, she repaired privately to court. Her person, and a certain grandeur of sorrow negligent of forms, gained her passage into the presence of the duke her sovereign. As soon as she came into the presence, she broke forth into the following words: "Behold, O mighty Charles, a wretch weary of life, though it has always been spent with innocence and

virtue.

Justice. virtue. It is not in your power to redress my injuries, but it is to avenge them; and if the protection of the distressed, and the punishment of oppressors, is a task worthy of a prince, I bring the duke of Burgundy ample matter for doing honour to his own great name, and of wiping infamy off mine." When she had spoken this, she delivered to the duke a paper reciting her story. He read it with all the emotion that indignation and pity could raise in a prince jealous of his honour in the behaviour of his officers and the prosperity of his subjects.

Upon an appointed day Rynfault was sent for to court, and in the presence of a few of the council confronted by Sapphira. The prince asking, "Do you know that lady?" Rynfault, as soon as he could recover his surprise, told the duke he would marry her, if his highness would please to think that a reparation. The duke seemed contented with this answer, and stood by during the immediate solemnization of the ceremony. At the conclusion of it he told Rynfault, "Thus far you have done as constrained by my authority: I shall not be satisfied of your kind usage of her, without you sign a gift of your whole estate to her after your decease." To the performance of this also the duke was a witness. When these two acts were executed, the duke turning to the lady, told her, "It now remains for me to put you in quiet possession of what your husband has so bountifully bestowed on you; and ordered the immediate execution of Rynfault.

8. One of the greatest of the Turkish princes was Mamood, or Mahmud, the Gaznevide. His name is still venerable in the east; and of the noble parts of his character, a regard to justice was not the least. Of this the following example is related by Mr Gibbon in his *Decline and Fall of the Roman Empire*.—As he sat in the divan, an unhappy subject bowed before the throne to accuse the insolence of a Turkish soldier who had driven him from his house and bed. "Suspend your clamours (said Mahmud); inform me of his next visit, and ourself in person will judge and punish the offender." The sultan followed his guide; invested the house with his guards; and extinguishing the torches, pronounced the death of the criminal, who had been seized in the act of rapine and adultery. After the execution of his sentence, the lights were re-kindled, and Mahmud fell prostrate in prayer; then rising from the ground, he demanded some homely fare, which he devoured with the voraciousness of hunger. The poor man, whose injury he had avenged, was unable to suppress his astonishment and curiosity; and the courteous monarch condescended to explain the motives of this singular behaviour. "I had reason to suspect that none except one of my sons could dare to perpetrate such an outrage; and I extinguished the lights, that my justice might be blind and inexorable. My praying was a thanksgiving on the discovery of the offender; and so painful was my anxiety, that I had passed three days without food since the first moment of your complaint."

9. In Bourgoanne's Travels in Spain, vol. ii. p. 364. the following anecdote is given of Peter III. of Castile. A canon of the cathedral of Seville, affected in his dress, and particularly in his shoes, could not find a workman to his liking. An unfortunate shoemaker,

VOL. XI. Part II.

to whom he applied after quitting many others, having brought him a pair of shoes not made to please his taste, the canon became furious, and seizing one of the tools of the shoemaker, gave him with it so many blows upon the head, as laid him dead upon the floor. The unhappy man left a widow, four daughters, and a son 13 years of age, the eldest of the indigent family. They made their complaints to the chapter: the canon was prosecuted and condemned not to appear in the choir for a year. The young shoemaker having attained to man's estate, was scarcely able to get a livelihood; and overwhelmed with wretchedness, sat down on the day of a procession at the door of the cathedral of Seville in the moment the procession passed by. Amongst the other canons he perceived the murderer of his father. At the sight of this man, filial affection, rage, and despair, so far got the better of his reason, that he fell furiously upon the priest, and stabbed him to the heart. The young man was seized, convicted of the crime, and immediately condemned to be quartered alive. Peter, whom we call the *Cruel*, and whom the Spaniards, with more reason, call the *lover of justice*, was then at Seville. The affair came to his knowledge; and after learning the particulars, he determined to be himself the judge of the young shoemaker. When he proceeded to give judgement, he first annulled the sentence just pronounced by the clergy: and after asking the young man what profession he was, "I forbid you (said he) to make shoes for one year to come."

10. In Gladwin's History of Hindostan, a singular fact is related of the emperor Jehangir, under whose father Akber the Mogul empire in Hindostan first obtained any regular form. Jehangir succeeded him at Agra on the 22d of October. 1605; and the first order which he issued on his accession to the throne was for the construction of the golden chain of *justice*. It was made of pure gold, and measured 30 yards, consisting of 60 links, weighing four maunds of Hindostan (about 400 pounds avoirdupois). One end of this chain was suspended from the royal bastion of the fortrefs of Agra, and the other fastened in the ground near the side of the river. The intention of this extraordinary invention was, that if the officers of the courts of law were partial in their decisions, or dilatory in the administration of justice, the injured parties might come themselves to this chain; and making a noise by shaking the links of it, give notice that they were waiting to represent their grievances to his majesty."

JUSTICE is also an appellation given to a person deputed by the king to administer justice to his subjects, whose authority arises from his deputation, and not by right of magistracy.

Of these justices there are various kinds in England; viz.

Chief Justice of the King's Bench, is the capital justice of Great Britain, and is a lord by his office. His business is chiefly to hear and determine all pleas of the crown; that is, such as concern offences against the crown, dignity, and peace of the king; as treasons, felonies, &c. This officer was formerly not only chief justice, but also chief baron for the exchequer, and master of the court of wards. He usually sat in the king's palace, and there executed that office, formerly

Justice.

merly performed *per comitem palatii*; he determined in that place all the differences happening between the barons and other great men. He had the prerogative of being viceregent of the kingdom whenever the king went beyond sea, and was usually chosen to that office out of the prime nobility; but his power was reduced by King Richard I. and King Edward I. His office is now divided, and his title changed from *capitalis Angliæ justitiarius*, to *capitalis justitiarius ad placita coram rege tenenda*, or *capitalis justitiarius banci regii*.

Chief Justice of the Common Pleas, he who with his assistants hears and determines all causes at the common law; that is to say, all civil causes between common persons, as well personal as real; and he is also a lord by his office.

Justice of the Forest, is a lord by his office, who has power and authority to determine offences committed in the king's forests, &c. which are not to be determined by any other court of justice. Of these there are two; whereof one has jurisdiction over all the forests on this side Trent, and the other beyond it.

By many ancient records, it appears to be a place of great honour and authority, and is never bestowed but on some person of great distinction. The court where this justice sits is called the *justice seat of the forest*, held once every three years, for hearing and determining all trespasses within the forest, and all claim of franchises, liberties, and privileges, and all pleas and causes whatsoever therein arising. This court may fine and imprison for offences within the forest, it being a court of record; and therefore a writ of error lies from hence to the court of king's bench. The last court of justice seat of any note was that held in the reign of Charles I. before the earl of Holland. After the Restoration another was held for form's sake before the earl of Oxford; but since the Revolution in 1668, the forest laws have fallen into total disuse, to the great advantage of the subject.

This is the only justice who may appoint a deputy: he is also called *justice in eyre of the forest*.

Justices of Assize, were such as were wont by special commission to be sent into this or that county to take assizes, for the ease of the subjects. For, whereas these actions pass always by jury, so many men might not without great damage and charge be brought up to London; and therefore justices, for this purpose, by commissions particularly authorized, were sent down to them. These continue to pass the circuit by two and two twice every year through all England, except the four northern counties, where they go only once, despatching their several businesses by several commissions; for they have one commission to take assizes, another to deliver gaols, and another of oyer and terminer. In London and Middlesex a court of general gaol-delivery is held eight times in the year.

All the justices of peace of any county wherein the assizes are held, are bound by law to attend them, or else are liable to a fine; in order to return recognizances, &c. and to assist the judges in such matters as lie within their knowledge and jurisdiction, and in which some of them have been probably concerned, by way of previous examination. See ASSIZES and JURY.

Justice.

JUSTICES in Eyre (*justitiarum itinerantes, or errantes*), were those who were anciently sent with commission into divers counties to hear such causes especially as were termed *pleas of the crown*; and that for the ease of the subject, who must else have been hurried to the courts of Westminster, if the causes were too high for the county courts.

According to some, these justices were sent once in seven years; but others will have them to have been sent oftener. Camden says, they were instituted in the reign of King Henry II. A. D. 1184; but they appear to be of an older date.

They were somewhat like our justices of assize at this day; though for authority and manner of proceeding very different.

JUSTICES of Gaol-Delivery, those commissioned to hear and determine causes appertaining to such as for any offence are cast into prison. Justices of gaol-delivery are empowered by the common law to proceed upon indictments of felony, trespass, &c. and to order execution or reprieve; and they have power to discharge such prisoners as upon their trials shall be acquitted; also all such against whom, on proclamation made, no evidence appears to indict; which justices of oyer and terminer, &c. may not do. 2. Hawk. 24, 25. But these justices having nothing to do with any person not in the custody of the prison, except in some special cases; as if some of the accomplices to a felony may be in such prison and some of them out of it, the justices may receive an appeal against those who are out of the prison as well as those who are in it; which appeal, after the trial of such prisoners, shall be removed into B. R. and process issue from them against the rest. But if those out of prison be omitted in the appeal, they can never be put into any other; because there can be but one appeal for the felony. In this way the gaols are cleared, and all offenders tried, punished, or delivered, in every year.—Their commission is turned over to the justices of assize.

JUSTICES of Nisi Prius, are now the same with *justices of assize*. It is a common adjournment of a cause in the common pleas to put it off to such a day, *Nisi prius justitiarum venerint ad eas partes ad capiendas assizas*: from which clause of adjournment they are called *justices of nisi prius*, as well as *justices of assize*, on account of writ and actions they have to deal in.

JUSTICES of Oyer and Terminer, were justices deputed on some special occasions to hear and determine particular causes.—The commission of oyer and terminer is directed to certain persons upon any insurrection, heinous demeanor, or trespass committed, who must first inquire, by means of the grand jury or inquest, before they are empowered to hear and determine by the help of the petit jury. It was formerly held, that no judge or other lawyer could act in the commission of oyer and terminer, or that of gaol-delivery, within the county where he was born or inhabited; but it was thought proper by 12 Geo. II. cap. 27. to allow any man to be a justice of oyer and terminer and general gaol-delivery within any county of England.

JUSTICES of the Peace are persons of interest and credit, appointed by the king's commission to keep the peace of the county where they live.

Of these some for special respect are made of the quorum so as no business of importance may be de-

spatched

Justice. spatched without the presence or assent of them or one of them. However, every justice of peace hath a separate power, and his office is to call before him, examine, issue warrants for apprehending, and commit to prison, all thieves, murderers, wandering rogues; those that hold conspiracies, riots, and almost all delinquents which may occasion the breach of the peace and quiet of the subject; to commit to prison such as cannot find bail, and to see them brought forth in due time to trial; and bind over the prosecutors to the assizes. And if they neglect to certify examinations and informations to the next gaol delivery, or do not bind over prosecutors, they should be fined. A justice may commit a person that doth a felony in his own view, without a warrant; but if on the information of another, he must make a warrant under hand and seal for that purpose. If complaint and oath be made before a justice of goods stolen, and the informer, suspecting that they are in a particular house, shows the cause of his suspicion, the justice may grant a warrant to the constable, &c. to search in the place suspected, to seize the goods and person in whose custody they are found, and bring them before him or some other justice. The search on these warrants ought to be in the day time, and doors may be broke open by constables to take the goods. Justices of peace may make and persuade an agreement in petty quarrels and breaches of the peace, where the king is not entitled to a fine, though they may not compound offences or take money for making agreements. A justice hath a discretionary power of binding to the good behaviour; and may require a recognizance, with a great penalty of one for his keeping of the peace, where the party bound is a dangerous person, and likely to break the peace, and do much mischief; and for default of sureties he may be committed to gaol. But a man giving security for keeping the peace in the king's bench or chancery, may have a *superfedeas* to the justices in the county not to take security; and also by giving surety of the peace to any other justice. If one make an assault upon a justice of peace, he may apprehend the offender and commit him to gaol till he finds sureties for the peace; and a justice may record a forcible entry on his own possession; in other cases he cannot judge in his own cause. Contempts against justices are punishable by indictment and fine at the sessions. Justices shall not be regularly punished for any thing done by them in session as judges; and if a justice be tried for any thing done in his office, he may plead the general issue, and give the special matter in evidence; and if a verdict is given for him, or if the plaintiff be nonsuit, he shall have double costs; and such action shall only be laid in the county where the offence is committed, 7 Jac. 5. 21 Jac. cap. 12. But if they are guilty of any misdemeanor in office, information lies against them in the king's bench, where they shall be punished by fine and imprisonment; and all persons who recover a verdict against a justice for any wilful or malicious injury, are entitled to double costs. By 24 Geo. II. cap. 44. no writ shall be sued out against any justice of peace, for any thing done by him in the execution of his office, until notice in writing shall be delivered to him one month before the suing out of the same, containing the cause of action, &c. within which month he may tender amends; and

if the tender be found sufficient, he shall have a verdict, &c. Nor shall any action be brought against a justice for any thing done in the execution of his office, unless commenced within six months after the act committed.

A justice is to exercise his authority only within the county where he is appointed by his commission, not in any city which is a county of itself or town corporate, having their proper justices, &c. but in other towns and liberties he may. The power and office of justices terminates in six months after the demise of the crown, by an express writ of discharge under the great seal, by writ of *superfedeas*, by a new commission, and by accession of the office of sheriff or coroner.

The original of justices of the peace is referred to the fourth year of Edward III. They were first called *conversators*, or *wardens of the peace*, elected by the county, upon a writ directed to the sheriff: but the power of appointing them was transferred by statutes from the people to the king; and under this appellation appointed by 1 Edw. III. cap. 16. Afterwards the statute 34 Edw. III. cap. 1. gave them the power of trying felonies, and then they acquired the appellation of *justice*. They are appointed by the king's special commission under the great seal, the form of which was settled by all the judges, A. D. 1590; and the king may appoint as many as he shall think fit in every county in England and Wales, though they are generally made at the discretion of the lord chancellor, by the king's leave. At first the number of justices was not above two or three in a county, 18 Edw. III. cap. 2. Then it was provided by 34 Edw. III. cap. 1. that one lord, and three or four of the most worthy men in the county, with some learned in the law, should be made justices in every county. The number was afterwards restrained first to six and then to eight, in every county, by 12 Ric. II. cap. 10. and 14 Ric. II. cap. 11. But their number has greatly increased since their first institution. As to their qualifications, the statutes just cited direct them to be of the best reputation and most worthy men in the county; and the statute 13 Ric. II. cap. 7. orders them to be of the most sufficient knights, esquires, and gentlemen of the law; and by the 2 Hen. V. stat. 1. cap. 4. and stat. 2. cap. 1. they must be resident in their several counties. And by 18 Hen. VI. cap. 11. no justice was to be put in commission, if he had not lands to the value of 20*l. per annum*. It is now enacted by 5 Geo. II. cap. 11. that every justice shall have 100*l. per annum* clear of all deductions; of which he must make oath by 18 Geo. II. cap. 20. And if he acts without such qualification, he shall forfeit 100*l.* It is also provided by 5 Geo. II. that no practising attorney, solicitor, or proctor, shall be capable of acting as a justice of the peace.

JUSTICES of Peace within Liberties, are justices of the peace who have the same authority in cities or other corporate towns as the others have in counties; and their power is the same; only that these have the assize of ale and beer, wood and victuals, &c. Justices of cities and corporations are not within the qualification act, 5 Geo. II. cap. 18.

Fountain of Justice, one of the characters or attributes of the king. See PREROGATIVE.

By the fountain of justice the law does not mean the

Justice. *author or original*, but only the *distributor*. Justice is not derived from the king, as from his *free gift*; but he is the steward of the public, to dispense it to whom it is *due*. He is not the spring, but the reservoir; from whence right and equity are conducted, by a thousand channels, to every individual. The original power of judicature, by the fundamental principles of society, is lodged in the society at large: but as it would be impracticable to render complete justice to every individual, by the people in their collective capacity, therefore every nation has committed that power to certain select magistrates, who with more ease and expedition can hear and determine complaints: and in England this authority has immemorially been exercised by the king or his substitutes. He therefore has alone the right of erecting courts of judicature: for though the constitution of the kingdom hath intrusted him with the whole executive power of the laws, it is impossible, as well as improper, that he should personally carry into execution this great and extensive trust: it is consequently necessary that courts should be erected, to assist him in executing this power; and equally necessary, that, if erected, they should be erected by his authority. And hence it is, that all jurisdictions of courts are either mediately or immediately derived from the crown; their proceedings run generally in the king's name, they pass under his seal, and are executed by his officers.

It is probable, and almost certain, that in very early times, before our constitution arrived at its full perfection, our kings in person often heard and determined causes between party and party. But at present, by the long and uniform usage of many ages, our kings have delegated their whole judicial power to the judges of their several courts; which are the grand depository of the fundamental laws of the kingdom, and have gained a known and stated jurisdiction, regulated by certain and established rules, which the crown itself cannot now alter but by act of parliament. And in order to maintain both the dignity and independence of the judges in the superior courts, it is enacted by the statute 13 W. III. c. 2. that their commissions shall be made, not, as formerly, *durante beneplacito*, but *quamdiu bene se gesserint*, and their salaries ascertained and established; but that it may be lawful to remove them on the address of both houses of parliament. And now, by the noble improvements of that law in the statute of 1 Geo. III. c. 23. enacted at the earnest recommendation of the king himself from the throne, the judges are continued in their offices during their good behaviour, notwithstanding any demise of the crown (which was formerly held immediately to vacate their seats), and their full salaries are absolutely secured to them during the continuance of their commissions; his majesty having been pleased to declare, that "he looked upon the independence and uprightness of the judges, as essential to the impartial administration of justice; as one of the best securities of the rights and liberties of his subjects; and as most conducive to the honour of the crown."

In criminal proceedings or prosecutions for offences, it would still be a higher absurdity, if the king personally sat in judgment; because in regard to these he appears in another capacity, that of *prosecutor*. All offences are either against the king's peace or his crown and dignity; and are so laid in every indict-

ment. For though in their consequences they generally seem (except in the case of treason and a very few others) to be rather offences against the kingdom than the king; yet as the public, which is an invisible body, has delegated all its power and rights, with regard to the execution of the laws, to one visible magistrate, all affronts to that power, and breaches of those rights, are immediately offences against him, to whom they are so delegated by the public. He is therefore the proper person to prosecute for all public offences and breaches of the peace, being the person injured in the eye of the law. And this notion was carried so far in the old Gothic constitution (wherein the king was bound by his coronation oath to conserve the peace), that in case of any forcible injury offered to the person of a fellow subject, the offender was accused of a kind of perjury, in having violated the king's coronation oath; *dicebatur fregisse juramentum regis juratum*. And hence also arises another branch of the prerogative, that of *pardonning* offences; for it is reasonable, that he only who is injured should have the power of forgiving. See PARDON.

In this distinct and separate existence of the judicial power, in a peculiar body of men, nominated indeed, but not removable at pleasure, by the crown, consists one main preservative of the public liberty; which cannot subsist long in any state, unless the administration of common justice be in some degree separated both from the legislative and also from the executive power. Were it joined with the legislative, the life, liberty, and property of the subject would be in the hands of arbitrary judges, whose decisions would be then regulated only by their own opinions, and not by any fundamental principles of law; which, though legislators may depart from, yet judges are bound to observe. Were it joined with the executive, this union might soon be an overbalance for the legislative. For which reason, by the statute of 16 Car I. c. 10. which abolished the court of star-chamber, effectual care is taken to remove all judicial power out of the hands of the king's privy-council; who, as then was evident from recent instances, might soon be inclined to pronounce that for law which was most agreeable to the prince or his officers. Nothing therefore is more to be avoided in a free constitution, than uniting the provinces of a judge and a minister of state. And indeed, that the absolute power, claimed and exercised in a neighbouring nation, is more tolerable than that of the eastern empires, is in a great measure owing to their having vested the judicial power in their parliaments; a body separate and distinct from both the legislative and executive: and if ever that nation recovers its former liberty, it will owe it to the efforts of those assemblies. In Turkey, where every thing is centered in the sultan or his ministers, despotic power is in its meridian, and wears a more dreadful aspect.

A consequence of this prerogative is the legal ubiquity of the king. His majesty, in the eye of the law, is always present in all his courts, though he cannot personally distribute justice. His judges are the mirror by which the king's image is reflected. It is the regal office, and not the royal person, that is always present in court, always ready to undertake prosecutions or pronounce judgement, for the benefit and protection of the subject. And from this ubiquity it follows, that the

Justice
||
Justin

the king can never be nonsuit; for a nonsuit is the desertion of the suit or action by the non-appearance of the plaintiff in court. For the same reason also, in the forms of legal proceedings, the king is not said to appear by his attorney, as other men do; for he always appears, in contemplation of law, in his own proper person.

From the same original, of the king's being the fountain of justice, we may also deduce the prerogative of issuing proclamations, which is vested in the king alone. See PROCLAMATION.

JUSTICE Seat. See FOREST Courts.

JUSTICIA, MALABAR NUT; a genus of plants belonging to the diandria class; and in the natural method ranking under the 40th order, *Personateæ*. See BOTANY Index.

JUSTICIAR, in the old English laws, an officer instituted by William the Conqueror, as the chief officer of state, who principally determined in all cases civil and criminal. He was called in Latin *Capitalis Justiciarius totius Angliæ*. For JUSTICIAR in Scotland, see LAW Index.

JUSTICIARY, or Court of JUSTICIARY, in Scotland. See LAW Index.

JUSTIFICATION, in Law, signifies a maintaining or showing a sufficient reason in court why the defendant did what he is called to answer. Pleas in justification must set forth some special matter: thus on being sued for a trespass, a person may justify it by proving, that the land is his own freehold; that he entered a house in order to apprehend a felon; or by virtue of a warrant, to levy a forfeiture, or in order to take a distress; and in an assault, that he did it out of necessity.

JUSTIFICATION, in Theology, that act of grace which renders a man just in the sight of God, and worthy of eternal happiness. See THEOLOGY.

The Romanists and Reformed are extremely divided about the doctrine of justification; the latter contending for justification by faith alone, and the former by good works.

JUSTIN, a celebrated historian, lived, according to the most probable opinion, in the second century, under the reign of Antoninus Pius. He wrote, in elegant Latin, an abridgement of the history of Trogus Pompeius; comprehending the actions of almost all nations, from Ninus the founder of the Assyrian empire to the emperor Augustus. The original work, to the regret of the learned, is lost: this abridgement, being written in a polite and elegant style, was probably the reason why that age neglected the original. The best editions of Justin are, *ad usum Delphini*, in 4to; and *cum notis variorum et Gronovii*, in 8vo.

JUSTIN, St, commonly called *Justin Martyr*, one of the earliest and most learned writers of the eastern church, was born at Neapolis, the ancient Sechem of Palestine. His father Priscus, a Gentile Greek, brought him up in his own religion, and had him educated in all the Grecian learning. To complete his studies he travelled to Egypt; and followed the sect of Plato. But one day walking by the sea side, wrapt in contemplation, he was met by a grave person of a venerable aspect; who, falling into discourse with him, turned the conversation by degrees from the excellence of Platonism to the superior perfection of Christianity: and reasoned so well,

as to raise in him an ardent curiosity to inquire into the merits of that religion; in consequence of which inquiry he was converted about the year 132. On his embracing that religion, he quitted neither the profession nor the habit of a philosopher: but a persecution breaking out under Antoninus, he composed *An Apology for the Christians*; and afterwards presented another to the emperor Marcus Aurelius, in which he vindicated the innocence and holiness of the Christian religion against Crescens a Cynic philosopher, and other calumniators. He did honour to Christianity by his learning and the purity of his manners; and suffered martyrdom in 167. Besides his two Apologies, there are still extant his *Dialogue with Trypho*, a Jew; two treatises addressed to the Gentiles, and another on the unity of God. Other works are also ascribed to him. The best editions of St Justin are those of Robert Stephens, in 1551 and 1571, in Greek and Latin; that of Morel, in Greek and Latin, in 1656; and that of Don Prudentius Marandus, a learned Benedictine, in 1742 in folio.

JUSTINIAN I. son of Justin the elder, was made Cæsar and Augustus in 527, and soon after emperor. He conquered the Persians by Belisarius his general, and exterminated the Vandals; regained Africa; subdued the Goths in Italy; defeated the Moors; and restored the Roman empire to its primitive glory. See (History of) CONSTANTINOPLE, N^o 93—97. and ITALY, N^o 12, &c.

The empire being now in the full enjoyment of a profound peace and tranquillity, Justinian made the best use of it, by collecting the immense variety and number of the Roman laws into one body. To this end, he selected ten of the most able lawyers in the empire; who, revising the Gregorian, Theodosian, and Hermogenian codes, compiled one body, called *Codex Justinianus*. This may be called the *statute law*, as consisting of the rescripts of the emperors. But the reduction of the other part was a much more difficult task: it was made up of the decisions of the judges and other magistrates, together with the authoritative opinions of the most eminent lawyers; all which lay scattered, without any order, in no less than 2000 volumes and upwards. These were reduced to the number of 50; but ten years were spent in the reduction. However, the design was completed in the year 529, and the name of *Digests* or *Pandects* given to it. Besides these, for the use chiefly of young students in the law, to facilitate that study, Justinian ordered four books of institutes to be drawn up, containing an abstract or abridgement of the text of all the laws: and, lastly, the laws of modern date, posterior to that of the former, were thrown into one volume in the year 529, called the *Novellæ*, or New Code.

This emperor died in the year 565, aged 83, in the 39th of his reign, after having built a great number of churches; particularly the famous Sancta Sophia at Constantinople, which is esteemed a masterpiece of architecture.

JUSTINIANI, St LAURENCE, the first patriarch of Venice, was born there of a noble family in 1381. He died in 1485; he left several religious works, which were printed together at Lyons in 1568, in one volume folio, with his life prefixed by his nephew. Clement VII. beatified him in 1524, and he was canonized by Alexander VIII. in 1697.

Justinian
||
Justiniani.

Justiniani
||
Juvenal.

JUSTINIANI, *Bernardus*, was born at Venice in 1408. He obtained the senator's robe at the age of 19, served the republic in several embassies, and was elected procurator of St Mark in 1474. He was a learned man, and wrote the History of Venice, with some other works of considerable merit; and died in 1498.

JUSTINIANI, *Augustin*, bishop of Nebbio, one of the most learned men of his time, was descended from a branch of the same noble family with the two foregoing; and was born at Genoa in 1480. He assisted at the fifth council of Lateran, where he opposed some articles of the concordat between France and the court of Rome. Francis I. of France made him his almoner: and he was for five years regius professor of Hebrew at Paris. He returned to Genoa in 1522, where he discharged all the duties of a good prelate; and learning and piety flourished in his diocese. He perished at sea in his passage from Genoa to Nebbio, in 1536. He composed several pieces; the most considerable of which is, *Psalterium Hebraicum, Græcum, Arabicum, et Chaldeum, cum tribus Latinis interpretationibus et glossis*. This was the first psalter of the kind printed; and there is also ascribed to the same prelate a translation of Maimonides' *Mora Nevochim*.

JUSTNESS, the exactness or regularity of any thing.

Justness is chiefly used in speaking of thought, language, and sentiments. The justness of a thought consists in a certain precision or accuracy, by which every part of it is perfectly true, and pertinent to the subject. Justness of language consists in using proper and well chosen terms; in not saying either too much or too little. M. de Mere, who has written on justness of mind, distinguishes two kinds of justness; the one arising from taste and genius, the other from good sense or right reason. There are no certain rules to be laid down for the former, viz. to show the beauty and exactness in the turn or choice of a thought; the latter consists in the just relation which things have to one another.

JUTES, the ancient inhabitants of Jutland in Denmark.

JUTLAND, a large peninsula, which makes the principal part of the kingdom of Denmark. It is bounded on the south-east by the duchy of Holstein, and is surrounded on the other sides by the German ocean and the Baltic sea. It is about 180 miles in length from north to south, and 50 in breadth from east to west. The air is very cold, but wholesome; and the soil is fertile in corn and pastures, which feed a great number of beeves, that are sent to Germany, Holland, and elsewhere. This was anciently called the *Cimbrian Chersonesus*, and is supposed to be the country from whence the Saxons came into England. It is divided into two parts, called *North* and *South Jutland*: the latter is the duchy of Sleswick, and lies between North Jutland and the duchy of Holstein; and the duke of that name is in possession of part of it, whose capital town is Gottorp, for which reason the sovereign is called the *duke of Holstein Gottorp*.

JUVENAL, DECIUS JUNIUS, the celebrated Roman satirist, was born about the beginning of the emperor Claudius's reign, at Aquinum in Campania. His father was probably a freed man, who, being rich, gave him a liberal education, and, agreeably to

taste of the times, bred him up to eloquence; in which he made a great progress, first under Fronto the grammarian, and afterwards, as is generally conjectured, under Quintilian; after which he attended the bar, and made a distinguished figure there for many years by his eloquence. In the practice of this profession he had improved his fortune and interest at Rome before he turned his thoughts to poetry, the very style of which, in his satires, speaks a long habit of declamation; *subactum redolent declamatorem*, say the critics. It is said he was above 40 years of age when he recited his first essay to a small audience of his friends; but being encouraged by their applause, he ventured a greater publication: which reaching the ears of Paris, Domitian's favourite at that time, though but a pantomime player, whom our satirist had severely insulted, that minion made his complaint to the emperor; who sent him thereupon into banishment, under pretence of giving him the command of a cohort in the army, which was quartered at Pentapolis, a city upon the frontiers of Egypt and Libya.

After Domitian's death, our satirist returned to Rome, sufficiently cautioned not only against attacking the characters of those in power, under arbitrary princes, but against all personal reflections upon the great men then living; and therefore he thus wisely concludes the debate he is supposed to have maintained for a while with a friend on this head, in the first satire, which seems to be the first that he wrote after his banishment:

*Experiar quid concedatur in illos
Quorum Flaminia tegitur cinis atque Latina.*

"I will try what liberties I may be allowed with those whose ashes lie under the Flaminian and Latin ways," along each side of which the Romans of the first quality used to be buried.—It is believed that he lived till the reign of Adrian in 128. There are still extant 16 of his satires, in which he discovers great wit, strength, and keenness, in his language: but his style is not perfectly natural; and the obscenities with which these satires were filled render the reading of them dangerous to youth.

JUVENTUS, CAIUS VECTICUS AQUILINUS, one of the first of the Christian poets, was born of an illustrious family in Spain. About the year 320 he put the life of Jesus Christ into Latin verse, of which he composed four books. In this work he followed closely the text of the evangelists: but his verses are written in a bad taste, and in bad Latin.

JUVENTAS, in *Mythology*, the goddess who presided over youth among the Romans. This goddess was long honoured in the Capitol, where Servius Tullius erected her statue. Near the chapel of Minerva there was the altar of Juventas, and upon this altar a picture of Proserpine. The Greeks called the goddess of youth *Hebe*; but it has been generally supposed that this was not the same with the Roman *Juventas*.

JUXON, DR WILLIAM, archbishop of Canterbury, was born at Chichester in 1682. He was educated at Merchant Taylors school, and from thence elected into St John's college, Oxford, of which he became president. King Charles I. made him bishop of London; and in 1635 promoted him to the post of lord high treasurer

Juvenal
||
Juxon.

Juxon. treasurer of England. The whole nation, and especially the nobility, were greatly offended at this high office being given to a clergyman; but he behaved so well in the administration, as soon put a stop to all the clamour raised against him. This place he held no longer than the 17th of May 1641, when he prudently resigned the staff, to avoid the storm which then threatened the court and the clergy. In the following February, an act passed depriving the bishops of their votes in parliament, and incapacitating them from any temporal jurisdiction. In these leading steps, as well as the total abolition of the episcopal order which followed, he was involved with his brethren; but neither as a bishop nor as treasurer was a single accusation brought against him in the long parliament. During the civil wars, he resided at his palace at Fulham, where his meek, inoffensive, and genteel behaviour, notwithstanding his remaining steady in his loyalty to the king, procured him the visits of the principal persons of the opposite party, and respect from all. In 1648, he attended his majesty at the treaty in the isle of Wight; and by his particular desire, waited upon him at Cotton house, Westminster, the day after the commencement of his trial; during which he frequently visited him in the office of a spiritual father; and his majesty declared he was the greatest comfort to him in that afflictive situation. He likewise attended his majesty on the scaffold, where the king taking off his cloak and George, gave him the latter: after the execution, our pious bishop took care of the body, which he accompanied to the royal chapel at Windsor, and stood ready with the common-prayer book in his hands to perform the last ceremony for the king; but was prevented by Colonel Whichcot, governor of the castle. He continued in the quiet possession of Fulham palace till the ensuing year 1649, when he was deprived, having been spared longer than any of his brethren. He then retired to his own estate in Gloucestershire, where he lived in privacy till the Restoration, when he was presented to the see of Canterbury; and in the little time he en-

joyed it, expended in buildings and reparations at Lambeth palace and Croyden house near 15,000l. He died in 1663; having bequeathed 7000l. to St John's college, and to other charitable uses near 5000. He published a Sermon on Luke xviii. 31, and Some Considerations upon the Act of Uniformity.

JUXTAPOSITION, is used by philosophers to denote that species of growth which is performed by the apposition of new matter to the surface or outside of old. In which sense it stands opposed to *intussusception*; where the growth of a body is performed by the reception of a juice within it diffused through its canals.

IVY. See **HEDERA**, **BOTANY Index.**

IXIA, a genus of plants belonging to the triandria class, and in the natural method ranking under the 6th order, *Enfatae*. See **BOTANY Index.**

IXION, in fabulous history, king of the Lapithæ, married Dia the daughter of Deionius, to whom he refused to give the customary nuptial presents. Deionius in revenge took from him his horses: when Ixion, dissembling his resentment, invited his father-in-law to a feast, and made him fall through a trap door into a burning furnace, in which he was immediately consumed. Ixion being afterwards stung with remorse for his cruelty, ran mad; on which Jupiter, in compassion, not only forgave him, but took him up into heaven, where he had the impiety to endeavour to corrupt Juno. Jupiter, to be the better assured of his guilt, formed a cloud in the resemblance of the goddess, upon which Ixion begat the centaurs: but boasting of his happiness, Jove hurled him down to Tartarus, where he lies fixed on a wheel encompassed with serpents, which turns without ceasing.

IXORA, a genus of plants belonging to the tetrandria class; and in the natural method ranking under the 47th order, *Stellatae*.

JYNX, a genus of birds belonging to the order of picæ. See **ORNITHOLOGY Index.**

K.

K the tenth letter, and seventh consonant, of our alphabet; being formed by the voice, by a guttural expression of the breath through the mouth, together with a depression of the lower jaw and opening of the teeth.

Its sound is much the same with that of the hard *c*, or *qu*: and it is used, for the most part, only before *e*, *i*, and *u*, in the beginning of words; as *ken*, *kill*, *know*, &c. It used formerly to be always joined with *c* at the end of words, but is at present very properly omitted, at least in words derived from the Latin: thus, for *publick*, *musick*, &c. we say, *public*, *music*, &c. However, in monosyllables, it is still retained, as *jack*, *block*, *mock*, &c.

K is borrowed from the Greek *kappa*; and was but

little used among the Latins: Priscian looked on it as a superfluous letter; and says, it was never to be used except in words borrowed from the Greek. Daufquius, after Sallust, observes, that it was unknown to the ancient Romans.—Indeed we seldom find it in any Latin authors, excepting in the word *kalendæ*, where it sometimes stands in lieu of a *c*.—Carthage, however, is frequently spelt on medals with a *K*: SALVIS AUG. ET CAES FEL. KART. and sometimes the letter *K* alone stood for *Carthage*.—M. Berger has observed, that a capital *K*, on the reverse of the medals of the emperors of Constantinople, signified *Konstantinus*; and on the Greek medals he will have it to signify ΚΟΙΛΗ, ΕΥΡΙΑ, “Coelesyria.”

Quintilian tells us, that in his time some people had

Juxtaposition
||
Jynx.

Kaat's
baan
||
Kabobiquas.

a mistaken notion, that wherever the letter *c* and *a* occurred at the beginning of a word, *k* ought to be used instead of the *c*. See *C*.

Lipsius observes, that *K* was a stigma anciently marked on the foreheads of criminals with a red-hot iron.

The letter *K* has various significations in old charters and diplomas; for instance, *KR*. stood for *chorus*, *KR. C.* for *cara civitas*. *KRM*, for *carmen*, *KR. AM. N. carus amicus noster*, *KS. chaos*, *KT. capite tonsus*, &c.

The French never use the letter *k* excepting in a few terms of art and proper names borrowed from other countries. Ablanceourt, in his dialogue of the letters, brings in *k* complaining, that he has been often in a fair way to be banished out of the French alphabet, and confined to the countries of the north.

K is also a numeral letter, signifying 250, according to the verse;

K quoque ducentos et quinquaginta tenebit.

When it had a stroke at top, \overline{K} , it stood for 250,000.

K on the French coinage denotes money coined at Bourdeaux.

KAARTA, a kingdom in Africa, through which Mr Park passed from the Gambia to the Niger. According to him, the country consists of sandy plains and rocky hills, the level part of it being the most extensive. It is inhabited by negroes, many of whom retain all their ancient superstitions, although converted to the religion of Mahomet. White men, he informs us, are strangers in the kingdom of Kaarta; and Mr Park's appearance had nearly the same effect upon them which ignorant people in our own country attribute to ghosts. Mr Park was well received by the king at Kemmoo, who at the same time informed him with ingenuous frankness, that he could not protect him, being then at war with the king of Bambarra, but he gave him a guard to Jarra, the frontier town of the neighbouring kingdom of Ludamar. From our author's account of this war, it seems to be highly impolitic to liberate the negroes from slavery till civilization and Christianity be introduced into Africa. Kemmoo the metropolis of this kingdom, lies in N. Lat. 14. 15. W. Long. 7. 20.

KAAT'S-BAAN, a town of New York, on the west bank of Hudson's river, seven miles south of Kaat's-Kill.

KAAT'S-KILL, a township of New York, on the west bank of Hudson's river; five miles south of Hudson city, and 125 north of New York. It contained 1645 citizens in 1795, of whom 345 were electors, and 305 slaves.

KAAT'S-KILL MOUNTAINS, a majestic ridge of mountains in the vicinity of the above township, which are the first part of the Alleghany mountains.

KABA. See **MECCA**.

KABOBIQUAS, a nation in the south of Africa, who are reported never to have seen a white man till the year 1785, when they were visited by M. Vaillant. On his approach, they felt his hair, hands, feet, and almost every part of his body. His beard astonished them, and they supposed that his whole body was covered with hair. The children were greatly alarmed, but presents of sugarcandy soon reconciled them. The chief showed him every mark of respect, whom he re-

presents as a majestic figure, with a long mantle made of four jackal skins. The hair of the people is very short, curled, and ornamented with small copper buttons. Although they go almost naked, the females are remarkably chaste, and very reserved. Their only ornaments are glass beads. M. Vaillant assures us that he never saw a nation so disinterested, as they vied with each other in generosity. Many of them gave away gratuitously, and without receiving any thing in return, part of their herds and flocks. They are also of a courageous and martial character, making use of poisoned arrows and lances with long points. They are extremely obedient to their chief, whose will is a law. They believe in a supreme being who governs all things, and who exists far beyond the stars. They have no idea of a future existence, or of rewards and punishments, and have neither worship, sacrifices, ceremonies nor priests. Their country lies between 16° 25' and 19° 25' east of Paris, and between 23° and 25° S. Lat.

KADESH, **KADESH-BARNEA**, or **EN-MISHPAT**, in *Ancient Geography*, a city celebrated for several events. At Kadesh, Miriam the sister of Moses died (Numb. xx. 1.). Here it was that Moses and Aaron, showing a distrust in God's power when they smote the rock at the waters of strife, were condemned to die, without the consolation of entering the promised land (Numb. xxvii. 14.). The king of Kadesh was one of the princes killed by Joshua (xii. 22.). This city was given to the tribe of Judah, and was situated about eight leagues from Hebron to the south.

Mr Wells is of opinion, that this Kadesh, which was situated in the wilderness of Zin, was a different place from Kadesh-barnea in the wilderness of Paran.

KADMONÆI, or **CADMONÆI**, in *Ancient Geography*, a people of Palestine, said to dwell at the foot of Mount Hermon; which lies east, and is the reason of the appellation, with respect to Libanus, Phœnicia, and the north parts of Palestine. Called also *Hevæi* (Moses).

KÆMPFERIA, **ZEDOARY**, a genus of plants belonging to the monandria class; and in the natural method ranking under the 8th order, *Scitamineæ*. See *BOTANY Index*.

KAJUAGA, a kingdom of Africa, bounded on the south east and south by Bambouk; on the west by Bondon and Foota Torra; and on the north by the river Senegal. The air and climate are more pure and healthy than at any of the settlements towards the coast; the face of the country is pleasingly diversified with hills and valleys, and the windings of the river Senegal make the scenery on its banks extremely beautiful. The inhabitants are called Serawoollies, who have a jet black complexion, in which respect they are not to be distinguished from the Jaloffs. The government is monarchical, and the regal authority, according to Mr Park, is sufficiently formidable. The people are deemed tolerably fair and just in their dealings, and indefatigable in their exertions to acquire wealth.

Their language abounds with gutturals, and therefore not so harmonious as that which is spoken by the Foulahs; but it is worth a traveller's while to obtain a knowledge of it, as it is generally understood in many kingdoms of Africa. Joag is the frontier town, entering

Kadesh
||
Kajuaga.

Kainsi, Kalendar. tering from Pisania, surrounded by a high wall, and is supposed to contain 2000 inhabitants. It is situated in N. Lat. 14. 25. W. Long. 9. 46.

KAINSI, the Hottentot name of a species of antelope, denominated by the Dutch, on account of its agility, *klip-springer*. It is of a yellowish-gray colour, and of the size of a kid of a year old. See **CAPRA**, **MAMMALIA Index**.

KALENDAR, a distribution of time, accommodated to the uses of life; or a table or almanack, containing the order of days, weeks, months, feasts, &c. happening throughout the year. See **TIME**, **MONTH**, **YEAR**, &c.

It is called *kalendar*, from the word *kalendæ*, anciently wrote in large characters at the head of each month. See **KALENDS**.

The days in calendars were originally divided into *octoades*, or eights; but afterwards, in imitation of the Jews, into *hebdomades*, or sevens; which custom, Scalliger observes, was not introduced among the Romans till after the time of Theodosius.

There are divers calendars, according to the different forms of the year and distributions of time established in different countries. Hence the Roman, the Jewish, the Persian, the Julian, the Gregorian, &c. calendars.

The ancient Roman calendar is given by Ricciolus, Struvius, Danet, and others; by which we see the order and number of the Roman holidays and work days.

The three Christian calendars are given by Wolfius in his Elements of Chronology.

The Jewish calendar was fixed by Rabbi Hillel about the year 360, from which time the days of their year may be reduced to those of the Julian calendar.

The *Roman KALENDAR* owed its origin to Romulus; but it has undergone various reformations since his time. That legislator distributed time into several periods, for the use of the people under his command: but as he was much better versed in matters of war than of astronomy, he only divided the year into ten months, making it begin in the spring, on the first of March; imagining the sun made his course through all the seasons in 304 days.

Romulus's calendar was reformed by Numa, who added two months more, January and February; placing them before March: so that his year consisted of 355 days, and began on the first of January. He chose, however, in imitation of the Greeks, to make an intercalation of 45 days; which he divided into two parts; intercalating a month of 22 days at the end of each two years; and at the end of each two years more another of 23 days; which month, thus interposed, he called *Marcedonius*, or the intercalary February.

But these intercalations being ill observed by the pontiffs, to whom Numa committed the care of them, occasioned great disorders in the constitution of the year; which Cæsar, as sovereign pontiff, endeavoured to remedy. To this end, he made choice of Sosigenes, a celebrated astronomer of those times; who found, that the dispensation of time in the calendar could never be settled on any sure footing without having regard to the annual course of the sun. Accordingly, as the sun's yearly course is performed in 365 days six hours, he reduced the year to the same number of days: the year of this correction of the kalen-

VOL. XI. Part II.

dar was a year of confusion; they being obliged, in order to swallow up the 65 days that had been imprudently added, and which occasioned the confusion, to add two months besides the Marcedonius, which chanced to fall out that year; so that this year consisted of 15 months, or 445 days. This reformation was made in the year of Rome 708, 42 or 43 years before Christ.

The Roman calendar, called also *Julian kalendar*, from its reformer Julius, is disposed into quadriennial periods; whereof the first three years, which he called *communæ*, consist of 365 days; and the fourth, *bisextile*, of 366; by reason of the six hours, which in four years make a day or somewhat less, for in 134 years an intercalary day is to be retrenched. On this account it was, that Pope Gregory XIII. with the advice of Clavius and Ciaconius, appointed, that the hundredth year of each century should have no bisextile, excepting in each fourth century: that is, a subtraction is made of three bisextile days in the space of four centuries; by reason of the 11 minutes wanting in the six hours whereof the bisextile consists.

The reformation of the calendar, or the *new style* as we call it, commenced on the 4th of October 1582, when ten days were thrown out at once, so many having been introduced into the computation since the time of the council of Nice in 325, by the defect of 11 minutes.

Julian Christian KALENDAR, is that wherein the days of the week are determined by the letters A, B, C, D, E, F, G, by means of the solar cycle; and the new and full moons, especially the paschal full moon, with the feast of Easter, and the other moveable feasts depending thereon, by means of golden numbers, rightly disposed through the Julian year. See **CYCLE**, and **GOLDEN Number**.

In this calendar, the vernal equinox is supposed to be fixed to the 21st day of March; and the cycle of 19 years, or the golden numbers, constantly to indicate the places of the new and full moons; yet both are erroneous. And hence arose a very great irregularity in the time of Easter. To show this error the more apparently, let us apply it to the year 1715. In this year, then, the vernal equinox falls on the 10th of March; and therefore comes too early by 11 days. The paschal full moon falls on the 7th of April; and therefore too late, with regard to the cycle, by three days. Easter, therefore, which should have been on the 10th of April, was that year on the 17th. The error here lies only in the metempsychosis, or postponition of the moon, through the defect of the lunar cycle. If the full moon had fallen on the 11th of March, Easter would have fallen on the 13th of March; and therefore the error arising from the anticipation of the equinox would have exceedingly augmented that arising from the postponition. These errors, in course of time, were so multiplied, that the calendar no longer exhibited any regular Easter. Pope Gregory XIII. therefore, by the advice of Aloysius Lilius, in 1582, threw 10 days out of the month of October, to restore the equinox to its place, viz. the 21st of March; and thus introduced the form of the Gregorian year, with such a provision as that the equinox should be constantly kept to the 21st of March. The new moons and full moons, by advice of the same Lilius, were not to be indicated by golden

Kalendar. numbers, but by epacts. The kalendar, however, was still retained in Britain without this correction: whence there was a difference of 11 days between our time and that of our neighbours. But by 24 Geo. II. c. 23. the Gregorian computation is established here, and accordingly took place in 1752.

Gregorian KALENDAR, is that which, by means of epacts, rightly disposed through the several months, determines the new and full moons, and the time of Easter, with the moveable feasts depending thereon, in the Gregorian year.

The Gregorian kalendar, therefore, differs from the Julian, both in the form of the year, and in that epacts are substituted in lieu of golden numbers: for the use and disposition whereof, see *EPACT*.

Though the Gregorian kalendar be preferable to the Julian, yet it is not without its defects (perhaps, as Tycho Brahe and Cassini imagine, it is impossible ever to bring the thing to a perfect justness). For, first, The Gregorian intercalation does not hinder; but that the equinox sometimes succeeds the 21st of March as far as the 23d; and sometimes anticipates it, falling on the 19th; and the full moon, which falls on the 20th of March, is sometimes the paschal; yet not so accounted by the Gregorians. On the other hand, the Gregorians account the full moon of the 22d of March the paschal; which yet falling before the equinox, is not paschal. In the first case, therefore, Easter is celebrated in an irregular month; in the latter, there are two Easters in the same ecclesiastical year. In like manner, the cyclical computation being founded on mean full moons, which yet may precede or follow the true ones by some hours, the paschal full moon may fall on Saturday, which is yet referred by the cycle to Sunday: whence, in the first case, Easter is celebrated eight days later than it should be; in the other, it is celebrated on the very day of the full moon, with the Jews and Quartodeciman heretics; contrary to the decree of the council of Nice. Scaliger and Calvisius show other faults in the Gregorian kalendar, arising from the negligence and inadvertency of the authors; yet is this kalendar adhered to by the Romans throughout Europe, &c. and used wherever the Roman breviary is used.

Reformed, or Corrected KALENDAR, is that which, setting aside all apparatus of golden numbers, epacts, and dominical letters, determines the equinox, with the paschal full moon, and the moveable feasts depending thereon, by astronomical computation, according to the Rudolphine Tables.

This kalendar was introduced among the Protestant states of Germany in the year 1700, when 11 days were at once thrown out of the month of February; so that in 1700 February had but 18 days: by this means, the corrected style agrees with the Gregorian. This alteration in the form of the year they admitted for a time; in expectation that, the real quantity of the tropical year being at length more accurately determined by observation, the Romanists would agree with them on some more convenient intercalation.

Construction of a KALENDAR, or Almanack. 1. Compute the sun's and moon's place for each day of the year; or take them from ephemerides. 2. Find the dominical letter, and by means thereof distribute the ka-

alendar into weeks. 3. Compute the time of Easter, and thence fix the other moveable feasts. 4. Add the immoveable feasts, with the names of the martyrs. 5. To every day add the sun's and moon's place, with the rising and setting of each luminary; the length of day and night; the crepuscula, and the aspects of the planets. 6. Add in the proper places the chief phases of the moon, and the sun's entrance into the cardinal points; i. e. the solstices and equinoxes; together with the rising and the setting, especially heliacal, of the planets and chief fixed stars. See *ASTRONOMY*.

The duration of the crepuscula, or the end of the evening and beginning of the morning twilight, together with the sun's rising and setting, and the length of days, may be transferred from the kalendars of one year into those of another; the differences in the several years being too small to be of any consideration in civil life.

Hence it appears, that the construction of a kalendar has nothing in it of mystery or difficulty, if tables of the heavenly motions be at hand.

Some divide kalendars or almanacks into public and private, perfect and imperfect; others into Heathen and Christian.

Public almanacks are those of a larger size, usually hung up for common or family use; private are those of a smaller kind, to be carried about either in the hand, inscribed on a staff, or in the pocket; perfect, those which have the dominical letters as well as primes and feasts inscribed on them; imperfect, those which have only the primes and immoveable feasts. Till about the fourth century, they all carry the marks of heathenism; from that age to the seventh, they are generally divided between heathenism and Christianity.

Almanacks are of somewhat different composition, some containing more points, others fewer. The essential part is the kalendar of months and days, with the rising and setting of the sun, age of the moon, &c. To these are added various parerga, astronomical, astrological, meteorological, chronological, and even political, rural, medical, &c. as calculations and accounts of eclipses, solar ingresses, aspects, and configurations of the heavenly bodies, lunations, heliocentric and geocentric motions of the planets, prognostics of the weather, and predictions of other events, tables of the planetary motions, the tides, terms, interest, twilight, equation, kings, &c.

Gelalean, or Jellalean KALENDAR, is a correction of the Persian kalendar, made by order of Sultan Gelaliddan, in the 467th year of the Hegira; or Christ 1089.

KALENDAR, is used for the catalogue or fasti anciently kept in each church of the saints both universal and those particularly honoured in each church; with their bishops, martyrs, &c. Kalendars are not to be confounded with martyrologies; for each church had its peculiar kalendar, whereas the martyrologies regarded the whole church in general, containing the martyrs and confessors of all the churches. From all the several kalendars were formed one martyrology: so that martyrologies are posterior to kalendars.

KALENDAR, is also applied to divers other compositions respecting the 12 months of the year.

In this sense, Spencer has given the shepherd's kalendar; Evelyn and Miller the gardener's kalendar, &c.

KALENDAR,

Kalendar
||
Kalends.

KALENDAR, is also extended to an orderly table or enumeration of persons or things.

Lord Bacon wishes for a kalendar of doubts. A late writer has given a kalendar of the persons who may inherit estates in fee-simple.

KALENDAR, *Kalendarium*, originally denoted, among the Romans, a book containing an account of moneys at interest, which became due on the kalends of January, the usual time when the Roman usurers let out their money.

KALENDAR Months, the solar months, as they stand in the kalendar, viz. January 31 days, &c.

Astronomical KALENDAR, an instrument engraved upon copper plates, printed on paper, and pasted on board, with a brass slider which carries a hair, and shows by inspection the sun's meridian altitude, right ascension, declination, rising, setting, amplitude, &c. to a greater exactness than our common globes will show.

KALENDAR of Prisoners. See **CALENDAR**.

KALENDAR Brothers, a sort of devout fraternities, composed of ecclesiastics as well as laymen; whose chief business was to procure masses to be said, and alms distributed, for the souls of such members as were deceased. They were also denominated *kalend-brothers*, because they usually met on the kalends of each month, though in some places only once a quarter.

KALENDARIIUM FESTUM. The Christians retained much of the ceremony and wantonness of the kalends of January, which for many ages was held a feast, and celebrated by the clergy with great indecencies, under the names *festum kalendarum*, or *hypodiakonorum*, or *sultorum*, that is, "the feast of fools;" sometimes also *libertas decembrica*. The people met masked in the church; and in a ludicrous way proceeded to the election of a mock pope, or bishop, who exercised a jurisdiction over them suitable to the festivity of the occasion. Fathers, councils, and popes, long laboured in vain to restrain this license, which prevailed at the close of the 15th century.

KALENDERS. See **CALENDERS**.

KALENDS, or **CALENDS**, in the Roman chronology, the first day of every month.—The word is formed from *καλειω*, I call or proclaim; because, before the publication of the Roman fasti, it was one of the offices of the pontifices to watch the appearance of the new moon, and give notice thereof to the *rex sacrificulus*; upon which a sacrifice being offered, the pontiff summoned the people together in the Capitol, and there with a loud voice proclaimed the number of kalends, or the day whereon the nones would be; which he did by repeating this formula as often as there were days of kalends, *Calo Juno Novella*. Whence the name *calendæ* was given thereto, from *calo*, *calare*. This is the account given by Varro. Others derive the appellation hence, that the people being convened on this day, the pontifex called or proclaimed the several feasts or holidays in the month; a custom which continued no longer than the year of Rome 450, when C. Fabius, the curule ædile, ordered the fasti or kalendar to be set up in public places, that everybody might know the differences of times, and the return of the festivals.

The kalends were reckoned backwards, or in a retrograde order. Thus, v. g. the first of May being the kalends of May; the last or the 30th of April was

the *pridie kalendarum*, or second of the kalends of May; the 29th of April, the third of the kalends, or before the kalends; and so back to the 13th, where the ides commence; which are likewise numbered invertedly to the fifth, where the nones begin; which are numbered after the same manner to the first day of the month, which is the kalends of April. See **IDES**, and **NONES**.

The rules of computation by kalends are included in the following verses:

*Prima dies mensis cujusque est dicta kalendæ:
Sex Maius nonas, October, Julius, et Mars;
Quatuor at reliqui: habet idus quilibet octo.
Inde dies reliquos omnes dic esse kalendas;
Quas retro numerans dices a mense sequente.*

To find the day of the kalends answering to any day of the month we are in; see how many days there are yet remaining of the month, and to that number add two: for example, suppose it the 22d day of April; it is then the 10th of the kalends of May. For April contains 30 days: and 22 taken from 30, there remain 8; to which two being added, the sum is 10. The reason of adding two is, because the last day of the month is called *secundo kalendas*, the last but one *tertio kalendas*, &c.

The Roman writers themselves are at a loss for the reason of this absurd and whimsical manner of computing the days of the month: yet it is still kept up in the Roman chancery; and by some authors, out of a vain affectation of learning, preferred to the common, more natural, and easy manner.

KALENDS are also used in church history to denote conferences anciently held by the clergy of each deanery, on the first day of every month, concerning their duty and conduct, especially in what related to the imposition of penance.

KALENDS of January, in Roman antiquity, was a solemn festival consecrated to Juno and Janus; wherein the Romans offered vows and sacrifices to those deities, and exchanged presents among themselves as a token of friendship.

It was only a melancholy day to debtors, who were then obliged to pay their interests, &c. Hence Horace calls it *tristes kalendæ*; Lib. I. Serm. Sat. 3.

KALI, the specific name of a plant which yields the substance also called kali or alkali. See **SALSOLA**.

KALISH, a province of Lower Poland, with the title of a palatinate. It is bounded on the west by the palatinate of Bosnia, on the east by that of Syrad, on the north by Regal Prussia, and on the south by Silesia. Kalish is the capital town.

KALISH, a town of Lower Poland, and capital of a palatinate of the same name, where the Jesuits had a magnificent college. It is seated on the river Prozna, in a morass, which renders it difficult of access. E. Long. 18. 0. N. Lat. 52. 20.

KALMIA, a genus of plants, belonging to the decandria class, and in the natural method ranking under the 18th order, *Bicornes*. See **BOTANY Index**.

KALMUCS, a tribe of Tartars, called also *Elutis*, inhabiting the larger half of what the Europeans call *Western Tartary*. Their territory extends from the Caspian sea, and the river *Yaik* or *Ural*, in 72 degrees of longitude from Ferro, to Mount Altay, in 110 degrees, and from the 40th to the 52d degree of north-

Kalends
||
Kalmucs.

Kalmucs. Latitude; whence it may be computed about 1930 miles in length from west to east, and in breadth from north to south about 650 miles where broadest. It is bounded on the north by Russia and Siberia, from which it is separated by a chain of mountains; on the east by Mount Altay; on the south by the countries of Karazm and the two Bukharias, from which it is also separated, partly by a chain of mountains and partly by some rivers. See TARTARY.

Of the Kalmuck Tartars the following curious account is given by Professor Pallas.—They are in general, says he, of a middle size, and it is even rare to see among them a person that is tall; the women especially are of low stature, and have very agreeable features. Their limbs are neatly turned, and very few have any defects contracted in infancy. Their education being left solely to nature, procures for them a well formed body and sound constitution. The only defect which is common among them is their having the thighs and legs somewhat bent. A fat person is hardly ever to be met with; the richest and most distinguished, though they lead a life sufficiently indolent, and enjoy abundance of every thing they desire, are never excessively corpulent. Their skin is pretty fair, especially when young: but it is the custom of the lower sort to allow their male children to go quite naked both in the heat of the sun and in the smoky atmosphere of their felt huts: the men too sleep naked, covered only with their drawers; and from these circumstances they acquire that yellowish brown colour which characterizes them. The women, on the contrary, have a very delicate complexion; among those of a certain rank are found some with the most beautiful faces, the whiteness of which is set off by the fine black of their hair; and in this as well as in their features they perfectly resemble the figures in Chinese paintings.

The physiognomy which distinguishes the Kalmucs, is pretty generally known. Strangers are made to believe that it is frightfully deformed; and though indeed there are very ugly men to be found, yet in general their countenance has an openness in it that bespeaks a mild, a frank, and social disposition. In many it is of a roundish shape, and exceedingly agreeable; among the women some would be thought beauties even in those European cities where the taste is most scrupulous. The characteristic features of a Kalmuc or Mongul countenance are the following: The interior angle of the eye is placed obliquely downwards towards the nose, and is acute and fleshy; the eyebrows are black, narrow, and much arched; the nose is of a structure quite singular, being generally flat and broken towards the forehead; the cheek bone is high, the head and face very round; the eye is dark, the lips thick and fleshy, the chin short, and the teeth exceedingly white, continuing so to old age; the ears are of an enormous size, standing out from the head. These characters are more or less visible in each individual; but the person that possesses them all in the highest degree is considered as the most beautifully formed.

Among all the Mongul nations, the men have much less beard than in our European countries, and among the Tartars it appears much later. The Kalmucs have most of it; and yet even with them the beard is very scanty and thin, and few have much hair on any other part of the body.

People that lead a pastoral life enjoy the bodily senses in the greatest perfection. The Kalmucs find the subtilty of their sense of smell very useful in their military expeditions, for by it they perceive at a distance the smoke of a fire or the smell of a camp; there are many of them who can tell by applying the nose to the hole of a fox, or any other quadruped, if the animal be within or not. They hear at a great distance the trampling of horses, the noise of any enemy, of a flock of sheep, or even of strayed cattle; they have only to stretch themselves on the ground, and to apply their ear close to the turf. But nothing is more astonishing than the acuteness of sight in most of the Kalmucs, and the extraordinary distance at which they often perceive very minute objects, such as the dust raised by cattle or horses, and this from places very little elevated; in immense level deserts, though the particular inequalities of the surface and the vapours which in fine weather are seen to undulate over the soil in great heats, considerably increase the difficulty. They are also accustomed to trace the print of a foot in these deserts by the sight alone.

These people possess many good qualities, which give them a great superiority over the wandering Tartars. A certain natural sagacity, a social disposition, hospitality, eagerness to oblige, fidelity to their chiefs, much curiosity, and a certain vivacity accompanied with good humour, which hardly ever forsakes even the most wretched among them, form the fair side of their character. On the other hand, they are careless, superficial, and want true courage; besides, they are remarkable for credulity, distrust, and a natural inclination authorized by custom for drunkenness and debauchery, but especially for a great degree of cunning, which they too often practise. The disposition to indolence is common and natural, especially among the men, to all Asiatic nations, who lead a kind of life exempt from subjection and devoid of activity; but this is less to be perceived among the Kalmucs, on account of their natural vivacity, and does not prevent their endeavours to oblige. Those among them who exercise any little trade, or who are reduced by poverty to hire themselves to the Russians either for labour or for fishing, are very assiduous and indefatigable. They sleep but little, going to rest late and rising with the sun. To sleep through the day, unless a person is drunk, is considered by them as dishonourable. But their extreme dirtiness can neither be disguised nor justified, and proceeds much more from their education, from the slovenliness attached to the profession of a herdsman, and from levity, than from laziness: for the Kalmuc women are indefatigable in whatever concerns domestic matters: and it is for this reason, as well as on the score of sensuality, that the Kirguisians are eager to seize and carry them off whenever an opportunity presents itself.

With regard to the intellectual faculties of the Kalmucs, notwithstanding their want of instruction and information, they possess good natural parts, an excellent memory, and a strong desire to learn. They acquire the Russian language with great facility, and pronounce it well; in which last article they very much surpass the Chinese. It would be very easy to civilize them, if their petulance and manner of life did not render it impracticable.

Although the Kalmucs are generally of a sanguine,
and

Kalmucs. and choleric temperament, they live more amicably together than one could expect in a people that lead so independent a life. They seldom come to blows even over their cups, and their quarrels are hardly ever bloody. A murder very rarely happens, though their anger has something in it exceedingly fierce. It would seem that the morality of their religion, though exceedingly idolatrous, has been able to moderate their natural disposition in this respect; for in consequence of their dogmas, with regard to the transmigration of souls, every wanton murder either of men or beasts is thought a deadly sin.

The Kalmucs are exceedingly affable; and of so social a disposition, that it is rare for a traveller to perceive another, even at the distance of several miles, without going to salute him, and to inquire into the object of his journey. When a troop of Kalmucs perceive any person at a distance, it is customary for them to detach one of their number to the next eminence, from whence he makes a signal with his cap for the person to draw near. If this signal is not obeyed, the person is considered as an enemy or a robber, and is often pursued as such. They enter willingly into friendships: but these connexions are not quite disinterested; for to give and to receive presents are with them essential articles. A mere trifle, however, is sufficient to induce them to do you all manner of service; and they are never ungrateful as far as they are able. Adversity cannot deprive them of courage nor alter their good humour. A Kalmuc will never beg if he were in the extremest misery, but rather endeavour to acquire a subsistence by cheating: and when no other way remains, he will hire himself to some rich individual of his nation, or to some Russian, either as a herdsman, a fisherman, or for any other sort of labour. Very few of the rich value themselves much upon their wealth: but those who do, show no contempt for the poor of their own nation; though the meaner sort pay their court very obsequiously to the rich, who are always surrounded with a swarm of idle dependants.

Nothing can be more prudent than that exercise of hospitality practised by wandering nations: it is of the greatest advantage to those among them who travel across their deserts; and each individual who practises it, may rely on reaping the benefit of it wherever he goes. A Kalmuc provided with a horse, with arms and equipage, may ramble from one place to another for three months together, without taking with him either money or provisions. Wherever he comes he finds either distant relations or friends, to whom he is attached by the ties of hospitality, from whom he meets with the kindest reception, and is entertained in the best manner their circumstances afford. Perhaps he lodges in the first unknown cottage he finds upon his road; and scarce has he entered it, but his wants are supplied with the most affectionate cordiality. Every stranger, of whatsoever nation, never fails to be well received by a Kalmuc; and he may depend upon having his effects in the greatest security the moment he has put himself under the protection of his host: for to rob a guest is considered by the Kalmucs as the most abominable of all crimes.

When the master of the house sits down to meat in company with others of inferior rank, he begins in-

deed by serving himself and his family, but whatever Kalmucs. remains is distributed among the assistants. When they smoke tobacco, the pipe circulates incessantly from one to another. When any one receives a present either of meat or drink, he divides it faithfully with his companions, even though of inferior rank. But they are much more niggardly of their other effects, and especially of their cattle, and do not willingly give these away except when they hope to receive a suitable return: or if any relation has accidentally suffered the loss of his flocks, he is sure to be most willingly assisted. Perhaps too it may be related as an article of their hospitality, that they abandon their wives to their friends with the greatest facility, and in general they are very little inclined to jealousy.

Their robberies are never committed upon their equals, and even the greater part of the rapine exercised on other tribes is founded on hatred or national quarrels; neither do they willingly attempt this by open force, but prefer the machinations of cunning, which are so natural to them. It must also be confessed, that it is only those that live with princes, and in camps where these hold their courts, or their priests; that are most addicted to these practices; while the common people, satisfied with the pleasures of the pastoral life, spend their days in innocent simplicity, and never attack the property of another till forced by necessity, or led by their superiors who show them the example.

The Kalmucs are very faithful to their lawful prince; they endure every sort of oppression, and yet are with difficulty induced to revolt; but if they belong to a prince who has not become so by right of succession, they very easily rebel. They honour old age. When young men travel with such as are older than themselves they take upon them the whole care of the cattle as well as of the feast. They are exceedingly prudent in matters that relate to their sovereign or their nation, or which are recommended to their direction by the priests, to whom they yield an unreserved obedience.

The moveable habitations of the Kalmucs are those felt huts with a conical roof in use among all the roaming Asiatics. The truly ingenious invention of these tents was undoubtedly conceived in the eastern parts of Asia, and most probably by the Mongul nations. As they can be entirely taken to pieces and folded in a small compass, they are very useful, and perfectly agree with the migratory life of these people, who are still ignorant of the use of carriages. The frame of these huts, and the felt they are covered with, though made as light as possible, yet are a sufficient load for a camel or two oxen. But the capacity, of these huts, their warmth in winter, their strength in resisting tempests and excluding rain, abundantly compensate for this inconvenience. The wood endures many years; and though the felt begins to break into holes in the second year, the common people, who do not consider it as disgraceful to have them mended and patched, make them serve a good deal longer. The huts are in general use from the prince down to the meanest Kalmuc, differing only in size and in the embellishments within. In winter, they are warm even when heated with the dried excrements of their cattle, to which they are often obliged to have recourse, for

want.

Kalmucs. want of other combustibles, in many places of the deserts which are destitute of wood. In summer they remove the felt to enjoy the fresh air.

The master of the tent has his bed placed opposite to the door behind the fire place. The bedsteads are low and made of wood. The rich adorn their beds with curtains, and spread carpets or felt upon the ground. When a Kalmuc possesses an idol, he places it near the head of his bed, and sets before it several small consecrated cups full of water, milk, or other food. Before this sort of altar he fixes in the ground the trunk of a tree, on which he places a large, iron basin destined to receive the libations of all the drink he makes use of in a day. On festivals the idol is decorated, the lamps are lighted, and perfumes burnt before it.

The riches of the Kalmucs, and their whole means of subsistence, depend on their flocks, which many of them reckon by hundreds, and even by thousands. A man is thought capable of living on his possessions when he is master of ten cows with a bull, eight mares with a stallion. The animals they have in greatest abundance are horses, horned cattle, and sheep. Camels, which require time and pains to rear, cannot multiply much with them; they are besides too delicate; and it is only the rich or the priests who possess any of them. Their horses are but small, too weak for the draught, and too wild; but they do not yield to any in swiftness, and support with ease the weight of a man. They may be made to gallop for several hours successively without injury; and when necessity requires it, they can pass twice 24 hours without drinking. They have a little hoof, but very hard; and they may be used at all times without being shod. In this country the horses live and perpetuate themselves without any assistance from man. The Kalmucs castrate the greater part of their male foals, and at the same time slit their nostrils, that they may breathe more freely when they run. The stallions are never separated from the mares, that there may be always plenty of milk. The stallions are leaders of the herd, and often wander at a distance into the deserts at the head of their females, defending them from the wolves with the greatest intrepidity. The Kalmucs have the art of breaking a young horse without using a bridle. They seize him before he is two years old by means of a noose fixed to the end of a long pole; an instrument they use in taking their riding horses which feed in the midst of the herd. They put no saddle at first on the colt they mean to break, but tie a strait girth round his body; by the help of which the horseman can keep himself firm. When he is mounted, the horse is abandoned to his fury: they allow him to run and agitate himself as much as he pleases on the open plain till he is fatigued. The horseman is solicitous only to keep himself fast; and when the horse begins to abate of his impetuosity, he urges him again with the whip till his strength is almost gone: he is then saddled and bridled, and made to go for some time at a moderate pace; after which he is entirely tamed.

The horned cattle of the Kalmucs are of a beautiful shape. They keep more bulls than are necessary for the cows, and employ a great number of them as beasts of burden for carrying their houses and their other

furniture from place to place. They think a bull equal to 50 cows. These and the mares give milk only while they suckle their calves or their foals, which are accordingly kept close to the tents during the day, and only suffered to suck freely during the night; a practice which the Kalmucs pretend makes their cattle stronger and more durable. They generally milk their mares three or four times a-day, and sometimes every two hours when the herbage is abundant. The cows are milked but twice a-day.

The Kalmuc sheep are of the same species with those found in all Great Tartary, having large tails like a bag, exceedingly fat, and which furnish a fuet as soft as butter. They have also large pendant ears, and their head is much arched. Their wool is coarse, and the ewes seldom have horns. One ram is sufficient for a hundred ewes. Little use is made of the milk. The wool is fit for nothing but to make felt for the tents. A great many sheep die during winter, and a greater number still of the early lambs: the skins of which are wrought into those fine furs so much esteemed in Russia and foreign parts.

Camels belong only to the rich; for they are very dear, multiply very slowly, and are subject to many diseases. The deserts of the Wolga, and almost all those of the southern parts of Great Tartary, furnish excellent pasture for these animals; but they require not only much attention in winter, but they must be continually under the eye of the herdsmen; for notwithstanding the advantage of their stature, they are of all animals least able to defend themselves against the wolf. They are guarded with much care against the violence of the cold and the winds of winter; nevertheless many of them die of a consumption accompanied with a diarrhoea, occasioned most probably by the moisture of their pasture and of the season. This disease, for which no remedy has been found, makes them languish for six months or more. They are in general so delicate, that a slight wound or blow often proves fatal to them. Besides, no animal is so much tormented with insects; and they often die in summer of those they swallow in eating the leaves of the oak and of the birch. The *meloe proscarabæus*, which covers all the plants in many of those places where they feed, is generally fatal to them. In spring, when they cast their hair, and which falls at once from every part of their body, they are exposed to the bite of the spider-scorpion, an animal very common in southern countries. The wound inflicted by this insect on the skin thus naked is so venomous, that the camel dies of it in less than eight days, sometimes in three. In winter, and especially after rutting time, which happens at the end of March, the camels become lean and weak; the bunch upon their back grows flabby, and hangs down upon the side, nor does it recover its plumpness till summer.

Camels milk is thick, unctuous, and of a saltish taste, especially when the animals frequent pastures abounding with saline plants; and this last property makes the Kalmucs fond of it to tea. They make use of the hair for stuffing cushions, and for making ropes, packthread, and felt. It may be wrought into the most beautiful camlets, or into the finest and softest cloths. The camels with two bunches are a very un-

easy

Kalmuc. easy feat to the person who mounts them; their trot is so heavy, and even their walk so rude, that he receives the most violent shocks at every step.

When a Kalmuc horde intends to remove in search of fresh pasture, which in summer necessarily happens every four, six, or eight days, people are in the first place despatched to reconnoitre the best place for the khan or prince, for the lama, and for the huts containing the idols. These begin the march, and are followed by the whole troop, each choosing for himself the place he thinks most convenient. The camel that is loaded with the most precious furniture is decorated with little bells, the rest march in a string one behind another, and the bulls with burdens are driven on before. On these days the women and girls dress themselves in their best clothes, and lay on abundance of paint. They have the charge, together with the boys, of leading the flocks and the beasts of burden; and on the road they beguile the tediousness of the journey with their songs.

The Kalmucs are supplied by their flocks with milk, cheese, butter, and flesh, which are the principal articles of their food. With regard to the last, they are so little squeamish, that they not only eat the flesh of their own diseased cattle, but that of almost every sort of wild beast, and the poor will even feed upon carrion. They eat, however, the roots and stalks of many plants; such as the bulbous-rooted chervil and dandelion, &c. which they use both boiled and raw.

Their ordinary drink is the milk of mares or cows; but the former is for several reasons preferred. This, when fresh, has indeed a very disagreeable taste of garlic: but besides that it is much thinner than cow milk, it takes as it grows sour a very agreeable vinous flavour; it yields neither cream nor curd, but furnishes a very wholesome refreshing beverage, which sensibly inebriates when taken to excess. They never make use of new milk, and still less of milk or of water that have not been boiled. Their milk is boiled as soon as it is taken from the animal; when it is cold it is poured into a large leathern bag, in which there remains as much of the old milk as is sufficient to turn the new quantity sour, for they never think of cleansing those bags; and as the inside is lined with a crust deposited by the caseous part of the milk and other impurities, it is easy to imagine that a nauseous smell must exhale from them. But this is precisely the circumstance in which the secret consists of communicating to the milk a vinous fermentation.

In summer, and as often as the Kalmucks procure much milk from their flocks, they never fail to intoxicate themselves continually with the spirituous liquor which they know how to distil from it. Mares milk is the most spirituous; and the quantity meant to be distilled remains twenty-four hours in summer, and three or four days in winter, in those corrupted bags we mentioned, to prepare it for the operation. The cream is left, but the butter which forms at top is taken off and reserved for other purposes. Cows milk yields one-thirtieth part, and mares milk one-fifteenth part, of spirit. This liquor is limpid and very watery, and consequently does not take fire, but is capable of being long kept in glass bottles. The rich Kalmucs increase its strength by a second distillation.

These people are exceedingly fond of tea and tobacco. The former is so dear, as it comes to them from China by the way of Russia, that the poor people supply its place with various wild plants; such as a species of liquorice, the seed of the sharp-leaved dock, the roots of wild angelica, and the seed of the Tartarian maple.

The Kalmucs are excellent horsemen. Their arms are lances, bows, and arrows, poniards, and crooked sabres, though the rich have fire arms. They wear, when at war, coats of mail, which cost fifty horses, and their helmets are gilded at top. They are fond of falconry, and hunting of all sorts is their principal amusement. Their passion for play, especially with those who play cards, is carried to as great excess among them as in any other nation.

The greater part of their time is spent in diversions; and however miserable their manner of life may seem to us, they are perfectly happy with it. They cannot endure for any time the air of a close room; and think our custom of living in houses insupportable. The greatest part of them, notwithstanding of the apparent unhealthiness of their way of life, arrive at a vigorous old age; their diseases are neither frequent nor dangerous. Men of 80 or 100 years old are not uncommon; and at that age they can still very well endure the exercise of riding. Simple food, the free air which they constantly breathe, a hardy vigorous constitution, continual exercise without severe labour, and a mind free from care, are the natural causes of their health and longevity.

It is very remarkable, that a migratory people, whose manner of life seems so congruous to the natural liberty of mankind, should have been subjected from time immemorial to the unlimited authority of an absolute sovereign. The Monguls of Asia afford the only instance of it; for neither written records nor ancient tradition have preserved the smallest trace of their ever having enjoyed a state of independence. On the contrary, they acknowledge that they have at all times been subjected to khans and princes, whose authority has been transmitted to them by succession, and is considered as a right perfectly established, sacred, and divine.

KAMAKURA, a famous island of Japan, about three miles in circumference, lying on the south coast of Nippon. It is here they confine their great men when they have committed any fault. The coast of this island is so steep, that they are forced to be lifted up by cranes.

KAMEEL, **KAMEL**, or *Camel*, a machine for lifting ships. See **CAMEL**.

KAMINIECK, a very strong town of Poland, and capital of Podolia, with two castles and a bishop's see. It was taken by the Turks in 1672, who gave it back in 1690, after the treaty of Carlowitz. It is seated on a craggy rock, in E. Long. 27. 30. N. Lat. 48. 58.

KAMSIN, the name of a hot southerly wind common in Egypt, of which we find the following description in Mr Volney's Travels.—These winds, says he, are known in Egypt by the general name of *winds of 50 days*; not that they last 50 days without intermission, but because they prevail more frequently in the 50 days preceding and following the equinox. Travellers

Kalmucs
||
Kamfir.

Kamfir,
Kamtſchat-
ka.

vellers have mentioned them under the denomination of *poisonous winds*, or, more correctly, *hot winds of the desert*. Such in fact is their quality; and their heat is sometimes so excessive, that it is difficult to form any idea of its violence without having experienced it; but it may be compared to the heat of a large oven at the moment of drawing out the bread. When these winds begin to blow, the atmosphere assumes an alarming aspect. The sky, at other times so clear in this climate, becomes dark and heavy; the sun loses his splendour and appears of a violet colour; the air is not cloudy, but gray and thick, and is in fact filled with an extremely subtle dust, which penetrates everywhere. This wind, always light and rapid, is not at first remarkably hot, but it increases in heat in proportion as it continues. All animated bodies soon discover it by the change it produces in them. The lungs, which a too rarefied air no longer expands, are contracted, and become painful. Respiration is short and difficult; the skin parched and dry, and the body consumed by an internal heat. In vain is recourse had to large draughts of water; nothing can restore perspiration. In vain is coolness sought for; all bodies in which it is usual to find it deceive the hand that touches them. Marble, iron, water, notwithstanding the sun no longer appears, are hot. The streets are deserted, and the dead silence of night reigns everywhere. The inhabitants of towns and villages shut themselves up in their houses, and those of the desert in their tents or in wells dug in the earth, where they wait the termination of this destructive heat. It usually lasts three days, but if it exceeds that time it becomes insupportable. Wo to the traveller whom this wind surprises remote from shelter: he must suffer all its horrible effects, which sometimes are mortal. The danger is most imminent when it blows in squalls; for then the rapidity of the wind increases the heat to such a degree as to cause sudden death. This death is a real suffocation; the lungs being empty are convulsed, the circulation is disordered, and the whole mass of blood driven by the heart towards the head and breast; whence the hæmorrhagy at the nose and mouth which happens after death. This wind is especially destructive to persons of a plethoric habit, and those in whom fatigue has destroyed the tone of the muscles and the vessels. The corpse remains a long time warm, swells, turns blue, and soon becomes putrid. These accidents are to be avoided by stopping the nose and mouth with handkerchiefs; an efficacious method likewise is that practised by the camels. On this occasion these animals bury their noses in the sand, and keep them there till the squall is over. Another quality of this wind is its extreme aridity, which is such, that water sprinkled on the floor evaporates in a few minutes. By this extreme dryness it withers and strips all the plants; and by exhaling too suddenly the emanations from animal bodies, crisps the skin, closes the pores, and causes that feverish heat which is the constant effect of suppressed perspiration.

KAMTSCHATKA, KAMSCHÄTKA, or *Kamchatka*; a large peninsula in the north-eastern part of Asia, lying between 51° and 62° of north latitude, and between 173° and 182° of east longitude from the isle of Ferro. It is bounded on the east and south by the sea of Kamtschatka, on the west by the seas of Ochotsk

and Penſinsk, and on the north by the country of the Kamtschatka-Koriaes.

This peninsula was not discovered by the Russians before the end of the last century. It is probable, when first however, that some of that nation had visited Kamtschatka before the time above mentioned. For when Volodomir Atlassoff entered upon the conquest of this peninsula in 1697, he found that the inhabitants had already some knowledge of the Russians. A common tradition as yet prevails among them, that long before the expedition of Atlassoff, one Feodotoff and his companions had resided among them, and had intermarried with the natives; and they still show the place where the Russian habitations stood. None of the Russians remained when Atlassoff first visited Kamtschatka. They are said to have been held in great veneration, and almost deified by the natives: who at first imagined that no human power could hurt them, until they quarrelled among themselves, and the blood was seen to flow from the wounds which they gave each other: and soon after, upon a separation taking place, they were all killed by the natives. —These Russians were thought to be the remains of a ship's crew who had sailed quite round the north-eastern promontory of Asia called *Tschukui/koï Noſs*. The account we have of this voyage is as follows.—In 1648, seven kotchets or vessels sailed from the mouth of the river Kovyma or Kolyma, lying in the Frozen ocean in about 72° north latitude, and 173° or 174° east longitude from Ferro, in order to penetrate into the eastern ocean. Four of these were never more heard of; the remaining three were commanded by Simon Deshneff, Gerasim Ankudinoff, two chiefs of the Cossacs, and Feodotoff Alexeef, head of the Promyhlenics, or wandering Russians, who occasionally visited Siberia. Each vessel was probably manned with about 30 persons. They met with no obstructions from the ice; but Ankudinoff's vessel was wrecked on the promontory above mentioned, and the crew were distributed on board the two remaining vessels. These two soon after lost sight of each other, and never afterwards rejoined. Deshneff was driven about by tempestuous winds till October, when he was shipwrecked on the northern part of Kamtschatka. Here he was informed by a woman of Yakutsk, that Feodotoff and Gerasim had died of the scurvy; that part of the crew had been slain; and that a few had escaped in small vessels, who had never afterwards been heard of; and these were probably the people who, as we have already mentioned, settled among the Kamtschatkans.

As the inhabitants of this country were neither numerous nor warlike, it required no great force to subdue them; and in 1711 the whole peninsula was finally reduced under the dominion of the Russians.—For some years this acquisition was of very little consequence to the crown, excepting the small tribute of furs exacted from the inhabitants. The Russians indeed occasionally hunted, in this peninsula, foxes, wolves, ermines, sables, and other animals, whose skins form an extensive article of commerce among the eastern nations. But the fur trade carried on from thence was very inconsiderable, until the series of islands mentioned in the next article were discovered; since which time the quantities of furs brought from these

¹ Kamtschatka. these islands have greatly increased the trade of Kamtschatka, and rendered it an important part of the Russian commerce.

³ Country described. The face of the country throughout the peninsula is chiefly mountainous. It produces in some parts birch, poplars, elders, willows, underwood, and berries of different sorts. Greens and other vegetables are raised with great facility; such as white cabbage, turnips, radishes, beet root, carrots, and some cucumbers. Agriculture is in a very low state, owing chiefly to the nature of the soil and the severe hoar-frosts: for though some trials have been made with respect to the cultivation of grain, and oats, barley, and rye, have been sown, yet no crop has ever been procured sufficient in quantity or quality to answer the trouble of raising it. Hemp, however, has of late years been cultivated with great success.—Every year a vessel belonging to the crown sails from Ochotsk to Kamtschatka laden with salt, provisions, corn, and Russian manufactures; and returns in June or July of the following year with skins and furs.

⁴ Volcanoes. Many traces of volcanoes have been observed in this peninsula; and there are some mountains which are in a burning state at present. The most considerable of these is situated near the middle of the peninsula. In 1762, a great noise was heard issuing from the inside of that mountain, and flames of fire were seen to burst from different parts. These flames were immediately succeeded by a large stream of melted snow water, which flowed into the neighbouring valley, and drowned two natives who were there on a hunting party. The ashes and burning matters thrown from the mountain were spread over a surface of 300 versts. In 1767 was another discharge, but less considerable. Every night flames of fire were observed streaming from the mountain; and considerable damage was done by the eruption which attended them. Since that year no flames have been seen; but the mountain emits a constant smoke.

⁵ Population, &c. Kamtschatka is divided by the Russians into four districts; and the government of the whole is dependent upon, and subject to, the inspection of the chancery of Ochotsk. The whole Russian force stationed in this peninsula amounts to no more than 300 men. The present population of Kamtschatka is very small, amounting to scarce 4000 souls. Formerly the inhabitants were more numerous; but in 1768, the small-pox carried off 5368 persons. There are now only about 700 males in the whole peninsula who are tributary, and a few more than 100 in the neighbouring islands, called the *Kurile Isles*, who are subject to Russia. The fixed annual tribute consists in 279 sables, 464 red foxes, 50 sea otters with a dam, and 38 cub otters. All furs exported from Kamtschatka pay a duty of 10 per cent. to the crown; the tenth part of the cargoes bought from the neighbouring islands is also delivered into the customs.

⁶ Manners, &c. of the natives. Many of the natives of Kamtschatka have no fixed habitations, but wander from place to place with their herds of rein deer; others have settled habitations, and reside upon the banks of the rivers and the shore of the Penschinsk sea, living upon fish and sea animals, and such herbs as grow upon the shore: the former dwell in huts covered with deer skins; the latter in places dug out of the earth. The natives are divided into

three different peoples, namely, the Kamtschatkans, ¹ Kamtschatka. Koreki, and Kuriles. The Kamtschatkans live upon the south side of the promontory of Kamtschatka: the Koreki inhabit the northern parts on the coast of the Penschinsk sea, and round the eastern ocean almost to the river Anadir, whose mouth lies in that ocean almost in 68° N. Lat.: the Kuriles inhabit the islands in that sea, reaching as far as those of Japan. The Kamtschatkans have this particular custom, that they endeavour to give every thing a name in their language which may express the property of it; but if they do not understand the thing quite well themselves, then they take a name from some foreign language, which perhaps has no relation to the thing itself; as, for example, they call a priest *bogbog*, because probably they hear him use the word *bogbog*, "God;" bread they call *brightain augsh*, that is Russian root; and thus of several other words to which their language is a stranger.

It appears probable, that the Kamtschatkans lived formerly in Mungalia beyond the river Amur, and made one people with the Mungals; which is farther confirmed by the following observations, such as the Kamtschatkan having several words common to the Mungal Chinese language, as their terminations in ong, ing, oang, chin, cha, ching, kfii, kfung; it would be still a greater proof, if we could show several words and sentences the same in both languages. The Kamtschatkans and Mungals also are both of a middling stature, are swarthy, have black hair, a broad face, a sharp nose, with the eyes falling in, eyebrows small and thin, a hanging belly, slender legs and arms; they are both remarkable for cowardice, boasting, and slavishness to people who use them hard, and for their obstinacy and contempt of those who treat them with gentleness.

Although in outward appearance they resemble the other inhabitants of Siberia, yet the Kamtschatkans differ in this, that their faces are not so long as the other Siberians; their cheeks stand more out, their teeth are thick, their mouth large, their stature middling, and their shoulders broad, particularly those people who inhabit the sea coast.

Both men and women plait their hair in two locks, binding the ends with small ropes. When any hair starts out, they sew it with threads to make it lie close; by this means they have such a quantity of lice, that they can scrape them off by handfuls, and they are nasty enough even to eat them. Those that have not natural hair sufficient, wear false locks, sometimes as much as weigh 10 pounds, which makes their head look like a haycock. But many of the women already wear their hair, and are nearly dressed in the same manner as the Russians, whose language is the most prevalent. It may be said in praise of the Russians, that though they have established a despotic government in this rude climate, it is tempered by a mildness and equity which prevent its inconveniences from being felt. The taxes levied on the Kamtschadales are so trifling, that they may be regarded only as a mark of gratitude to the sovereign. La Perouse considered the people of this peninsula as the same with those of the bay of Castris, their mildness and probity being similar, and their persons very little different.

⁷ Their trade is almost entirely confined to procure the immediate necessaries and conveniences of life.

Kamtſchat-
ka.

They ſell the Koreki fables, fox and white dog ſkins, dried muſhrooms, and the like, in exchange for clothes made of deer ſkins and other hides. Their domeſtic trade conſiſts in dogs, boats, diſhes, troughs, nets, hemp yarn, and proviſions: and this kind of barter is carried on under a great ſhow of friendſhip; for when one wants any thing that another has, he goes freely to viſit him, and without any ceremony, makes known his wants, although perhaps he never had any acquaintance with him before: the hoſt is obliged to behave according to the cuſtom of the country, and give his gueſt what he has occaſion for; but he may afterwards return the viſit, and muſt be received in the ſame manner. They fill almoſt every place in heaven and earth with different ſpirits, and offer them ſacrifices upon every occaſion. Some carry little idols about them, or have them placed in their dwellings.

9
Cannot
number
above
twenty.

It is very diverting to ſee them attempt to reckon above ten: for having reckoned the fingers of both hands, they claſp them together, which ſignifies ten; then they begin with their toes, and count to twenty; after which they are quite confounded, and cry, Metcha? that is, Where ſhall I take more? They reckon ten months in the year, ſome of which are longer and ſome ſhorter; for they do not divide them by the changes of the moon, but by the order of particular occurrences that happen in thoſe regions. They commonly divide our year into two, ſo that winter is one year and ſummer another: the ſummer year begins in May, and the winter in November. They do not diſtinguiſh the days by any particular appellation, nor form them into weeks or months, nor yet know how many days are in the month or year. They mark their epochs by ſome remarkable thing or other; ſuch as the arrival of the Ruſſians, or the firſt expedition to Kamtſchatka.

9
Their laws.

If any one kills another, he is to be killed by the relations of the perſon ſlain. They burn the hands of people who have been frequently caught in theft; but for the firſt offence the thief muſt reſtore what he hath ſtolen, and live alone in ſolitude, without expecting the aſſiſtance of others. They have no diſputes about their land or their huts, every one having land and water more than ſufficient for his wants. They think themſelves the happieſt people in the world, and look upon the Ruſſians who are ſettled among them with contempt. However, this notion begins to change; for the old people who are confirmed in their cuſtoms drop off, and the young ones being converted to the Chriſtian religion, adopt the cuſtoms of the Ruſſians, and deſpiſe the barbarity and ſuperſtition of their anceſtors. The Greek religion has been eſtabliſhed among them without perſecution or violence. The vicar of Paratounka is the ſon of a native by a Ruſſian woman. The people have inured themſelves to the extremes of heat and cold, by going into vapour baths, coming out covered with perſpiration, and then rolling themſelves in the ſnow.

In every oſtrog or large village, by order of her imperial majeſty, is appointed a chief, who is ſole judge in all caſes except thoſe of life and death; and not only thoſe chiefs, but even the common people, have their chapels for worſhip. Schools are alſo erected in almoſt every village, to which the Kamtſchatkans ſend their children with great pleaſure; by this means it is

to be hoped that barbarity will be in a ſhort time rooted out from amongſt them.

Kamtſchat-
ka.

Under the name of *oſtrog* is underſtood every habitation conſiſting of one or more huts, all ſurrounded by an earthen wall or paliſſado.—The huts are built in the following manner: they dig a hole in the earth about five feet deep, the breadth and length proportioned to the number of people deſigned to live in it. In the middle of this hole they plant four thick wooden pillars; over theſe they lay balks, upon which they form the roof or ceiling, leaving in the middle a ſquare opening which ſerves them for a window and chimney; this they cover with graſs and earth, ſo that the outward appearance is like a round hillock; but within they are an oblong ſquare, with the fire in one of the long ſides of the ſquare: between the pillars round the walls of their huts they make benches, upon which each family lies ſeparately; but on that ſide oppoſite to the fire there are no benches, it being deſigned for their kitchen furniture, in which they dreſs their victuals for themſelves and dogs. In thoſe huts where there are no benches, there are balks laid upon the floor, and covered with mats. They adorn the walls of their huts with mats made of graſs. They enter their huts by ladders, commonly placed near the fire hearth; ſo that, when they are heating their huts, the ſteps of the ladder become ſo hot, and the ſmoke ſo thick, that it is almoſt impoſſible for a ſtranger to go up or down without being burnt, and even ſtiſled to death; but the natives find no difficulty in it; and though they can only fix their toes on the ſteps of the ladder, they mount like ſquirrels; nor do the women hesitate to go through this ſmoke with their children upon their ſhoulders, though there is another opening through which the women are allowed to paſs; but if any man pretend to do the ſame, he would be laughed at. The Kamtſchatkans live in theſe huts all the winter, after which they go into others called *balagans*; theſe ſerve them not only to live in during the ſummer, but alſo for magazines. They are made in the following manner: Nine pillars, about two fathoms long, or more, are fixed in the ground, and bound together with balks laid over them, which they cover with rods, and over all lay graſs, faſtening ſpars, and a round ſharp roof at top, which they cover with bramble, and thatch with graſs. They faſten the lower ends of the ſpars to the balks with ropes and thongs, and have a door on each ſide, one directly oppoſite to the other. They make uſe of the ſame kind of huts to keep their fiſh, &c. till winter comes on, when they can more eaſily remove it; and this without any guard, only taking away the ladders. If theſe buildings were not ſo high, the wild beaſts, would undoubtedly plunder them; for notwithſtanding all their precaution, the bears ſometimes climb up and force their way into their magazines, eſpecially in the harveſt, when the fiſh and berries begin to grow ſcarce.

The ſouthern Kamtſchatkans commonly build their villages in thick woods and other places which are naturally ſtrong, not leſs than 20 verſts from the ſea; and their ſummer habitations are near the mouths of the rivers; but thoſe who live upon the Penſchinka ſea and the eaſtern ocean build their villages very near the ſhore. They look upon that river near which

their

Kamtſchatka. their village is ſituated as the inheritance of their tribe.

¹¹
Method of kindling fire.

In order to kindle fire, they uſe a board of dry wood with round holes in the ſides of it, and a ſmall round ſtick; this they rub in a hole till it takes fire; and inſtead of tinder they uſe dry grafs beat ſoft. Theſe inſtruments are held in ſuch eſteem by the Kamtſchatkans, that they are never without them, and they value them more than our ſteels and flints; but they are exceſſively fond of iron inſtruments, ſuch as hatchets, knives, or needles; nay, at the firſt arrival of the Ruſſians, a piece of broken iron was looked upon as a great preſent; and even now they receive it with thankſfulneſs, finding uſe for the leaſt fragment, either to point their arrows or make darts, which they do by hammering it out cold between two ſtones. As ſome of them delight in war, the Ruſſian merchants are forbid to ſell them any warlike inſtruments: but they are ingenious enough to make ſpears and arrows out of the iron pots and kettles which they buy; and they are ſo dexterous, when the eye of a needle breaks, as to make a new eye, which they will repeat until nothing remains but the point.

¹²
Conſtruction of their boats.

The Kamtſchatkans make their boats of poplar wood; but the Kuriles not having any wood of their own, make uſe of what is thrown on ſhore by the ſea, and is ſuppoſed to come from the coaſts of Japan, China, or America. The northern inhabitants of Kamtſchatka, the ſettled Koreki and Tſchukotſkoi, for want of proper timber and plank, make their boats of the ſkins of ſea animals. They ſew the pieces together with whales beards, and caulk them with moſs or nettles beat ſmall. Theſe boats hold two perſons; one of which ſits in the prow, and the other in the ſtern. They puſh them againſt the ſtream with poles, which is attended with great trouble: when the current is ſtrong, they can ſcarcely advance two feet in ten minutes; notwithſtanding which, they will carry theſe boats, fully loaded, ſometimes twenty verſts, and when the ſtream is not very ſtrong, even thirty or forty verſts. The larger boats carry thirty or forty pood; when the goods are not very heavy, they lay upon them a float or bridge reſting upon two boats joined together. They uſe this method in tranſporting their proviſions down the ſtream, and alſo to and from the iſlands.

¹³
Of their clothes.

Their clothes for the moſt part are made of the ſkins of deer, dogs, ſeveral ſea and land animals, and even of the ſkins of birds, thoſe of different animals being frequently joined in the ſame garment. They make the upper garment after two faſhions; ſometimes cutting the ſkirts all of an equal length, and ſometimes leaving them long behind in form of a train, with wide ſleeves of a length to come down below the knee, and a hood or caul behind, which in bad weather they put over their heads below their caps; the opening above is only large enough to let their heads paſs: they ſew the ſkins of dogs feet round this opening, with which they cover their faces in cold ſtormy weather; and round their ſkirts and ſleeves they put a border of white dog ſkin; upon their backs they ſew the ſmall ſhreds of ſkins of different colours. They commonly wear two coats; the under coat with the hair ſide inwards, the other ſide being dyed with alder; and the upper with the hair outwards. For the upper

garment they chooſe black, white, or ſpeckled ſkins, the hair of which is moſt eſteemed for the beauty of its colour.

Men and women without diſtinction uſe the above-mentioned garments, their dreſs only differing in their under clothing and in the covering of their feet and legs. The women have an under garment, which they commonly wear at home in the houſe, conſiſting of breeches and a waſtcoat ſewed together. The breeches are wide like thoſe of the Dutch ſkippers, and tie below the knee; the waſtcoat is wide above, and drawn round with a ſtring. The ſummer habits are made of dreſſed ſkins without hair: their winter garment is made of deer or ſtone ram ſkins with the hair on. The undreſs or houſehold habit of the men is a girdle of leather with a bag before, and likewise a leathern apron to cover them behind; theſe girdles are ſewed with hair of different colours. The Kamtſchatkans uſed formerly to go a hunting and fiſhing during the ſummer in this dreſs; but now this faſhion is changed, and they wear linen ſhirts, which they buy from the Ruſſians.

The covering of their feet and legs is made of ſkins of different ſorts: in the ſummer time, during the rains, they wear the ſkins of ſeals with the hair outwards: but their moſt common covering is the ſkin of the legs of the rein deer, and ſometimes of the legs of other beaſts, the ſhaggiſt they can find, to preſerve them againſt the cold. But the buſkins which both the Coſſacks and Kamtſchatkans uſe in their fineſt dreſs are made in the following manner: the ſole is of white ſeal ſkin, the upper part of fine white leather, the hind quarters of white dog ſkin; what comes round the legs is of dreſſed leather or dyed ſeal ſkin; the upper parts are embroidered. Theſe buſkins are ſo extraordinary, that if a bachelor is obſerved to wear them, he is immediately concluded to be upon a ſcheme of courtſhip.

They wear the ſame ſort of caps as the people of Yakutki. In ſummer they have a ſort of hats of birch bark tied about their head. The Kuriles uſe in the ſummer time caps made of plaited grafs. The women's head dreſs is the perukes that we formerly mentioned; and theſe were ſo dear to them, that when they came to be Chriſtians they were with difficulty prevailed upon to quit this dreſs for one more decent: however, at preſent, round the Ruſſian ſettlements, all is entirely changed, the women wearing ſhirts, ruffles, waſtcoats, caps, and ribbands; which change nobody now complains of except the very old people. The women do all their work in mittens; they formerly never waſhed their faces, but now they uſe both white and red paint: for white paint they make uſe of a rotten wood; and for red a ſea plant, which they boil in ſeals fat, and rubbing their cheeks with it, make them very red. They dreſs moſt in the winter time, eſpecially when they either receive or pay viſits.

The common clothes for a Kamtſchatkan and his family will not coſt him leſs than 100 rubles; for the coarſeſt worſted ſtockings, which coſt in Ruſſia 20 kopecks, cannot be bought here for leſs than a ruble; and all other things are ſold in the ſame proportion. The Kuriles are more able to buy good clothes than the Kamtſchatkans: for they can purchaſe for one ſea beaver as much as the Kamtſchatkans can for twenty foxes; and one beaver coſts the Kuriles no more trouble than five foxes do the Kamtſchatkans; for he muſt

Kamtſchatka. — be a good hunter who catches more than ten foxes in the winter; and a Kurile thinks himſelf unlucky if he doth not catch three beavers in the ſeaſon; beſides which, great numbers are thrown upon the ſhore by ſtorms.

14
Their diet.

The Kamtſchatkans divide their fiſh into ſix parts; the ſides and tails are hung up to dry; the back and thinner part of the belly are prepared apart, and generally dried over the fire; the head is laid to ſour in pits, and then they eat it like ſalt fiſh, and eſteem it much, though the ſmell is ſuch that a ſtranger cannot bear it; the ribs and the fleſh which remain upon them they hang up and dry, and afterwards pound for uſe; the larger bones they likewiſe dry for food for their dogs: in this manner all theſe different people prepare the *yokola*, which is their principal food, or, one may ſay, houſehold bread; and they eat it for the moſt part dry.

Their ſecond favourite food is caviare, or the roes of fiſh, which they prepare three different ways. They dry the roe whole in the air; or take it out of the ſkin which envelopes it, and ſpreading it upon a bed of graſs, dry it before the fire; or, laſtly, make rolls of it with the leaves of graſs, which they alſo dry. They never take a journey or go to hunting without dry caviare; and if a Kamtſchatkan has a pound of this, he can ſubſiſt without any other proviſion a great while; for every birch and alder tree furniſhes him with bark, which with his dried caviare makes him an agreeable meal; but they cannot eat either ſeparately, for the caviare ſticks like glue to the teeth; and it is almoſt impoſſible to ſwallow the bark, chewed ever ſo long by itſelf. There is ſtill a fourth method, which both Kamtſchatkans and Koreki uſe in preparing their caviare: the firſt, having covered the bottom of a pit with graſs, they throw the freſh caviare into it, and leave it there to grow ſour: the Koreki tie theirs in bags, and leave it to ſour; this is eſteemed their moſt delicate diſh.

There is a third ſort of diet, called by the Kamtſchatkans *chupriki*, which is prepared in this manner: in their huts, over the fire-place, they make a bridge of flakes, upon which they lay a heap of fiſh, which remains there, until the hut becomes as warm as a bagnio. If there is no great thickneſs of fiſh, one fire ſerves to dreſs it; but ſometimes they are obliged to make two, three, or more fires. Fiſh dreſſed in this manner is half roasted half ſmoaked, but has a very agreeable taſte, and may be reckoned the beſt of all the Kamtſchatkan cookery: for the whole juice and fat is prepared with a gradual heat, and kept in by the ſkin, from which they may when done enough be eaſily ſeparated; and as ſoon as it is thus dreſſed, they take out the guts, and ſpread the body upon a mat to dry: this they afterwards break ſmall, and putting it into bags, carry it along with them for proviſion, eating it like the *yokola*.

The Kamtſchatkans have a diſh which they eſteem very much, called *huigul*: it is fiſh laid to grow ſour in pits; and though the ſmell of it is intolerable, yet the Kamtſchatkans eſteem it a perfume. This fiſh ſometimes rots ſo much in the pits, that they cannot take it out without ladles; in which caſe indeed they uſe it for feedin their dogs.

As for the fleſh of land and the larger ſea animals,

they boil it in their troughs with ſeveral different Kamtſchatka. — herbs and roots; the broth they drink out of ladles and bowls, and the meat they take out upon boards, and eat in their hands. The whale and ſea horſe fat they alſo boil with roots.

There is a principal diſh at all their feaſts and entertainments, called *ſelaga*, which they make by pounding all ſorts of different roots and berries, with the addition of caviare, and whale and ſeals fat.

Before the conqueſt, they ſeldom uſed any thing for drink but plain water, unleſs when they made merry; then they drank water which had ſtood ſome time upon muſhrooms. At preſent they drink ſpirits as ſoſt as the Ruſſians. After dinner they drink water: and when they go to bed at night, ſet a veſſel of water by them, with the addition of ſnow or ice to keep it cold, and always drink it up before morning. In the winter time, they amuſe themſelves frequently by throwing handfuls of ſnow into their mouths: and the bridegrooms, who work with the fathers of their future brides, find it their hardeſt taſk to provide ſnow for the family in ſummer time; for they muſt bring it from the higheſt hills, be the weather what it will, otherwiſe they would never be forgiven.

15
Method of travelling with dogs. — The Kamtſchatkans commonly travel in ſledges drawn by dogs. The animals uſed for this purpoſe differ very little from the common houſe dogs; they are of a middling ſize, of various colours, though there ſeem to be more white, black, and gray, than of any other. In travelling, they make uſe of thoſe that are caſtrated, and generally yoke four to a ſledge. They drive and direct their dogs with a crooked ſtick about four feet long, which they ſometimes adorn with different coloured thongs; this is looked upon as a great piece of finery. They drive their ſledge ſitting upon their right ſide, with their feet hanging down; for it would be looked upon as a diſgrace for a man to ſit down at the bottom of the ſledge, or to make uſe of any perſon to drive him, nobody doing this but the women. It is very difficult to travel in theſe ſledges; for unleſs a man keeps the exacteſt balance, he is liable every moment from the height and narrowneſs of them to be overturned: in a rugged road this would be very dangerous, as the dogs never ſtop till they come to ſome houſe, or are entangled by ſomething upon the road; eſpecially in going down ſteep hills, when they run with all their force, and are ſcarcely to be kept in; for which reaſon, in deſcending any great declivity, they unyoke all the dogs except one, and lead them ſoſtly down. They likewiſe walk up hills; for it is as much as the dogs can do to drag up the ſledge empty. After a deep ſnow, before it has been hardened by a froſt, there is no travelling with dogs till a road be made, which is effected by a man going before upon ſnow ſhoes, whom they call *brodovſkika*. The ſnow ſhoes are made of two thin boards, ſeparated in the middle, bound together at the ends, and with the fore part bent a little upwards. The *brodovſkika*, having one of theſe ſhoes upon each foot, leaves the dogs and ſledge, and going on clears the road for ſome way; then returning, leads forward the dogs and ſledge ſo far as the road is made; a method which he muſt continue till he comes to ſome dwelling houſe. This is very laborious; and it happens ſo often, that no driver ever ſets out without his ſnow ſhoes. When a ſtorm of driven ſnow

Kamtſchatka. ſnow ſurprizes them, they are obliged with all haſte to ſeek the ſhelter of ſome wood, and ſtay there as long as the tempeſt laſts, which ſometimes is a whole week. If they are a large company, they dig a place for themſelves under the ſnow, and cover the entry with wood or brambles. Sometimes they hide themſelves in caves or holes of the earth, wrapping themſelves up in their furs; and when thus covered, they move or turn themſelves with the greateſt caution leſt they ſhould throw off the ſnow, for under that they lie as warm as in their common huts: they only require a breathing place; but their clothes muſt not be tight or hard girt about them, for then the cold is unſufferable. Another danger attending travellers is, that in the ſevereſt froſt ſeveral rivers are not quite frozen over; and as the roads for the moſt part lie cloſe upon the rivers, the banks being very ſteep, ſcarce a year paſſes without many being drowned. A diſagreeable circumſtance alſo to thoſe who travel in theſe parts, is their ſometimes being obliged to paſs through copſes, where they run the riſk of having their eyes ſcratched out or their limbs broken; for the dogs always run moſt violently in the worſt roads, and, to free themſelves, very often overturn their driver. The beſt travelling is in the month of March or April, when the ſnow is turned hard or frozen a little at top; however, there is ſtill this inconvenience attending it, that ſometimes travellers are obliged to lodge two or three nights in deſert places; and it is difficult to prevail upon the Kamtſchatkans to make a fire either for warming themſelves or dreſſing viſtuals, as they and their dogs eat dried fiſh, and find themſelves ſo warm wrapped in their furs, that they want no other heat; nay, all the people in this climate bear cold ſo well, that they ſleep in the open air as ſound as others in a warm bed, and awake next morning perfectly reſreſhed and alert. This ſeems to be ſo natural to all here, that ſome of them have been ſeen to lie down with their backs uncovered againſt a fire, and notwithstanding the fire has been burnt out long before morning, they continued to ſleep on very comfortably, and without any inconvenience.

The bay of Avatſcha is deſcribed by M. Perouſe as the fineſt, moſt convenient, and the ſafeſt that is to be met with in any part of the world. The entrance is narrow, the bottom is mud, and excellent holding ground. Two vaſt harbours, one on the eaſtern, and the other on the weſtern ſide, are capable of containing all the ſhips of the French and Engliſh navy. The village of St Peter and St Paul is ſituated on a tongue of land, which forms a little port behind the village, in which three or four veſſels might be laid up for the winter. It is found to be in N. Lat. 53. 1. E. Long: 156. 30. from Paris.

Iſlands in the ſea of KAMTſCHATKA. So many of theſe have been diſcovered by the Ruſſians, that the exiſtence of almoſt a continued chain of iſlands between the continents of Aſia and America is now rendered extremely probable. Many further diſcoveries of great importance to ſcience, however, remain yet to be made. The principal iſlands already known are the Kurile iſles, which ſtretch ſouth-weſt towards the coaſts of China or Japan, and are almoſt uninhabited; thoſe called *Beer- ing's* and *Copper iſlands*, the Aleutian iſles, and Fox iſlands, or *Lyiſſie Oſtrova*, lie almoſt directly eaſt, ſtretch-

ing nearly to 230° of longitude eaſt from Ferro. The firſt project of making diſcoveries in that tempeſtuouſ ſea which lies between Kamtſchatka and America was ſet on foot by Peter the Great of Ruſſia. Captains Beering and Tſchirikoff were employed in the undertaking; the former of whom was ſhipwrecked and died on the iſland which is ſtill called by his name. As this lies at no great diſtance from Kamtſchatka, the inhabitants of the latter ſoon ventured over to it, as the ſeal-otters and other animals of that kind were accuſtomed to reſort thither in great numbers.

Mednoi Oitroff, or Copper iſland, which lies in full ſight of Beering's iſland, was next viſited. This iſland has its name from the great quantity of copper with which the north-eaſt coaſt of it abounds, the only ſide which is known to the Ruſſians. It is waſhed up by the ſea, and covers the ſhores in ſuch abundance that many ſhips might be loaded with it. Perhaps an India trader might make a profitable voyage from thence to China, where this metal is in high demand. This copper is moſtly in a metallic or malleable ſtate, and many pieces ſeem as if they had formerly been in fuſion. The iſland is not high; but has many hillocks, each of which has the appearance of having formerly been a volcano. With this kind of hillocks all the iſlands in the ſea of Kamtſchatka abound, inſomuch that not a ſingle iſland, though ever ſo ſmall, was found without one; and many of them conſiſted of nothing elſe. In ſhort, all the chain of iſlands above mentioned may without any ſtretch of imagination be conſidered as thrown up by ſome late volcanoes. The apparent novelty of every thing ſeems to juſtify this conjecture: nor can any objection be derived from the vegetable productions with which theſe iſlands abound; for the ſummer after the lower diſtrict of Zutphen in Holland was gained from the ſea, it was covered over with wild muſtard.—All theſe iſlands are ſubject to frequent and violent earthquakes, and abound in ſulphur. We are not informed whether any lava is found upon them; but a party-coloured ſtone as heavy as iron, probably a lava, is mentioned as being found there. From this account it is by no means improbable that the copper above mentioned has been melted in ſome eruption.

Beering's iſland is ſituated eaſt from Kamtſchatka, in the 185th degree of longitude; and Copper iſland about one degree more to the eaſtward, and in the latitude of 54° north. The former is from 70 to 80 verſts long, and ſtretches from north-weſt to ſouth-eaſt in the ſame direction as Copper iſland. The latter is about 50 verſts in length. About 300 verſts eaſt-by-ſouth of Copper iſland lie the Aleutian iſles; of which Attak is the neareſt: it is rather larger than Beering's iſland, and ſtretches from weſt to ſouth-eaſt. From thence about 20 verſts eaſtward is ſituated Semitſhi, extending from weſt to eaſt; and near its extremity is another ſmall iſland. To the ſouth of the ſtrait which ſeparates the two latter iſlands, and at the diſtance of 40 verſts from both of them, lies Shimiya in a ſimilar poſition, and not above 25 verſts in length. All theſe iſlands lie between 54 and 55 degrees of north latitude.

The Fox iſlands are ſituated eaſt-north-eaſt from the Aleutians: the neareſt of theſe, Atchak, is about 800 verſts diſtant; it lies in 56° north latitude, and extends from weſt-ſouth-weſt towards eaſt-north-eaſt. It greatly reſembles

Kamtſchatka.

16
Copper
iſland de-
ſcribed.17
Beering's
iſland and
the Aleu-
tian iſles.18
Fox iſlands.

Kamtchatka.

resembles Copper island, and is provided with a commodious harbour on the north. From thence all the other islands of this chain stretch in a direction towards north-east by east. The next to Atchak is Amlak, and about 15 versts distant; it is nearly of the same size, and has a harbour on its south side. Next follows Saugagamak, at about the same distance, but somewhat smaller; from thence is 50 versts to Amuchta, a small rocky island; and the latter to Yunakfan, another small island. About 20 versts from Yunakfan there is a cluster of five small islands, or rather mountains, Kigalgist, Kagamila, Tsigulac, Ulaga, and Tana Unok; and which are therefore called by the Russians *Pat Sopki*, or the Five Mountains. Of these Tana-Unok lies most to the north-east, towards which the western point of Umnak advances within the distance of 20 versts.

Umnak stretches from south-west to north-east; it is 150 versts in length, and has a very considerable bay on the west end of the northern coast, in which there is a small island, or rock, called *Adugak*; and on the south side Shemalga, another rock. The western point of Aghunalashka, or Unalashka, is separated from the east end of Umnak by a strait near 20 versts in breadth. The position of these two islands is similar; but Aghunalashka is much the largest, and is above 200 versts long. It is divided towards the north-east into three promontories, one of which runs out in a westerly direction, forming one side of a large bay on the north coast of the island: the second stretches out north-east, ends in three points, and is connected with the island by a small neck of land. The third, or most southerly one, is separated from the last mentioned promontory by a deep bay. Near Unalashka towards the east lies another small island called *Shirkin*. About 20 versts from the north-east promontory of Aghunalashka lie four islands: the first, Akutan, is about half as big as Umnak; a verst further is the small island Akun; a little beyond is Akunok; and lastly, Kigalga, which is the smallest of these four; and stretches with Akun and Akunok almost from north to south. Kigalga is situated about the 61st degree of latitude. About 100 versts from thence lies an island called *Umnak*, upon which a Russian navigator (Captain Krenitzin) wintered; and beyond it the inhabitants said there was a large tract of country called *Alaska*, of which they did not know the boundaries.

The Fox islands are in general very rocky, without containing any remarkably high mountains: they are destitute of wood; but abound in rivulets and lakes, which are mostly without fish. The winter is much milder than in Siberia; the snow seldom falls before the beginning of January, and continues on the ground till the end of March. There is a volcano in Amuchta, and sulphur is produced on another island; in some others are springs hot enough to boil provisions. Sulphureous flames are also sometimes seen at night upon the mountains of Unalashka and Akutan.

The Fox islands are tolerably populous in proportion to their size. The inhabitants are entirely free and pay tribute to no one; they are of a middle stature, and live, both in summer and winter, in holes dug in the earth. No signs of religion were found among them. Several persons indeed pass for sojourners, pretending to know things past and to come; and are

accordingly held in high esteem, but without receiving any emolument. Filial duty and respect towards the aged are not held in estimation by these islanders.— They are not, however, deficient in fidelity towards each other; they are of a lively and cheerful temper, though rather impetuous, and naturally prone to anger. In general, they do not observe any rules of decency; but follow all the calls of nature publicly and without the least reserve. Their principal food consists in fish, and other sea animals, small shell fish, and sea plants; their greatest delicacies are wild lilies and other roots, together with different kinds of berries. When they have laid in a store of provisions, they eat at any time of the day without distinction; but in case of necessity, they are capable of fasting several days together. They seldom beat their dwellings: but when they are desirous of warming themselves, they light a bundle of hay, and stand over it; or else they set fire to train oil, which they pour into a hollow stone. They feed their children when very young with the coarsest flesh, and for the most part raw. If an infant cries, the mother immediately carries it to the sea side, and, be it summer or winter, holds it naked in the water until it is quiet. This custom, it is said, is so far from doing the children any harm, that it hardens them against the cold; and accordingly they go barefooted through the winter without the least inconvenience. They are also trained to bathe frequently in the sea; and it is an opinion generally received among the islanders, that by these means they are rendered bold and fortunate in fishing.

The men wear shirts made of the skins of cormorants, sea-divers, and gulls; and in order to keep out the rain, they have upper garments of the bladders and other intestines of sea-lions, sea-calves, and whales, blown up and dried. They cut their hair in a circular form quite close to their ears; and shave also a round place on the top. The women, on the contrary, let the hair descend over the forehead as low as the eyebrows, and tie the remaining part in a knot upon the top of the head. They pierce the ears, and hang in them bits of coral, which they get from the Russians. Both sexes make holes in the gristles of their noses, and in the under lips, in which they thrust pieces of bone, and are very fond of such kind of ornaments.— They mark also and colour their faces with different figures. They barter among one another sea-otters, sea-bears, clothes made of birds skins and of dried intestines, skins of sea-lions and sea-calves for the coverings of their canoes, wooden masks, darts, thread made of sinews and hair of rein deer.

Their household utensils are square pitchers and large troughs, which they make out of the wood driven ashore by the sea. Their weapons are bows and arrows pointed with flint, and javelins of two yards in length, which they throw from a small board. Instead of hatchets, they use crooked knives of flint or bone. Some iron knives, hatchets, and lances, were observed among them, which they had probably got by plundering the Russians.

According to the reports of the oldest inhabitants of Umnak and Unalashka, they have never been engaged in any war, either amongst themselves or with their neighbours, except with the people of Alaska, the occasion of which was as follows: The son of the toigora

Kamtshat-
ka.

toigon or chief of Umnak had a maimed hand; and some inhabitants of Alaskka, who came to visit upon that island, fastened to his arm a drum, out of mockery, and invited him to dance. The parents and relations of the boy were offended at this insult: hence a quarrel ensued; and from that time the people have lived in continual enmity, attacking and plundering each other by turns. According to the reports of the islanders, there are mountains upon Alaskka, and woods of great extent at some distance from the coast. The natives wear clothes made of the skins of rein deer, wolves, and foxes; and are not tributary to any of their neighbours. The inhabitants of the Fox islands seem to have no knowledge of any country beyond Alaskka, which is one of the most easterly islands yet discovered in these seas, and is probably not far distant from the continent of America.

Feasts are very common among these islanders; and more particularly when the inhabitants of one island are visited by those of the others. The men of the village meet their guests, beating drums, and preceded by the women who sing and dance. At the conclusion of the dance, the hosts invite them to partake of the feasts; after which ceremony, the former return first to their dwellings, place mats in order, and serve up their best provision. The guests next enter, take their places, and, after they are satisfied, the diversions begin. First, The children dance and caper, at the same time making a noise with their small drums; while the owners of the huts of both sexes sing. Next, The men dance almost naked, tripping after one another, and beating drums of a larger size: when these are weary, they are relieved by the women, who dance in their clothes, the men continuing in the mean time to sing and beat their drums. At last the fire is put out which had been kindled for the ceremony. The manner of obtaining fire is by rubbing two pieces of dry wood against each other, or most commonly by striking two flints together, and letting the sparks fall upon some sea otters hair mixed with sulphur. If any forcerer is present, it is then his turn to play his tricks in the dark; if not, the guests immediately retire to their huts, which are made on that occasion, of their canoes and mats. The natives who have several wives do not withhold them from their guests; but where the owner of the hut has himself but one wife, he then makes the offer of a female servant.

Their hunting season is principally from the end of October to the beginning of December; during which time they kill great numbers of young sea bears for their clothing. They pass all December in feasting and diversions similar to those above mentioned: with this difference, however, that the men dance in wooden masks, representing various sea animals, and painted red, green, or black, with coarse-coloured earths found upon their islands.

During these festivals, they visit each other from village to village, and from island to island. The feasts concluded, masks and drums are broken to pieces, or deposited in caverns among the rocks, and never afterwards made use of. In spring, they go out to kill old sea bears, sea lions and whales. During summer, and even in winter when it is calm, they row out to sea, and catch cod and other fish. Their hooks are of bone; and for lines they make use of a string made of a long

tenacious sea weed, which is sometimes found in those seas, near 160 yards in length.

Whenever they are wounded in any encounter, or bruised by any accident, they apply a sort of yellow root to the wound, and fast for some time. When their head aches, they open a vein in that part with a stone lancet. When they want to glue the points of their arrows to the shafts, they strike their nose till it bleeds, and use the blood as glue.

Murder is not punished among them; for they have no judge. The following ceremonies are used in the burial of the dead. The bodies of poor people are wrapped up in their own clothes, or in mats; then laid in a grave, and covered over with earth. The bodies of the rich are put, together with their clothes and arms, in a small boat made of the wood driven ashore by the sea: this boat is hung upon poles placed crosswise; and the body is thus left to rot in the open air.

The customs and manners of the inhabitants of the Aleutian isles are nearly similar to those of the inhabitants of the Fox islands. The former indeed are rendered tributary and entirely subject to Russia; and most of them have a slight acquaintance with the Russian language, which they have learned from the crews of the different vessels who have landed there.

KAN, or KHAN, the name of an officer in Persia, answering to that of governor in Europe.—There are kans of provinces, countries, and cities, who have different additions to distinguish them.

KANGUROO. See DIDELPHIS, MAMMALIA Index.

KANISCA, a very strong town of Lower Hungary, capital of the county of Selawar. It was taken by the Imperialists in 1690. It is seated on the river Drave, in E. Long. 17. 37. N. Lat. 46. 23.

KAN-TCHEOU-FOU, a flourishing town of China, in the province of Kiang-si. Its rivers, port, riches, and population, all contribute to attract strangers. A day's journey from this city is a very rapid current, almost 20 leagues in length, which flows with great impetuosity over a number of scattered rocks that are level with the water. Travellers here are in great danger of being lost, unless they take care to be conducted by one of the pilots of the country; after this passage, the river becomes twice as large as the Seine at Rouen; it is continually covered with loaded barks and other vessels under sail.—Near the walls of the city is a very long bridge, composed of 130 boats joined together by strong iron chains. The customhouse is upon this bridge, where a receiver constantly resides to visit all vessels, and examine if they have paid the duties imposed on the commodities with which they are loaded. Two or three moveable boats are so placed, that by their means the bridge can be opened or shut, to give or refuse a passage; and no barks are ever permitted to pass until they have been examined. In the territory belonging to this city, a great number of those valuable trees grow, from which varnish distills. Its district is extensive, and contains 12 cities of the third class.

KAOLIN, the name of an earth which is used as one of the two ingredients in oriental porcelain. Some of this earth was brought from China, and examined by Mr Reaumur. He found that it was perfectly infusible.

Kan
||
Kaolin.

Ka out-
chouk
||
Kareck.

fusible by fire, and believed that it was a talky earth; but Mr Macquer observes, that it is more probably of an argillaceous nature, from its forming a tenacious paste with the other ingredient called *petunise*, which has no tenacity. Mr Bomare says, that by analyzing some Chinese kaolin, he found it was a compound earth consisting of clay, to which it owed its tenacity; of calcareous earth, which gave it a mealy appearance; of sparkling crystals of mica; and of small gravel, or particles of quartz crystals. He says, that he has found a similar earth upon a stratum of granite, and conjectures that it may be a decomposed granite. This conjecture is the more probable, as kaolins are frequently found in the neighbourhood of granites. See PORCELAIN.

KAOUTCHOUK. See CAOUTCHOUK, CHEMISTRY Index.

KARAITES. See CARAITES.

KARAT. See CARACT.

KARECK, an island in the Persian gulf, which was once subject to the Dutch. It was visited by Mr Ives in 1758. He found the fourth part of the island well cultivated, with agreeable fields of corn, and producing plenty of esculent vegetables. In the middle are very high hills abounding with a variety of shells. Some fragments torn from their sides afforded an opportunity of observing an immense quantity of oysters, scallop, cockle, and other shells. The common tree here is the banian, but without those luxuriant shoots, which in some other places go downward and take root in the ground. The lavender cotton is also found here; and the island abounds with fowl of various kinds. Pearl oysters are also found, but at considerable depths.

This settlement was founded by Baron Kniphausen, who having left the Prussian service on some disgust, entered into that of France, afterwards went to the East Indies, and was appointed resident to the Dutch factory at Bassora. Here he became an object to the avarice and rapacity of the Turkish governors; who having got him accused of capital crimes, he was at last glad to compound with them for 50,000 rupees, the whole sum he was worth, besides giving directions how they might squeeze other 50,000 from his successor in office (who in truth wished him turned out) and the banian who did the business of the Dutch factory, and who had likewise been concerned in underhand practices against him.

The new resident was overjoyed at his accession, but lost all patience when he found himself obliged to pay 30,000 rupees to the governor as a compliment on his entering into a post of such consequence. Nor had the banian much better reason to be satisfied, being obliged to pay down 20,000 rupees to make up the sum which was to satisfy the rapacity of the governor.

Baron Kniphausen sailed from Bassora the very day after he was set at liberty; but having landed on this island, he, in conjunction with an Arabian sheick, formed the plan of the settlement. He then carried a letter from the sheick to the governor and council of Batavia, in which the former proposed to give up the sovereignty of the island. Before setting out for this place, however, the baron took care to dispatch a messenger across the desert to Constantinople,

acquainting the Dutch ambassador with the treatment he had received, and requesting liberty of the grand vizier for the Dutch to settle at Kareck. The messenger returned with a favourable answer before the baron came back from Batavia. The governor of Bassora, then, having attempted in vain to persuade him to return to that place, wrote a letter of complaint to Batavia, accusing the baron in terms of the utmost exaggeration, but without any mention of the 100,000 rupees. The baron, however, having got intelligence of this proceeding, used such diligence that he got back to Batavia in the very ship which carried the letter. Being thus present on the spot to answer the charges brought against him, he acquitted himself so well that his scheme was instantly approved of, and he was sent back with two ships and 50 men to take possession of Kareck, whose inhabitants at that time amounted to no more than 100 poor fishermen.

Considerable difficulties now occurred in the establishment of the new colony; for he had but very few materials with him, and the government of Batavia was very slow in sending him the succours they had promised. He was therefore obliged to send for workmen from Persia and Arabia, with whose assistance he built a small compact fort, strong enough to defend itself against any of the country powers, and any ships usually sailing to India, excepting those of our East India Company. Nor was he content with putting himself in a posture of defence, but even commenced hostilities against the Turks; and by detaining two vessels very richly laden, which happened to touch at the island, he at last obliged the governor of Bassora to pay back the 100,000 rupees he had extorted, 30,000 of which he restored to his successor in office at Bassora, and 20,000 to the banian. When Mr Ives visited him, he informs us, that surprising progress had been made during the little time the baron had held the sovereignty of the island, and that he intended to make it a strong and wealthy place; at the same time that he discovered his taste for literature by advancing a sum of money for books and instruments of various kinds, which were afterwards punctually sent. After that time, however, the baron quitted the service of the Dutch; and the island is again in possession of the sheick of Bundaric, to whom it formerly belonged. It is about five miles long and two in breadth; lying nearly in the middle of the Persian gulf, about seven leagues from each side, and about 30 leagues from the mouth of Bassora river, where all ships bound to that port must call for pilots.

KARLE, a Saxon word used in our law, sometimes simply for a man; and sometimes, with an addition, for a servant or clown. Thus the Saxons call a feaman *buscarli*, and a domestic servant *kufscarle*. From hence comes the modern word *churl*.

KARMATIANS, a sect of Mohammedans, who occasioned great disorders in the empire of the Arabs. See BAGDAD, N^o 49.

KARNAC, the name of a village near Thebes in Upper Egypt, and built on a small part of the site of a single temple, the circumference of which, it is said, it would require half an hour to walk round. The ruins of this temple, which are yet visible, seem to indicate, according to Denon, that it was the largest in the world; and he thinks it probable, that the temple of

Kareck
||
Karnac.

Karnac,

Kasson
||
Kattegate

Karnac, as well as that of Luxor, was built in the time of Sesostris, when Egypt was in the highest degree of prosperity. The plan of this temple is said to be noble and grand; but Denon supposes that the embellishments were added long after the building of the temple, as they exhibit a more correct and chaste style. The portico alone is composed of 100 columns, the smallest of which are not less than $7\frac{1}{2}$ feet in diameter, and the largest 12.

KASSON, a populous kingdom in the north of Africa, the metropolis of which lies in N. Lat. 14. 33. W. Long. 8. 43. The king of the country was extremely kind to Mr Park, although his son plundered him in a very shocking manner. He says that the number of towns and villages, and the extensive cultivation around them, exceeded every thing he had then seen in Africa. A gross calculation may be formed of the number of inhabitants in this enchanting plain, from considering that the king of Kasson can raise 4000 fighting men by the sound of his war drum. It is remarkable, that although the people possess abundance of corn and cattle, both high and low make no scruple of eating rats, moles, squirrels, snails, and locusts. What is perhaps no less singular, the women of this country are not allowed to eat an egg, although they are used by the men without any scruple in the presence of their wives.

The method of converting the negroes to the religion of Mahomet is worthy of notice. Mr Park assures us that he saw the whole inhabitants of Teesce, a large unwall'd town of Kasson, instantly converted. While he resided in that town, an embassy of 10 people belonging to Almami Abdulkader, king of Foota Torra, a country to the west of Bondou, arrived at Teesce; and desiring Tiggity Sego the governor to call an assembly of the inhabitants, publicly made known the determination of their king—"that unless all the people of Kasson would embrace the Mohamedan religion, and evince their conversion by saying eleven public prayers, he (the king of Foota Torra) could not possibly stand neuter in the present contest, but would certainly join his arms to those of Kajaaga." Such a message from so potent a prince created great alarm; and the inhabitants, after deliberating for some time, agreed to conform themselves to his will and pleasure, renouncing Paganism and embracing the doctrines of the false prophet.

KASTKIL, or KESTRIL, a species of falcon. See FALCO, ORNITHOLOGY *Index*.

KATTEGATTE, a noted sea, lying between part of Jutland and the coast of Sweden, and towards the latter covered with a great number of isles. It is almost closed at the extremity by the low Danish islands of Sealand and Funen, which had in old times been (with Sweden) the seat of the Suiones. Between the first and the coast of Sweden is the famous sound, the passage tributary to the Danes by thousands of ships. These islands were of old called *Codonania*, and gave to the Kattegatte the name of *Sinus Codonanus*. Its greatest depth is 35 fathoms. It decreases as it approaches the sound; which begins with 16 fathoms, and near Copenhagen shallows to even four. The Roman fleet, under the command of Germanicus, failed, according to Pliny, round Germany, and even doubled the *Cimbricum Promontorium*, and arrived at the islands which fill the bottom of the Kattegatte: either by ob-

VOL. XI. Part II.

ervation or information, the Romans were acquainted with 23. One they called *Glessaria*, from its amber, a fossil abundant to this day on part of the south side of the Baltic. A Roman knight was employed by Nero's master of the gladiators to collect in these parts that precious production, by which he became perfectly acquainted with this country.

KAUFFBEUREN, a free and imperial town of Germany, situated on the river Wardach, in E. Long. 10. 53. N. Lat. 47. 57.

KAY, QUAY, or *Key*. See KEY.

KAZY, in the East Indies, a Mahometan judge or magistrate; appointed originally by the court of Delhi to administer justice according to their written law; but particularly in matters relative to marriages, the sales of houses, and transgressions of the Koran. He attests or authenticates writings, which under his seal are admitted as the originals in proof.

KEATE, GEORGE, ESQ. F.R.S. an eminent English writer, was born in 1730, and educated at Kingston school, after which he went to Geneva, where he resided for some years, and became acquainted with M. Voltaire. When he made the tour of Europe, he became a student in the Inner Temple, was called to the bar, but did not meet with such encouragement as to induce him to persevere. In the year 1760 he published his *Ancient and Modern Rome*, a poem which was received with considerable applause, and the following year he gave the world *A short Account of the Ancient History, present Government and Laws of the Republic of Geneva*, 8vo. dedicated to Voltaire, who once intended to translate it into French, but afterwards abandoned his design.

In 1762 he produced an Epistle from Lady Jane Gray to Lord Guildford Dudley; and next year the Alps, a poem, believed to be the best he ever wrote, for truth of description, vigour of fancy, and beauty of versification. In 1764 appeared *Netley Abbey*, and in 1765, *The Temple Student*, an Epistle to a Friend, in which he rallies his own want of application to the study of the law, and his consequent want of success in that profession. In 1766 he published a poem to the memory of Mrs Cibber, of whose talents as an actress he entertained a very high opinion. He married in 1769 Miss Hudson, and about the same period he published *Ferney*, an Epistle to Voltaire. Having praised with energy the beauties of that philosopher's poetical works, he introduces a grand panegyric on the immortal Shakespeare, whom Voltaire used every effort to depreciate, probably from a spirit of envy. This eulogium made the mayor and burgessees of Stratford present our author with a standish mounted with silver, made out of the famous mulberry tree which Shakespeare had planted.

In 1775 appeared his *Monument in Arcadia*, a dramatic poem; and in 1779 he published his *Sketches from Nature*, taken and coloured in a Journey to Margate, justly allowed to be an elegant composition. In the year 1787 came out *The Distressed Poet*, a serio-comic poem, in three cantos, occasioned by a long and vexatious law-suit. His last work was perhaps the most honourable of the whole, both to his head and to his heart. Captain Wilson of the *Antelope* packet having suffered shipwreck on the Pelew islands, was refused any farther command, and reduced to distress, which induced the humane Keate to publish an account

Kauff-
beuren
||
Keate.

Kebla
||
Keel.

of these islands for the benefit of that gentleman, which, it is said, brought him about 900 guineas in the space of a year. This work is written with much elegance, although it is probable the amiable part of the manners of the natives of Pelew is somewhat highly coloured.

The life of this poet was spent without any vicissitudes of fortune; he was possessed of a very ample estate, which he never attempted to increase but by prudence in the management of it. He was a man of beneficence and hospitality, and enjoyed the favour of mankind in a very high degree. His health had been gradually declining towards the close of his life. He died in June 1797, leaving one daughter.

KEBLA, an appellation given by the Mahometans to that part of the world where the temple of Mecca is situated, towards which they are obliged to turn themselves when they pray.

KEDAR, in *Ancient Geography*, a district in the desert of the Saracens (so called from Cedar, the son of Ishmael, according to Jerome, who in another place says that Kedar was uninhabitable, on the north of Arabia Felix. *Kedareni*, the people; who dwelt in tents like the other Scenites (Psalm cxx.), were rich in cattle (Isaiah lx.), of a swarthy complexion (Canticles i.), and excellent at the bow (Isaiah xxi.).

KEDDES, in *Ancient Geography*, a city of refuge and Levitical in the tribe of Naphtali, on the confines of Tyre and Galilee; (Josephus). Jerome calls it a sacerdotal city, situated on a mountain 20 miles from Tyre, near Paneas, and called *Cidiffus*; taken by the king of Assyria.—Another *Kedes* in the tribe of Issachar (1 Chron. vi. 72.) which seems to be called *Kishion* (Joshua xix.).

KEDGE, a small anchor, used to keep a ship steady whilst she rides in a harbour or river, particularly at the turn of the tide, when she might otherwise drive over her principal anchor, and entangle the stock or flukes with her slack cable, so as to loosen it from the ground. This is accordingly prevented by a kedge rope that hinders her from approaching it. The kedges are particularly useful in transporting a ship; i. e. removing her from one part of the harbour to another, by means of ropes which are fastened to these anchors. They are generally furnished with an iron stock, which is easily displaced for the convenience of stowing them.

KEDRON, or CEDRON, in *Ancient Geography*, a town which, from the defeat and pursuit of the Syrians (1 Mac. xvi.), appears to have stood on the road which led from the Higher India to Azotus: in this war it was burnt by the Jews.

KEDRON, or *Cedron*, in *Ancient Geography*. St John calls it a brook, but Josephus a deep valley between Jerusalem and Mount Olivet to the east; called also *Kedron* from its blackness. A brook only in winter, or in rainy weather, according to Maundrel.

KEEL, the principal piece of timber in a ship, which is usually first laid on the blocks in building. If we compare the carcass of a ship to the skeleton of the human body, the keel may be considered as the back bone, and the timbers as the ribs. It therefore supports and unites the whole fabric, since the stem and stern post, which are elevated on its ends, are in some measure a continuation of the keel, and serve to connect and enclose the extremities of the sides by tran-

soms; as the keel forms and unites the bottom by tim-

bers. The keel is generally composed of several thick pieces placed lengthwise, which, after being scarfed together, are bolted, and clenched upon the upper side. When these pieces cannot be procured large enough to afford a sufficient depth to the keel, there is a strong thick piece of timber bolted to the bottom thereof, called the *false keel*, which is also very useful in preserving the lower side of the main keel. In our largest ships of war, the false keel is generally composed of two pieces, which are called the *upper* and the *lower false keels*. See *MIDSHIP-FRAME*.

The lowest plank in a ship's bottom, called the *garboard-streak*, has its inner edge let into a groove or channel cut longitudinally on the side of the keel: the depth of this channel is therefore regulated by the thickness of the garboard streak.

KEEL is also a name given to a low flat-bottomed vessel, used in the river Tyne to bring the coals down from Newcastle and the adjacent parts, in order to load the colliers for transportation.

KEEL-Hauling, a punishment inflicted for various offences in the Dutch navy. It is performed by plunging the delinquent repeatedly under the ship's bottom on one side, and hoisting him up on the other, after having passed under the keel. The blocks or pulleys by which he is suspended are fastened to the opposite extremities of the main yard, and a weight of lead or iron is hung upon his legs, to sink him to a competent depth. By this apparatus he is drawn close up to the yard arm, and thence let fall suddenly into the sea, where, passing under the ship's bottom, he is hoisted up on the opposite side of the vessel. As this extraordinary sentence is executed with a serenity of temper peculiar to the Dutch, the culprit is allowed sufficient intervals to recover the sense of pain, of which indeed he is frequently deprived during the operation. In truth, a temporary insensibility to his sufferings ought by no means to be construed into a disrespect of his judges, when we consider that this punishment is supposed to have peculiar propriety in the depth of winter, whilst the flakes of ice are floating on the stream; and that it is continued till the culprit is almost suffocated for want of air, benumbed with the cold of the water, or stunned with the blows his head receives by striking the ship's bottom.

KEELSON, a piece of timber which may be properly defined the interior or counter part of the keel; as it is laid upon the middle of the floor timbers, immediately over the keel, and like it composed of several pieces scarfed together. In order to fit with more security upon the floor timbers and crotches, it is notched about an inch and a half deep, opposite to each of those pieces, and thereby firmly scored down upon them to that depth, where it is secured by spike-nails. The pieces of which it is formed are only half the breadth and thickness of those of the keel.

The keelson serves to bind and unite the floor-timbers to the keel. It is confined to the keel by long bolts, which, being driven from without through several of the timbers, are forelocked or clenched upon rings on the upper side of the keelson.

KEEPER OF THE GREAT SEAL, is a lord by his office,

Keel
||
Keeper.

Keeper
||
Kehl.

office, and styled *lord keeper of the great seal of Great Britain*; he is always one of the privy council. All grants, charters, and commissions of the king under the great seal, pass through the hands of the lord keeper; for without that seal many of those grants, &c. would be of no force, the king being, in the interpretation of the law, a corporation, and therefore passes nothing but by the great seal, which is also said to be the public faith of the kingdom, being in the highest esteem and reputation.

Whenever there is a lord keeper, he is invested with the same place, authority, pre-eminence, jurisdiction, or execution of laws, as the lord chancellor of Great Britain is vested with.

The lord keeper is constituted by the delivery of the great seal, &c.

KEEPER of the privy seal, is also a lord by his office, through whose hands all grants, pardons, &c. pass before they come to the great seal; and even some things pass his hands which do not pass the great seal at all. This officer is also one of the privy council, yet was anciently called *clerk of the privy seal*. His duty is to put the seal to no grant, &c. without a proper warrant; nor with warrant where it is against law, or inconvenient, but shall first acquaint the king therewith.

KEEPING, in *Painting*, denotes the representation of objects in the same manner that they appear to the eye at different distances from it; for which the painter should have recourse to the rules of perspective. There are two instances in which the famous Raphael Urbin has transgressed these rules: in one of his cartoons, representing the miraculous draught of fishes, the men in each of the two boats appear of full size, the features of their faces being strongly marked; and the boats are represented so small, and the men so big, that any one of them appears sufficient to sink either of the boats by his own bare weight: and the fowls on the shore are also drawn so big, as to seem very near the eye of the observer, who could not possibly, in that case, distinguish the features of the men in the distant boats. Or, supposing the observer to be in either of the boats, he could not see the eyes or beaks of the fowls on the shore. The other instance occurs in his historical picture of our Saviour's transfiguration on the mount; where he is represented with those who were then with him, almost as large as the rest of his disciples at the foot of the mount, with the father and mother of the boy whom they brought to be cured; and the mother, though on her knees, is more than half as tall as the mount is high. So that the mount appears only of the size of a little hay-rick, with a few people on its top, and a greater number at its bottom on the ground; in which case, a spectator at a little distance could as well distinguish the features of those at the top as those on the ground. But upon any large eminence, deserving the name of a mount, that would be quite impossible.

KEHL, or *KEIL*, a very important fortress of Germany, seated on the banks of the Rhine, built by the French after a design of Marshal Vauban, for the defence of Strasburg, from which it is a mile and a half distant. It was ceded to the empire in 1697, by the treaty of Ryswick. The French retook it in 1703, and it was restored to the empire by the treaty of Ra-

tadt. During the time of the French revolution, this fortress changed masters several times; but after 1801, it was demolished in terms of the treaty of peace. E. Keill, Keisersberg.
Long. 7. 45. N. Lat. 48. 40.

KEILL, DR JOHN, a celebrated astronomer and mathematician, was born at Edinburgh in 1671, and studied in the university of that city. In 1694 he went to Oxford; where, being admitted of Baliol college, he began to read lectures according to the Newtonian system in his private chamber in that college. He is said to have been the first who taught Sir Isaac Newton's principles by the experiments on which they are founded: and this, it seems, he did by an apparatus of instruments of his own providing, by which means he acquired a great reputation in the university. The first specimen he gave the public of his skill in mathematical and philosophical knowledge, was his Examination of Dr Burnet's theory of the earth, with Remarks on Mr Whiston's theory: and these theories being defended by their respective inventors, drew from Mr Keill An Examination of the reflections on the theory of the earth, together with A defence of the remarks on Mr Whiston's new theory. In 1701, he published his celebrated treatise, entitled, *Introductio ad veram physicam*, which only contains 14 lectures; but in the following editions he added two more. This work has been translated into English, under the title of An introduction to natural philosophy. Afterwards, being made fellow of the Royal Society, he published, in the Philosophical Transactions, a paper of the laws of attraction; and being offended at a passage in the *Acta eruditorum* of Leipsic, warmly vindicated against Mr Leibnitz Sir Isaac Newton's right to the honour of the first invention of his method of fluxions. In 1709 he went to New England as treasurer of the Palatines. About the year 1711, several objections being urged against Sir Isaac Newton's philosophy, in support of Des Cartes's notions of a plenum, Mr Keill published a paper in the Philosophical Transactions on the rarity of matter, and the tenuity of its composition. But while he was engaged in this dispute, Queen Anne was pleased to appoint him her decypherer; and he continued in that place under King George I. till the year 1716. He had also the degree of doctor of physic conferred on him by the university of Oxford in 1713. He died in 1721. He published, besides the works already mentioned, *Introductio ad veram astronomiam*, which was translated into English by Dr Keill-himself; and an edition of Commandinus's Euclid, with additions of his own.

KEILL, James, M. D. an eminent physician, and brother of the former, was born in Scotland about the year 1673; and having travelled abroad, read lectures of anatomy with great applause in the universities of Oxford and Cambridge, by the latter of which he had the degree of doctor of physic conferred upon him. In 1700 he settled at Northampton, where he had considerable practice as a physician; and died there of a cancer in the mouth in 1719. He published, 1. An English translation of Lemery's chemistry. 2. An account of animal secretion, the quantity of blood in the human body, and muscular motion. 3. A treatise on anatomy. 4. Several pieces in the Philosophical Transactions.

KEISERSBERG, a town of Alsace in France,
3 I 2 and

Keiser-
slautern
||
Keith.

and in the bailiwick of Haguenau, which has belonged to the French ever since the year 1548. It is seated in a pleasant country, in E. Long. 7. 25. N. Lat. 48. 10.

KEISERSLAUTERN, a town of Germany, in the Lower Palatinate, belonging to the elector Palatine; seated on the river Louter, in E. Long. 7. 51. N. Lat. 49. 22.

KEISERTOUL, a town of Switzerland, in the county of Baden, with a bridge over the Rhine, and a castle. It belongs to the bishop of Constance, and is situated in E. Long. 8. 40. N. Lat. 47. 10.

KEISERWERT, a town of Germany in the circle of Westphalia, the diocese of Cologne, and the duchy of Berg; subject to the elector Palatine. The fortifications are demolished. It is seated on the Rhine, in E. Long. 6. 49. N. Lat. 51. 16.

KEITH, JAMES-FRANCIS-EDWARD, field-marshal in the Prussian service, was the younger son of William Keith, earl marshal of Scotland; and was born in 1696. He was designed by his friends for the law; but his inclination led to arms, and the first occasion of drawing his sword was at the age of 18 years, when the rebellion broke out in Scotland. Through the instigation of his mother, he joined James's party, was wounded at the battle of Sheriffmuir, and made his escape to France. Here he applied himself to military studies; and going to Madrid, he by the interest of the duke of Liria obtained a commission in the Irish brigades, then commanded by the duke of Ormond. He afterwards attended the duke of Liria, when he went ambassador to Muscovy; and being by him recommended to the Czarina, was promoted to the rank of lieutenant-general, and invested with the order of the black eagle. He distinguished himself by his valour and conduct in the Russian service, and had no inconsiderable share in the revolution that raised Elizabeth the daughter of Peter the Great to the throne: he also served in several embassies; but finding the honours of that country but a splendid kind of slavery, he left that court and entered the Prussian service. The king of Prussia made him field-marshal of the Prussian armies, and governor of Berlin; and distinguished him so far by his confidence, as to travel in disguise with him over a great part of Germany, Poland, and Hungary. In business, he made him his chief counsellor; in his diversions, his chief companion. The king was much pleased with an amusement which the marshal invented in imitation of the game of chess. The marshal ordered several thousand small statues of men in armour to be cast by a foundry; these he would set opposite to each other, and range them in battalia, in the same manner as if he had been drawing up an army; he would bring out a party from the wings or centre, and show the advantage or disadvantage resulting from the different draughts which he made. In this manner the king and the marshal often amused themselves, and at the same time improved their military knowledge. This brave and experienced general, after many important services in the late wars of that illustrious monarch, was killed in the unfortunate affair of Hochkirchen, in the year 1758.

The family of Keith was among the most ancient in Europe. In 1010 the Scots gained a complete victory over the Danes at Camus town in Angus;

King Malcolm II. as a reward for the signal bravery of a certain young nobleman who pursued and killed Camus the Danish general, bestowed on him several lands, particularly the barony of Keith in East Lothian, from which his posterity assumed their surname. The king also appointed him hereditary great marshal of Scotland, which high office continued in his family till the year 1715, when the last earl engaged in the rebellion, and forfeited his estate and honours; and thus ended the family of Marechal, after serving their country in a distinguished capacity above 700 years.

Kellington
||
Kelly.

KELLINGTON, or KILKHAMPTON, a town of Cornwall in England, which sends two members to parliament. W. Long. 4. 38. N. Lat. 50. 36.

KELLS, a borough town of Ireland, in the county of Meath and province of Leinster, 31 miles from Dublin. This place gives title of viscount to the family of Cholmondeley; and near it is Headfort, the magnificent seat of Lord Bechtive. This town is pleasantly situated on the river Blackwater, and has four fairs. It was anciently called *Kenanus*, and afterwards *Kenlis*. In former ages it was one of the most famous cities in the kingdom; and on the arrival of the English was walled and fortified with towers. In 1178 a castle was erected where the market place now is; and opposite to the castle was a cross of an entire stone, ornamented with bas-relief figures and many curious inscriptions in the ancient Irish character. Within a small distance was the church of St Senan; and on the south of the churchyard is a round tower which measures 99 feet from the ground, the roof ending in a point; and near the top were four windows opposite to the cardinal points. There was a celebrated monastery founded here in 550 for regular canons, and dedicated to the Virgin Mary. It owed its origin to St Columba, to whom the site of the abbey was granted by Dermod Maccarval, or Dermod the son of Kervail king of Ireland. An episcopal see was afterwards erected here, which in the 13th century was united to that of Meath. A priory or hospital was also erected by Walter de Lacie, lord of Meath, in the reign of Richard I. for cross-bearers or crouched friars following the order of St Augustin. There was likewise a perpetual chantry of three priests or chaplains in the parish church of St Columba in Kells to celebrate mass daily; one in the Rood chapel, another in St Mary's chapel, and a third in the chapel of St Catherine the virgin.

KELLS is also the name of a village in the county of Kilkenny, 64 miles from Dublin, situated on Kings river; and was noted for a priory of Augustines, built and richly endowed by Geoffroy Fitzroberts, who came into this kingdom with Strongbow. The prior of this place had the title of *lord spiritual*, and as such sat in the house of peers before the Reformation; the ruins only of this abbey now remain: a synod was held in it anno 1152, when John Paparo, legate from Rome, made one of the number of bishops that were convened there at that time to settle the affairs of the church.

There is a third place of the above name, situated in the county of Antrim and province of Ulster, 89 miles from Dublin.

KELLY, HUGH, an author of considerable repute,

Kelly. pute, was born on the banks of Killarney lake in Ireland in 1739. His father, a gentleman of good family, having reduced his fortune by a series of unforeseen misfortunes, was obliged to repair to Dublin that he might endeavour to support himself by his personal industry. A tolerable school education was all he could afford to his son; who was bound an apprentice to a staymaker, and served the whole of his time with diligence and fidelity. At the expiration of his indentures, he set out for London to procure a livelihood by his business; where he encountered all the difficulties a person poor and without friends could be subject to on his first arrival in town. Happening, however, to become acquainted with an attorney, he was employed by him in copying and transcribing; an occupation which he prosecuted with so much assiduity, that he is said to have earned about three guineas a-week, an income which, compared to his former gains, might be deemed affluent. Tired, however, of this drudgery, he soon after, about 1762, commenced author, and was intrusted with the management of the *Lady's Museum*, the *Court Magazine*, the *Public Ledger*, the *Royal Chronicle*, *Owen's Weekly Post*, and some other periodical publications, in which he wrote many original essays and pieces of poetry, which extended his reputation, and procured the means of subsistence for himself, his wife to whom he was then lately married, and a growing family. For several years after this period, he continued writing upon a variety of subjects, as the accidents of the times chanced to call for the assistance of his pen; and as during this period politics were the chief objects of public attention, he employed himself in composing many pamphlets on the important questions then agitated, the greater part of which are now buried in oblivion. Among these, however, was a *Vindication of Mr Pitt's Administration*, which Lord Chesterfield makes honourable mention of in the second volume of his letters. In 1767, the *Babler* appeared in two pocket volumes, which had at first been inserted in *Owen's Weekly Chronicle* in single papers; as did the *Memoirs of a Magdalene*, under the title of *Louisa Mildmay*. About 1767 he was tempted by the success of Churchill's *Rosciad* to write some strictures on the performers of either theatre, in two pamphlets, entitled *T'ispis*, both which gave great offence to some of the principal persons at each house. The talents for satire, which he displayed in this work, recommended him to the notice of Mr Garrick, who in the next year caused his first play of *Falſe Delicacy* to be acted at Drury Lane. It was received with great applause; and from this time he continued to write for the stage with profit and success, until the last period of his life. As his reputation increased, he began to turn his thoughts to some mode of supporting his family less precarious than by writing, and for that purpose entered himself a member of the Middle Temple. After the regular steps had been taken, he was called to the bar in 1774, and his proficiency in the study of the law afforded promising hopes that he might make a distinguished figure in that profession. His sedentary course of life had, however, by this time injured his health, and subjected him to much affliction. Early in 1777 an abscess formed in his side, which after a few days illness put a period to his life.

He was the author of six plays besides that above-mentioned.

KELP, a term which is used in Britain to signify the saline substance obtained by burning sea-weed, which is chiefly employed in the manufacture of green glass. Different species of sea-weed, belonging to the genus *fucus*, and order *algæ*, are cultivated for this purpose. These plants are thrown on the rocks and shores in great abundance, and in the summer months are raked together and dried as hay in the sun and wind, and afterward burnt to the ashes called *kelp*. The process of making it is thus: The rocks, which are dry at low water, are the beds of great quantities of sea-weed; which is cut, carried to the beach, and dried: a hollow is dug in the ground three or four feet wide; round its margin are laid a row of stones, on which the sea-weed is placed, and set on fire within, and quantities of this fuel being continually heaped upon the circle, there is in the centre a perpetual flame, from which a liquid like melted metal drops into the hollow beneath: when it is full, as it commonly is ere the close of day, all heterogeneous matter being removed, the kelp is wrought with iron rakes, and brought to an uniform consistence in a state of fusion. When cool, it consolidates into a heavy dark-coloured alkaline substance, which undergoes in the glass-houses a second vitrification, and when pure assumes a perfect transparency. See *SODA*, *CHEMISTRY Index*.

KELSO, a town of Roxburghshire in Scotland, pleasantly situated on the river Tweed, in W. Long. 1. 20. N. Lat. 55. 38. Of this town Mr Pennant gives the following description. It is built much after the manner of a Flemish town, with a square and town-house. It contains about 2700 souls, has a very considerable market, and great quantities of corn are sold here weekly by sample. The abbey of Tyronensians was a vast pile, and, to judge by the remains, of venerable magnificence. The walls are ornamented with false round arches, intersecting each other. Such intersections form a true Gothic arch; and may as probably have given rise to that mode as the arched shades of avenues. The steeple of the church is a vast tower. This house was founded by David I. when earl of Cumberland. He first placed it at Selkirk; then removed it to Roxburgh, and finally, when he came to the crown, fixed it here in 1128. Its revenues were in money about 2000l. Scots a-year. The abbot was allowed to wear a mitre and pontifical robes; to be exempt from episcopal jurisdiction, and permitted to be present at all general councils. The environs of Kelso are very fine: the lands consist of gentle risings, enclosed with hedges, and extremely fertile. They have much reason to boast of their prospects. From the Chalkheugh is a fine view of the forks of the rivers, Roxburgh hill, Sir John Douglas's neat seat, and at a distance Fleurus; and from Pinnacle hill is seen a vast extent of country, highly cultivated, watered with long reaches of the Tweed, well wooded on each margin. These borderers ventured on cultivation much earlier than those on the west and east, and have made great progress in every species of rural economy. Turnips and cabbages for the use of cattle cover many large tracts; and potatoes appear in vast fields. Much wheat is raised in the

Kelp,
Kelso.

Kempis
||
Ken.

the neighbourhood, part of which is sent up the frith of Forth, and part into England. The fleeces here are very fine. The wool is sent into Yorkshire, to Lincathgow, or into Aberdeenshire, for the stocking manufacture; and some is woven here into a cloth called *plains*, and sold into England to be dressed. Here is also a considerable manufacture of white leather, chiefly to supply the capital of Scotland. A fine stone bridge of six arches over the Tweed near its confluence with the Teviot, was in 1798, carried away by a flood. It has since been rebuilt.

KEMPIS, THOMAS, a pious and learned regular canon, was born at the village of Kemp, in the diocese of Cologne, in 1380; and took his name from that village. He performed his studies at Deventer, in the community of poor scholars established by Gerard Groot; and there made great progress in the sciences. In 1399, he entered the monastery of the regular canons of Mount St Agnes, near Swol, of which his brother was prior. Thomas à Kempis there distinguished himself by his eminent piety, his respect for his superiors, his charity to his brother canons, and his continual application to labour and prayer. He died in 1471, aged 90. The best editions of his works, which consist of sermons, spiritual treatises, and lives of holy men, are those of Paris in 1649, and of Antwerp in 1607. The famous and well known book *De Imitatione Christi*, which has been translated into almost all the languages of the world, though it has almost always been numbered among the works of Thomas à Kempis, is also found printed under the name of *Gerfon*; and on the credit of some MSS. has been since ascribed to the abbot Gerfon of the order of St Benedict. This has occasioned a violent dispute between the canons of St Augustine and the Benedictines: but while devout Christians find spiritual comfort in the work, the name of the writer is of small importance.

KEMPTEN, a free and imperial town of Germany, in Lower Suabia, and in Algow, and also in the territory of the abbot of Kempten, who is a prince of the empire, and has a voice in the diet. The inhabitants are Protestants; and it has been several times taken, but has always recovered its liberty. It is seated on the river Iller. E. Long. 10. 33. N. Lat. 47. 47.

KEMPTEN, a territory in the circle of Suabia, in Germany, between the bishopric of Augsberg and the barony of Walburg. It is about 17 miles long and broad; and has no considerable place but the towns of Kempten and Kauffbeuren, which are imperial.

KEN, THOMAS, an eminent English bishop in the 17th century, was bred at Winchester school, whence he went to Oxford; and in 1669 was made a prebend of Winchester. In 1675, the year of the Jubilee, he travelled to Rome; and used to say, He had reason to give God thanks for his travels, having returned more confirmed of the purity of the reformed religion than he was before. He was appointed by King Charles II. to attend the lord Dartmouth at the demolishing of Tangier; and at his return was made chaplain to his majesty, as he was some time after to the prince of Orange, then residing in Holland. In 1685, he was consecrated bishop of Bath and Wells. The month following he attended King Charles II. at his death;

and gave close attendance at the royal bed for three whole days and nights, watching proper intervals to suggest pious and proper thoughts on that serious occasion. In the following reign he zealously opposed the progress of Popery; and in June 1688, he, with five other bishops and the archbishop of Canterbury, was committed prisoner to the Tower of London, for subscribing a petition to his majesty against the declaration of indulgence. Upon the Revolution, however, he refused to take the oaths to King William and Queen Mary, on which account he was deprived of his bishopric. Her majesty Queen Anne bestowed on him a yearly pension of 200l. to his death in 1710. He published several pious books. His charity was so great, that when he was bishop of Bath and Wells, having received a fine of 4000l. he gave a great part of it to the French Protestants.

KENDAL, a town of Westmorland, seated in a valley among hills, on the west side of the river Can or Ken, over which there are two stone bridges, and one of wood which leads to the castle now in ruins. It is a large handsome place; and has two long streets, which cross each other. The inhabitants have driven a trade with the cotton and woollen manufactory throughout England ever since the reign of Edw. III. and particular laws were enacted for regulating Kendal cloths as early as Richard II. and Henry IV. It is of note also for the manufactory of cottons, druggets, serges, hats, worsted and yarn stockings, &c. Queen Elizabeth incorporated it with aldermen and burgeses; and King James I. with a mayor, recorder, town clerk, 12 aldermen, 24 burgeses or common councilmen, and 2 attorneyes. There are 7 companies here who have each their hall, viz. mercers, sheermen, cordwainers, glovers, tanners, taylors, and pewterers. Here is an elegant town hall lately repaired; and they enjoy a court of conscience granted by George III. for debts under 40s. It has a large beautiful church, which stands on the other side of the brook called *Blindbeck*, out of the liberty of the town; a large, neat, and handsome building, 180 feet long and 99 broad, with 5 aisles, each parted by a row of 8 pillars, and a strong square steeple. Near it is Abbot's hall, the residence of the abbot when this church belonged to an abbey dissolved by Henry VIII. In 1755, a new chapel was erected in the middle of the town, besides which there are 12 chapels of ease belonging to it. The Dissenters and Quakers have meeting houses. Here is a free grammar school well endowed; and also a charity school for 10 boys and 16 girls, who are all clothed as well as taught. Eastward of the town, on the opposite side of the river, on a hill, from whence is a fine prospect, stand the ruins of a castle, wherein was born Catherine Parr (the sixth wife of Henry VIII.). By the late inland navigation, it has communication with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles in the counties of Lincoln, Nottingham, York, Lancaster, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c. Here are kept the sessions of the peace for this part of the county called the barony of Kendal; and there is a very great market on Saturday, with all kinds of provisions and woollen yarn, which the girls bring hither in large bundles.

Kendal

Kennel. bundles. It has fairs on May 6, and November 8; and between them a great beast-market every fortnight. The river here, which runs half through the town in a stony channel, abounds with trout and salmon; and on the banks of it live the dyers and tanners.

KENNEL, a term used indifferently for a puddle, a water course in the streets, a house for a pack of hounds, and the pack or cry of hounds themselves.

Mr Beckford, in his Essay on Hunting, is very particular in describing a kennel for hounds; and a kennel he thinks indispensably necessary for keeping those animals in proper health and order. "It is true (says he) hounds may be kept in barns and stables; but those who keep them in such places can best inform you whether their hounds are capable of answering the purposes for which they are designed. The sense of smelling is so exquisite in a hound, that I cannot but suppose that every stench is hurtful to it. Cleanliness is not only absolutely necessary to the nose of the hound, but also to the preservation of his health. Dogs are naturally cleanly; and seldom, if they can help it, dung where they lie. Air and fresh straw are necessary to keep them healthy. They are subject to the mange; a disorder to which poverty and nastiness will very much contribute. The kennel should be situated on an eminence; its front ought to be to the east, and the courts round it ought to be wide and airy to admit the sunbeams at any time of the day. It is proper that it should be neat without and clean within; and it is proper to be near the master's house, for obvious reasons. It ought to be made large enough at first, as any addition to it afterwards may spoil it in appearance at least." Two kennels, however, in our author's opinion, are absolutely necessary to the wellbeing of hounds: "When there is but one (says he), it is seldom sweet; and when cleaned out, the hounds, particularly in winter, suffer both while it is cleaning and afterwards as long as it remains wet."

When the feeder first comes to the kennel in a morning, he should let out the hounds into the outer court; and in bad weather, should open the door of the hunting kennel (that in which the hounds designed to hunt next day are kept), lest want of rest should incline them to go into it. The lodging room should then be cleaned out, the doors and windows of it opened, the litter shaken up, and the kennel made sweet and clean before the hounds return to it again.—The floor of each lodging room should be bricked, and sloped on both sides to run to the centre, with a gutter left to carry off the water, that when they are washed they may soon be dry. If water should remain through any fault in the floor, it must be carefully mopped up; for damps are always very prejudicial.

The kennel ought to have three doors; two in the front and one in the back; the last to have a lattice window in it with a wooden shutter, which is constantly to be kept closed when the hounds are in, except in summer, when it should be left open all the day.

At the back of Mr Beckford's kennel is a house thatched and furzed up on the sides, big enough to contain at least a load of straw. Here should be a pit ready to receive the dung, and a gallows for the flesh. The gallows should have a thatched roof, and a circular board at the posts to prevent vermine from climbing

up. He advises to enclose a piece of ground adjoining to the kennel for such dog horses as may be brought alive; it being sometimes dangerous to turn them out where other horses go, on account of the disorders with which they may be infected. In some kennels a stove is made use of; but where the feeder is a good one, Mr Beckford thinks that a mop properly used will render the stove unnecessary. "I have a little hay rick (says he) in the grass yard, which I think is of use to keep the hounds clean and fine in their coats. You will frequently find them rubbing themselves against it. The shade of it is also useful to them in summer. If ticks at any time be troublesome in your kennel, let the walls of it be well washed; if that should not destroy them, the walls must then be white washed."

Besides the directions already given concerning the situation of the kennel, our author recommends it to have a stream of water in its neighbourhood, or even running through it if possible. There should also be moveable stages on wheels for the hounds to lie on. The soil ought at all events to be dry.

To KENNEL, a term applied by fox-hunters to a fox when he lies in his hole.

KENNET, DR WHITE, a learned English writer and bishop of Peterborough, in the 18th century, bred at St Edmund hall, Oxford; where he soon distinguished himself by his vigorous application to his studies, and by his translations of several books into English, and other pieces which he published. In 1695 our author published his Parochial Antiquities. A sermon preached by him on the 30th of January 1703 at Aldgate exposed him to great clamour. It was printed under the title of *A compassionate inquiry into the causes of the civil war*. In 1706, he published his Case of Impropriations, and two other tracts on the same subject. In 1706, he published the third volume of The Complete History of England (the two former volumes compiled by Mr Hughes). In 1709, he published A Vindication of the Church and Clergy of England from some late reproaches rudely and unjustly cast upon them: and A true Answer to Dr Sacheverel's Sermon. When the great point in Dr Sacheverel's trial, the change of the ministry, was gained, and very strange addresses were made upon it, there was to be an artful address from the bishop and clergy of London, and they who would not subscribe it were to be represented as enemies to the queen and the ministry. Dr Kennet fell under this imputation. He was exposed to great odium as a low church man, on account of his conduct and writings. When he was dean of Peterborough, a very uncommon method was taken to expose him by Dr Walton, rector of the church of Whitechapel: for in the altar-piece of that church, which was intended for a representation of Christ and his 12 apostles eating the passover and last supper, Judas the traitor was drawn sitting in an elbow-chair, dressed in a black garment, with a great deal of the air of Dr Kennet's face. It was generally said that the original sketch was for a bishop under Dr Walton's displeasure; but the painter being apprehensive of an action of *Scandalum Magnatum*, leave was given to drop the bishop, and make the dean. This giving general offence, upon the complaint of others (for Dr Kennet never saw it, or seemed to regard it), the bishop

Kennet;
Kennet.

Kennet,
Kennicott.

of London ordered the picture to be taken down. In 1713, he presented the Society for Propagating the Gospel with a great number of books suitable to their design; published his *Bibliothecæ Americanæ Primordia*, and founded an antiquarian and historical library at Peterborough. In 1715, he published a sermon entitled, *The Witchcraft of the present Rebellion*, and afterwards several other pieces. In 1717 he was engaged in a dispute with Dr William Nicholson, bishop of Carlisle, relating to some alterations in the bishop of Bangor's famous sermon; and disliked the proceedings of the convocation against that bishop. Upon the death of Dr Cumberland bishop of Peterborough, he was promoted to that see, to which he was consecrated in 1718. He sat in it more than ten years, and died in 1728. He was an excellent philologist, a good preacher, whether in English or Latin, and well versed in the histories and antiquities of our nation.

KENNET, *Basil*, a learned English writer, and brother to the preceding, was educated in Corpus Christi college, in the university of Oxford, where he became fellow. In 1706, he went over chaplain to the English factory at Leghorn; where he met with great opposition from the Papists, and was in danger from the inquisition. He died in the year 1714. He published *Lives of the Greek poets*; the *Roman Antiquities*; a volume of *Sermons* preached at Leghorn: A translation into English of Puffendorf's *Treatise of the Law of Nature and Nations*. He was a man of most exemplary integrity, generosity, piety, and modesty.

KENNICOTT, DR BENJAMIN, well known in the learned world for his elaborate edition of the Hebrew Bible and other valuable publications, was born at Totness in Devonshire in the year 1718. His father was the parish clerk of Totness, and once master of a charity school in that town. At an early age young Kennicott succeeded to the same employ in the school, being recommended to it by his remarkable sobriety and premature knowledge. It was in that situation he wrote the verses on the recovery of the honourable Mrs Courtney from a dangerous illness, which recommended him to her notice, and that of many neighbouring gentlemen. They, with laudable generosity, opened a subscription to send him to Oxford. In judging of this performance, they may be supposed to have considered not so much its intrinsic merit, as the circumstances under which it was produced. For though it might claim just praise as the fruit of youthful industry struggling with obscurity and indigence, as a poem it never rises above mediocrity, and generally sinks below it. But in whatever light these verses were considered, the publication of them was soon followed by such contributions as procured for the author the advantages of an academical education. In the year 1744 he entered at Wadham college; and it was not long before he distinguished himself in that particular branch of study in which he afterwards became so eminent. His two dissertations on the Tree of Life, and The Oblations of Cain and Abel, came to a second edition so early as the year 1747, and procured him the singular honour of bachelor's degree conferred on him *gratis* by the university a year before the statutable time. The dissertations were gratefully dedicated to those benefactors whose liberality had opened his way to the university, or whose kindness had made it a

scene not only of many labour, but of honourable friendship. With such merit, and such support, he was a successful candidate for a fellowship of Exeter college, and soon after his admission into that society, he distinguished himself by the publication of several occasional sermons. In the year 1753 he laid the foundation of that stupendous monument of learned industry, at which the wise and the good will gaze with admiration, when prejudice, and envy, and ingratitude shall be dumb. This he did by publishing his first dissertation, On the State of the printed Hebrew text, in which he proposed to overthrow the then prevailing notion of its absolute integrity. The first blow indeed, had been struck long before, by Capellus, in his *Critica Sacra*, published after his death by his son, in 1650—a blow which Buxtorf, with all his abilities and dialectical skill, was unable to ward off. But Capellus having no opportunity of consulting MSS. though his arguments were supported by the authority of the Samaritan Pentateuch, of parallel passages, and of the ancient versions, could never absolutely prove his point. Indeed the general opinion was that the Hebrew MSS. contained none, or at least very few and trifling variations from the printed text: and with respect to the Samaritan Pentateuch very different opinions were entertained. Those who held the Hebrew verity, of course condemned the Samaritan as corrupt in every place where it deviated from the Hebrew: and those who believed the Hebrew to be incorrect, did not think the Samaritan of sufficient authority to correct it. Besides the Samaritan itself appeared to very great advantage; for no Samaritan MSS. were then known, and the Pentateuch itself was condemned for those errors which ought rather to have been ascribed to the incorrectness of the editions. In this dissertation, therefore Dr Kennicott, proved that there were many Hebrew MSS. extant, which, though they had hitherto been generally supposed to agree with each other, and with the Hebrew text, yet contained many and important various readings; and that from those various readings considerable authority was derived in support of the ancient versions. He announced the existence of six Samaritan MSS. in Oxford only, by which many errors in the printed Samaritan might be removed; and he attempted to prove, that even from the Samaritan, as it was already printed, many passages in the Hebrew might undoubtedly be corrected. This work, as it was reasonable to expect, was examined with great severity both at home and abroad. In some foreign universities the belief of the Hebrew verity, on its being attacked by Capellus, had been insisted on as an article of faith.—*Ista Capelli sententia adeo non approbata fuit fidei sociis, ut potius Helvetii theologi, et speciatim Genevenses, anno 1678, peculiari canone caverint, ne quis in ditione sua minister ecclesie recipiatur, nisi fateatur publicè, textum Hebræum, ut hodie est in exemplaribus Masoreticis, quoad consonantes et vocales, divinum et authenticum esse,* (Wolfii Biblioth. Heb. tom. ii. p. 27.) And at home this doctrine of the corrupt state of the Hebrew text was opposed by Comings and Bate, two Hutchinsonians, with as much violence as if the whole truth of revelation were at stake.

The next three or four years of Dr Kennicott's life were principally spent in searching out and examining Hebrew

Kent. Hebrew manuscripts, though he found leisure not only to preach, but to publish several occasional sermons. About this time Dr Kennicott became one of the king's preachers at Whitehall; and in the year 1759 we find him vicar of Culham in Oxfordshire. In January 1760 he published his second dissertation on the state of the Hebrew Text: in which, after vindicating the authority and antiquity of the Samaritan Pentateuch, he disarmed the advocates for the Hebrew verity of one of their most specious arguments. They had observed that the Chaldee Paraphrase having been made from Hebrew MSS. near the time of Christ, its general coincidence with the present Hebrew Text must evince the agreement of this last with the MSS. from which the paraphrase was taken. Dr Kennicott demonstrated the fallacy of this reasoning, by showing that the Chaldee Paraphrase had been frequently corrupted, in order to reconcile it with the printed text; and thus the weapons of his antagonists were successfully turned upon themselves. He appealed also to the writings of the Jews themselves on the subject of the Hebrew Text, and gave a compendious history of it from the close of the Hebrew canon down to the invention of printing, together with a description of 103 Hebrew manuscripts which he had discovered in England, and an account of many others preserved in various parts of Europe. A collation of the Hebrew manuscripts was now loudly called for by the most learned and enlightened of the friends of biblical criticism; and in this same year (1760) Dr Kennicott emitted his proposals for collating all the Hebrew manuscripts prior to the invention of printing, that could be found in Great Britain and Ireland, and for procuring at the same time as many collations of foreign manuscripts of note, as the time and money he should receive would permit. His first subscribers were the learned and pious Archbishop Secker, and the delegates of the Oxford press, who, with that liberality which has generally marked their character, gave him an annual subscription of 40l. In the first year the money received was about 500 guineas, in the next it arose to 900, at which sum it continued stationary till the tenth year, when it amounted to 1000. During the progress of the work, the industry of our author was rewarded by a canonry of Christ Church. He was also presented, though we know not exactly when, to the valuable living of Mynhenyote, in Cornwall, on the nomination of the chapter of Exeter. In 1776 the first volume was published, and in 1780 the whole was completed. If now we consider that above 600 MSS. were collated, and that the whole work occupied 20 years of Dr Kennicott's life, it must be owned that sacred criticism is more indebted to him than to any scholar of any age. Within two years of his death, he resigned his living in Cornwall, from conscientious motives, on account of his not having a prospect of ever again being able to visit his parish. Although many good and conscientious men may justly think, in this case, that his professional labours carried on elsewhere might properly have entitled him to retain this preferment, and may apply this reasoning in other cases; yet a conduct so signally disinterested deserves certainly to be admired and celebrated. Dr Kennicott died at Oxford, after a lingering illness, September 18. 1783; and left a widow, who was sister to the late Edward Chamberlayne, Esq. of the treasury. At the

Vol. XI. Part II.

time of his death he was employed in printing Remarks on Select Passages in the Old Testament; which were afterwards published, the volume having been completed from his papers.

KENO. See KINO.

KENRICK, WILLIAM, an author of considerable abilities, was the son of a citizen of London, and brought up, it is said, to a mechanical employment. This, however, he seems early to have abandoned; and to have devoted his talents to the cultivation of letters, by which he supported himself during the rest of a life which might be said to have passed in a state of warfare, as he was seldom without an enemy to attack or to defend himself from. He was for some time student at Leyden, where he acquired the title of J. U. D. Not long after his return to England, he figured away as a poet in Epistles Philosophical and Moral, 1759, addressed to Lorenzo; an avowed defence of infidelity, written whilst under confinement for debt, and with a declaration that he was "much less ambitious of the character of a poet than of a philosopher." From this period he became a writer by profession; and the Proteus shapes under which he appeared, it would be a fruitless attempt to trace. He was for a considerable time a writer in the Monthly Review; but quarrelling with his principal, began a new review of his own. When our great lexicographer's edition of Shakespeare first appeared in 1765, it was followed in a fortnight by a pamphlet, entitled, "A Review of Dr Johnson's new Edition of Shakespeare, in which the ignorance or inattention of that editor is exposed, and the poet defended from the persecution of his commentators, 1765." This pamphlet was followed by an Examination of it, and that by a Defence in 1766; in which year he produced his pleasant comedy of Falstaff's Wedding, at first intended to have been given to the public as an original play of Shakespeare retrieved from obscurity, and is, it must be acknowledged, a happy imitation of our great dramatic bard. With the celebrated English Roscius Dr Kenrick was at one time on terms of the strictest intimacy: but took occasion to quarrel with him in print, in a mode too unmanly to be mentioned. In politics also he made himself not a little conspicuous; particularly in the dispute between his friends Wilkes and Horne. He was the original editor of The Morning Chronicle; whence being ousted for neglect, he set up a new one in opposition. He translated in a very able manner the Emilius and the Eloisa of Rousseau; the Elements of the History of England, by Milot (to injure, if possible, a translation of the same work by Mrs Brooke); and produced several dramatic performances, together with an infinite variety of publications both original and translated. To him also the public are indebted for the collection (imperfect as it is) of The Poetical Works of Robert Lloyd, M. A. 1774, 2 vols 8vo. Dr Kenrick, died June 9. 1777.

KENSINGTON, a village of Middlesex, on the western road from London, near two miles from Hyde-Park Corner. It is extremely populous; and besides the palace, now neglected, contains many genteel houses, and several boarding schools. The palace, which was the seat of the lord chancellor Finch, afterwards earl of Nottingham, was purchased by King William; who greatly improved it, and caused a royal

Kent.

road to be made to it, through St James's and Hyde Parks, with lamp posts erected at equal distances on each side. Queen Mary enlarged the gardens. Her sister Queen Anne improved what Mary had begun; and was so pleased with the place, that she frequently supped during the summer in the greenhouse, which is a very beautiful one: but Queen Caroline completed the design by extending the gardens from the great road in Kensington to Acton; by bringing what is called the Serpentine River into them; and by taking in some acres out of Hyde Park, on which she caused a mount to be erected, with a chair on it that could be easily turned round for shelter from the wind, since decayed. This mount is planted about with evergreens, and commands a fine view over the noble gardens, and the country south and west. They were originally designed by *Kent*, and were afterwards much improved by *Brown*; and though they contain no striking beauties, which their flat situation will not admit, yet they have many pleasing parts, and afford much delight to the inhabitants of London, particularly to those whose professions will not allow of frequent excursions to more distant places. These gardens, which are three miles and a half in compass, are kept in great order. The palace indeed has none of that grandeur which ought to appear in the residence of a British monarch; but the royal apartments are noble, and some of the pictures good. It was at this place King William, Prince George of Denmark, Queen Anne, and King George II. died. The old church was pulled down in 1696, and a much better one built in its room. Part of this village, from the palace gate to the Bell, is in the parish of St Margaret's, Westminster.

KENT, one of the counties of England, situated at the south-east corner of the island, and from thence enjoying many advantages. The capacious estuary of the Thames washes its northern parts, as the sea does the south-east; whence some with no great impropriety have styled it a *peninsula*. In point of extent, this is the fifth shire in South Britain, little less in its dimensions than the province of Holland; larger in size than the duchy of Juliers in Germany; and almost exactly equal to that of Modena in Italy. Kent is, with great appearance of truth, supposed to be so styled from the ancient British word *kant*, signifying a *corner*, or, when applied to a country, a *head-land*. It is certain, that the Romans bestowed the name of *Cantium* on the province, and on its most conspicuous promontory the North Foreland; and from the district they inhabited, the people were called *Cantii*; which has prevailed even to our times, when *Kent*, and the *men of Kent*, are the common appellatives. It is however probable, that these *Cantii* were not the original inhabitants, but a later colony from the opposite continent, established here, like the Belgæ, not long before the Roman invasion. At the time of Cæsar's coming, this spacious and fertile region was divided into four principalities, or, as they are, according to the manners of those days, commonly called, *kingdoms*. It was his observation of these people, that they were particularly distinguished by their civility and politeness; a character which their descendants have preserved. When that wise people became masters of the southern parts of the island, this province

Campbell's
Political
Survey.

received the most conspicuous marks of their attention, as appears from the stations which they so prudently established, while their government flourished in its full vigour. The care they took of the ports on the sea coast as soon as it came to be in danger, and the several fortresses which they erected for the defence of their subjects against the sudden attempts of barbarous invaders, are evidences of the same kind. These forts, so prudently disposed, and so well secured, were under the direction of a particular great officer, called *Littoris Saxonici Comes*, i. e. the count of the Saxon shore; which office seems to have been preserved by the British monarchs who governed here, after the Romans quitted the isle. The Saxon kings of Kent discharged this trust in their legal capacity, from the middle of the fifth to the beginning of the ninth century. Under the northern princes, this post was again revived, though with a change of title, in the *Lord Warden of the Cinque Ports*. Indeed, under all governments, the people of Kent have been especially considered; as appears from their claim to the post of honour in our land armies, and the privileges granted to their havens, in consideration of their undertaking the defence of our channel.

As to the climate of this county, it varies according to the situation of places. In the low flat lands, and especially in the marshes, the air is heavy, moist, and unhealthy; and yet not to such a degree as it has been sometimes represented; for, with a little care and caution, strangers, as well as natives, quickly reconcile their constitutions to the temperature even of these parts, and live in them without much inconveniency or apparent danger. But, in reference to the rest of the county, the air is as thin, pure, and wholesome, as in any part of Britain. There is no region more happily or more beautifully diversified in regard to soil, so that every kind thereof is, somewhere or other, to be met within its bounds; and in no shire are any of these soils more fertile than they are in this. The Weald yields variety of fine timber, particularly of chestnut; the middle part has very rich arable land, annually bearing every species of grain in immense plenty, and these excellent in their several sorts. There are also many beautiful orchards, which produce a variety of fine fruits, and more especially apples and cherries, which were introduced here from Flanders by one Richard Harris, who was the king's fruiterer, in the reign of Henry VIII. The flat country is renowned for its meadows; and Rumney marsh has hardly its equal. We may from this concise description very easily collect, that the natural products of Kent are numerous, and of great value. In the bowels of the earth they find, in several places, a rough hard serviceable stone for paving, with turns to some advantage; but not so much as their exquisite fullers earth, rich marl, and fine chalk, which are there in abundance. If we except iron ore, indeed they have no mines; but there are prodigious heaps of copperas stones thrown on the coast. The isle of Sheppey, and all the adjacent shore as far as Reculver, is justly famous for its wheat. Thanet is in no less credit for its barley, or rather was so; for now it produces, through the painful industry and skilful husbandry of its inhabitants, copious crops of good wheat as well as barley. Horses, black cattle, and sheep, they have in great numbers,

Kent.

Kent. numbers, and remarkable in point of size; and hop grounds in all parts of the county, which turn to very considerable account. To which we may add weld, or as some call it *dyers weed*, which is a very profitable commodity, and of which there grows much in the neighbourhood of Canterbury; also madder, which is, or has been, occasionally cultivated. The rivers and sea coasts abound with fish of different kinds. The excellency of its oysters on the eastern shores is celebrated by the Roman poets. Those of Feverham and Milton are not only in great esteem at the London market, but are likewise sent in great quantities to Holland.

The many rich commodities produced in this county, is the reason why most of our writers have represented it as in a manner void of manufactures; which, however, as appears upon a strict and impartial examination, is very far from being the case. Of iron works there were anciently many; and there are still some, where kettles, bombs, bullets, cannon, and such like, are made. At Deptford Sir Nicholas Crispe had in his lifetime a very famous copperas work; as, indeed, there that ingenious gentleman, one of the greatest improvers and one of the most spirited persons this nation ever bred, introduced several other inventions. Copperas was also formerly made, together with brimstone, in the isle of Sheppey †. But the original and for many ages the principal manufacture of this county was broad cloth of different colours, established chiefly at Crambrook by King Edward III. who brought over Flemings to improve and perfect (the trade being introduced long before) his subject in that important art. At this and other places it flourished so much, that even at the close of Queen Elizabeth's reign, and according to some accounts much later, the best for home consumption, and the largest quantities for exportation, were wrought here; many fulling mills being erected upon almost every river, and the greatest plenty of excellent fullers earth affording them singular assistance; insomuch that it is still a tradition, that the yeomanry of this county, for which it has been ever famous, were mostly the descendants of rich clothiers, who laid out the money acquired by their industry in the purchase of lands, which they transmitted, with their free and independent spirit, to their posterity. The duke of Alva's persecution of the Protestants in the Low Countries drove a multitude of Walloons over hither, who brought with them that ingenuity and application for which they had been always distinguished. These diligent and active people settled a manufactory of flannel or baize at Sandwich. By them the silk looms were set up at Canterbury, where they still subsist; and they also introduced the making of thread at Maidstone, where it yet remains, and merits more notice and encouragement than hitherto it has met with.

Upon the river Dart, at the confluence of which with the Thames stands the town of Dartford, was set up, in the reign of Queen Elizabeth, the first mill for making white paper by Mr John Spilman, a German, upon whom, long after, King James conferred the honour of knighthood; but King Charles more sensibly bestowed upon this Sir John Spilman a patent and a pension of 200*l.* a-year, as a reward of his invention, and for the support of the manufactory. A-

bout the year 1590, Godfrey Box, a German, erected upon the same river the first slitting mill which was ever used for making iron wire; and also the first battery mill for making copper plates. Other new inventions, requiring the assistance of water, have been set up on other streams; and a great variety of machines of this sort still subsist in different parts of this county. But these things are now so common, that it would be both tedious and useless to insist upon them. Amongst these, we may reckon the making gunpowder in several places. That manufacture, however, which is now the glory of this county, and indeed of Britain, is ship-building; more especially at the royal yards; as at Woolwich, which was settled by Henry VIII. and some considerable ships built there. At present, there is not only a most complete establishment for the building and equipping men of war, a rope walk, foundery, and magazines; but also many private docks, in which prodigious business is carried on, and multitudes of people are employed. The population of this county in 1801 was more than 307,000.

The Goodwin or Godwin Sands, of which the account and the reference were omitted under the word, are remarkable sand banks off the coast of Kent, situated between the North and South Foreland. As they run parallel with the coast for nine miles together, about seven miles and a half from it, they give security to that extensive coast, the Downs; for while the land shelters ships with the wind from south-west to north-west only, the force of the sea is broken by these sands when the wind is at east-south-east. The most dangerous wind when blowing hard in the Downs, is the south-south-west. The space they occupy was formerly a large tract of low ground, belonging to Godwyn earl of Kent, father of Harold II.; and being afterwards enjoyed by the monastery of St Augustine at Canterbury, the whole tract was drowned by the abbot's neglect to repair the wall which defended it from the sea. This happened in the year 1100. Many vessels have been wrecked upon them. They lie east from the Downs, four miles and a half from South Foreland.

KENTIGERN, ST, or ST MUNGO, a famous saint of the Popish church, who flourished in Scotland in the sixth century, said to have been of the royal blood of both Scots and Picts, being the son of Thametis, the daughter of Loth king of the Picts, by Eugene III. king of Scotland. The bishoprics of Glasgow and St Asaph were founded by him in 560. He obtained the appellation of *Mungo* from the affection of his tutor St Serf or Servanus, bishop of Orkney, who called him *Mongah*, which in the Norwegian language, signifies *dear friend*.

KENTISH TOWN, a village of Middlesex, three miles north of London, near Hampstead, much improved of late by several handsome houses belonging to the citizens of London, &c. A new chapel has lately been erected here.

KENTUCKY, a province of North America, belonging at present to the state of Virginia, but proposed soon to be admitted into the union as an independent state. It is situated between 36° 30' and 39° 30' north latitude, and 8° and 15° west longitude; being 250 miles in length, and 200 in breadth. It is bounded north-west by the river Ohio; west, by Cumberland

† *Philosoph. Transact.*
n° xlii
p. 1056—
1059.

Kentigern
Kentucky.

Kentucky river; south, by North Carolina; east, by Sandy river, and a line drawn due south from its source till it strikes the northern boundary of North Carolina. Kentucky was originally divided into two counties, Lincoln and Jefferson. It has since been subdivided into seven, viz. Jefferson, Fayette, Bourbon, Mercer, Nelson, Madison, and Lincoln. Lexington is the chief town.

The river Ohio washes the north-western side of Kentucky, in its whole extent. Its principal branches which water this fertile tract of country, are Sandy, Licking, Kentucky, Salt, Green, and Cumberland rivers. These again branch, in various directions, into rivulets of different magnitudes, fertilizing the country in all its parts:—There are five noted salt springs or licks in this country, viz. the higher and lower Blue Springs on Licking river, from some of which, it is said, issue streams of brinish water; the Big Bone lick, Drennon's licks, and Bullet's lick at Saltsburg. The last of these licks, though in low order, has supplied this county and Cumberland with salt at twenty shillings the bushel, Virginia currency; and some is exported to the Illinois country. The method of procuring water from these licks is by sinking wells from 30 to 40 feet deep. The water drawn from these wells is more strongly impregnated with salt than the water from the sea.

This whole country, as far as has yet been discovered, lies upon a bed of limestone, which in general is about six feet below the surface, except in the valleys, where the soil is much thinner. A tract of about 20 miles wide along the banks of the Ohio is hilly broken land, interspersed with many fertile spots. The rest of the country is agreeably uneven, gently ascending and descending at no great distances. This country in general is well timbered; and such is the variety and beauty of the flowering shrubs and plants which grow spontaneously in it, that in the proper season the wilderness appears in blossom. The accounts of the fertility of the soil in this country have in some instances exceeded belief, and probably have been exaggerated. That some parts of Kentucky, particularly the high grounds, are remarkably good, all accounts agree. The lands of the first rate are too rich for wheat, and will produce 50 and 60, and in some instances it is affirmed 100 bushels of good corn an acre. In common the land will produce 30 bushels of wheat or rye an acre. Barley, oats, cotton, flax, hemp, and vegetables of all kinds common in this climate, yield abundantly. The old Virginia planters say, that if the climate does not prove too moist, few soils known will yield more and better tobacco. The climate is healthy and delightful, some few places in the neighbourhood of ponds and low grounds excepted. The inhabitants do not experience the extremes of heat and cold. Snow seldom falls deep or lies long. The winter, which begins about Christmas, is never longer than three months, and is commonly but two, and is so mild as that cattle can subsist without fodder.

It is impossible to ascertain with any degree of accuracy the present number of inhabitants, owing to the numerous accessions which are made almost every month. In 1783, in the county of Lincoln only, there were on the militia rolls 3570 men, chiefly emigrants from the lower parts of Virginia. In 1784 the num-

ber of inhabitants was reckoned at upwards of 30,000. Kentucky. From the accounts of their astonishing increase since, we may now safely estimate them at 100,000. It is asserted that at least 20,000 emigrated here in the year 1787. These people, collected from different states, of different manners, customs, religions, and political sentiments, have not been long enough together to form a uniform and distinguishing character. Among the settlers there are many gentlemen of abilities, and many genteel families from several of the states, who give dignity and respectability to the settlement. They are in general more orderly perhaps than any people who have settled a new country.

As to religion, the Baptists are the most numerous sect in Kentucky. In 1789 they had 16 churches established, besides several congregations where churches were not constituted. These were supplied with upwards of 30 ministers or teachers. There are several large congregations of Presbyterians, and some few of other denominations.

The legislature of Virginia have made provision for a college in Kentucky, and have endowed it with very considerable landed funds. Schools are established in the several towns, and in general regularly and handsomely supported. They have a printing office, and publish a weekly gazette. They have erected a paper-mill, an oil-mill, fulling-mills, saw-mills, and a great number of valuable grist-mills. Their salt works are more than sufficient to supply all the inhabitants at a low price. They make considerable quantities of sugar from the sugar trees. Labourers, particularly tradesmen, are exceedingly wanted here.

The first white man who discovered this province was one James Macbride, in the year 1754. From this period it remained unexplored till about the year 1767, when one John Finley and some others, trading with the Indians, fortunately travelled over the fertile region now called Kentucky, then but known to the Indians by the name of the Dark and Bloody Grounds, and sometimes the Middle Ground. This country greatly engaged Mr Finley's attention, and he communicated his discovery to Colonel Daniel Boone, and a few more, who conceiving it to be an interesting object, agreed in the year 1769 to undertake a journey in order to explore it. After a long fatiguing march over a mountainous wilderness, in a westward direction, they at length arrived upon its borders; and from the top of an eminence, with joy and wonder descried the beautiful landscape of Kentucky. Here they encamped, and some went to hunt provisions, which were readily procured, there being plenty of game, while Colonel Boone and John Finley made a tour through the country, which they found far exceeding their expectations; and returning to camp, informed their companions of their discoveries. But in spite of this promising beginning, this company meeting with nothing but hardships and adversity, grew exceedingly disheartened, and was plundered, dispersed, and killed by the Indians, except Colonel Boone, who continued an inhabitant of the wilderness until the year 1771, when he returned home.

Colonel Henderfon of North Carolina being informed of this country by Colonel Boone, he and some other gentleman held a treaty with the Cherokee Indians at Wataga in March 1775, and then purchased from

Kepler. from them the lands lying on the south side of Kentucky river for goods at valuable rates, to the amount of 6000. specie.

Soon after this purchase, the state of Virginia took the alarm, agreed to pay the money Colonel Donaldson had contracted for, and then disputed Colonel Henderson's right of purchase, as a private gentleman of another state in behalf of himself. However, for his eminent services to the country, and for having been instrumental in making so valuable an acquisition to Virginia, that state was pleased to reward him with a tract of land at the mouth of Green river, to the amount of 200,000 acres; and the state of North Carolina gave him the like quantity in Powel's Valley. This region was formerly claimed by various tribes of Indians; whose title, if they had any, originated in such a manner as to render it doubtful which ought to possess it. Hence this fertile spot became an object of contention, a theatre of war, from which it was properly denominated the Bloody Grounds. Their contentions not being likely to decide the right to any particular tribe, as soon as Mr Henderson and his friends proposed to purchase, the Indians agreed to sell; and notwithstanding the valuable consideration they received, have continued ever since troublesome neighbours to the new settlers.

The progress in improvements and cultivation which has been made in this country, almost exceeds belief. Eleven years ago Kentucky lay in forest, almost uninhabited but by wild beasts. Now, notwithstanding the united opposition of all the western Indians, she exhibits an extensive settlement, divided into seven large and populous counties, in which are a number of flourishing little towns, containing more inhabitants than are in Georgia, Delaware, or Rhode Island states; and nearly or quite as many as in New Hampshire.

KEPLER, JOHN, one of the most eminent astronomers who have appeared in any age, was born at Wied on the 27th of December 1571. His father's name was Henry Kepler, an officer of distinction among the troops of Wirtemberg, but reduced to poverty by numerous misfortunes. This exposed young Kepler to many difficulties and interruptions while acquiring the rudiments of his education; but such was his genius, and such his avidity for knowledge, that he surmounted every difficulty, and his proficiency was astonishing. He studied at the university of Tubingen, where he obtained the degree of bachelor in the year 1588, and that of master of philosophy in 1591. In the year 1592 he applied himself to the study of divinity; and the sermons he produced were sufficient indications that he would have excelled as a preacher, had he continued in the clerical profession. The mathematics, however, became his favourite study, for his knowledge of which he acquired such distinguished reputation, that he was invited to Gratz in Styria in the year 1594, to fill the mathematical chair in the university of that city. After this period his chief attention was directed to the study of astronomy, and he made many interesting discoveries respecting the laws of planetary motions.

Two years after his marriage with a lady descended from a noble family, persecution on account of his religion compelled him to quit Gratz, to which he was afterwards recalled by the states of Styria. The calamities

of war, however, induced him to look for a residence where he might enjoy greater safety and tranquillity. During this uncomfortable situation of affairs, the celebrated Tycho Brahe strongly urged him to settle in Bohemia as his assistant, where he himself had every necessary requisite furnished to him by the emperor Rodolph, for the prosecution of his astronomical studies. The numerous and urgent letters which Kepler received upon this subject, and solemn assurances that he should be introduced to the emperor, at length prevailed with him to leave the university, and settle in Bohemia with his family in the year 1600. On his way to that country he was seized with a quartan ague, which afflicted him for seven or eight months, and rendered him incapable of contributing that aid to Tycho which he would otherwise have done. He was likewise displeased with the conduct of this astronomer towards him, and thought that he behaved in an unfriendly manner, by neglecting to do a material service to his family when he had it in his power. Kepler also considered him as by far too reserved, in not communicating to him the whole of his discoveries and improvements. The death of Tycho happened in 1601; and thus the intercourse between these two eminent men being of such short duration, precluded Kepler either from being very serviceable to, or deriving much advantage from, the investigations and researches of the Danish astronomer. Kepler, however, was introduced to the emperor by Tycho, in conformity to his promise, and appointed mathematician to his imperial majesty, with instructions to complete the Rodolphine Tables which that great man had begun. These were not published till the year 1627, owing to a variety of obstructions and difficulties which were thrown in his way. Two years after the publication of this work, he went to Ratibon, by permission of the emperor, to claim payment of the arrears of his pension, where he was seized with a violent fever, supposed to have been brought upon him by too hard riding; and to this he fell a victim in the month of November 1630, in the 59th year of his age.

The learned world is indebted to this sagacious and able astronomer and mathematician for the discovery of the true figure of the planetary orbits, and the proportions of the motions of the solar system. Like the disciples of Pythagoras and Plato, Kepler was seized with a peculiar passion for finding analogies and harmonies in nature; and although this led him to the adoption of very strange and ridiculous conceits, we shall readily be disposed to overlook these, when we reflect that they were the means of leading him to the most interesting discoveries. He was for some time so charmed with the whimsical notions contained in his *Mysterium Cosmographicum*, published in 1596, that he declared he would not give up the honour of having invented what was contained in that book for the electorate of Saxony;—so easy is it for the greatest of men to be deceived by a darling hypothesis.

He was the first who discovered that astronomers had been invariably mistaken in always ascribing circular orbits and uniform motions to the planets, since each of them moves in an ellipse, having one of its foci in the sun; and, after a variety of fruitless efforts, he, on the 15th of May 1618, made his splendid discovery "that the squares of the periodic times of the planets were al-

ways

Keratophytum, ways in the same proportion as the cubes of their mean distances from the sun." As it was long a favourite opinion of Kepler's, that there are only six primary planets, he seems to have been alarmed at the discovery made by Galileo, of four new planets, or satellites of Jupiter, which gave a deathblow to the doctrines contained in his *Mysterium Cosmographicum*. The sagacity of this wonderful man, and his incessant application to the study of the planetary motions, pointed out to him some of the genuine principles from which these motions originate. He considered gravity as a power that is mutual between bodies; that the earth and moon tend towards each other, and would meet in a point, so many times nearer to the earth than to the moon, as the earth is greater than the moon, if their motions did not prevent it. His opinion of the tides was, that they arise from the gravitation of the waters towards the moon; but his notions of the laws of motion not being accurate, he could not turn his thoughts to the best advantage. The prediction he uttered at the end of his epitome of astronomy, has been long since verified by the discoveries of Sir Isaac Newton, that the discovery of such things (the true laws of gravity) was reserved for the succeeding age, when the Author of nature would be pleased to reveal those mysteries.

To this concise account of the celebrated Kepler, we shall now add a list of his principal publications. *Mysterium Cosmographicum*, already mentioned, 4to; *Paralipomena ad Vitellionem, quibus Astronomiæ Pars Optica traditur*, 1604, 4to; *De Stella Nova in Pede Serpentarii*, 1606, 4to; *Astronomia Nova, seu Physica Cælestis, tradita Commentariis de Motibus Stellæ Martis, ex Observationibus Tyconis Brahei*, 1609, folio; *Dissertationes cum Nuncio Sidereo Galilei*, 1610; *De Cometis, Libri tres*, 1611, 4to; *Ephemerides Novæ*, from 1617 to 1620; *Epitome Astronomiæ Copernicaneæ*, in two volumes 8vo, the first published in 1618, and the second in 1622; *Harmonices Mundi*, lib. v. 1619, 4to; *Chilias Logarithmorum in totidem numeros rotundos*, 1624, 4to; *Supplementum Chiliadis*, &c. 1625, 4to; *Tabulæ Rodolphinæ*, 1627, folio; *De Jesu Christi Servatoris anno nataliis*, &c. He was also the author of several other pieces connected with chronology, the mensuration of solids, and trigonometry, with a treatise on dioptrics, an excellent performance for the period in which he flourished.

KERATOPHYTUM, in *Natural History*, a species of GORGONIA.—The keratophyta have been called the *frutices coralloides*, or sea shrubs; and are generally known among naturalists by the different appellations of *lithophyta*, *lithoxyla*, and *keratophyta*.—See GORGONIA, HELMINTHOLOGY Index.

KERCKRING, THEODORE, a famous physician of the 17th century, was born at Amsterdam, and acquired a great reputation by his discoveries and his works. He found out the secret of softening amber without depriving it of its transparency; and made use of it in covering the bodies of curious insects in order to preserve them. He was a member of the Royal Society of London, and died in 1693 at Hamburgh, where he had spent the greatest part of his life, with the title of *resident of the grand duke of Tuscany*. His principal works are, 1. *Spicilegium anatomicum*. 2. *Anthropogeniæ ichnographia*. There is also attributed to him an anatomical work, printed in 1671 in folio.

KERI CETIB, are various readings in the Hebrew Bible: *keri* signifies that which is read; and *cetib* that which is written. For where any such various readings occur, the wrong reading is written in the text, and that is called the *cetib*; and the true reading is written in the margin, with *p* under it, and called the *keri*. It is generally said by the Jewish writers, that these corrections were introduced by Ezra; but it is most probable, that they had their original from the mistakes of the transcribers after the time of Ezra, and the observations and corrections of the Masorites. Those *Keri cetibs*, which are in the sacred books written by Ezra himself, or which were taken into the canon after his time, could not have been noticed by Ezra himself; and this affords a presumption, that the others are of late date. Those words amount to about 1000; and Dr Kennicott, in his *Dissertatio Generalis*, remarks, that all of them, excepting 14, have been found in the text of manuscripts.

KERMAN, the capital city of a province of that name in Persia, seated in E. Long. 56. 30. N. Lat. 30. 0. The province lies in the south part of Persia, on the Persian gulf. The sheep of this country, towards the latter end of the spring, shed their wool, and become as naked as sucking pigs. The principal revenue of the province consists in these fleeces.

KERMES, in *Zoology*, the name of an insect produced in the excrescences of a species of the oak. See COCCUS.

KERMES Mineral, so called from its colour, which resembles that of vegetable kermes, is one of the antimonial preparations. See CHEMISTRY and MATERIA MEDICA Index.

KERN, or KERNE, a term in the ancient Irish militia, signifying a *foot soldier*. Camden tells us, the armies of Ireland consisted of cavalry, called *galloglasses*; and infantry, lightly armed, called *kernes*.—The kernes bore swords and darts; to the last were fitted cords, by which they could recover them after they had been launched out.

KERNES, in our laws, signify idle persons or vagabonds.

KERRY, a county of Ireland, in the province of Munster, anciently called *Corrigia*, or "the rocky country," from *Cerrig* or *Carric*, "a rock." It is bounded by the Shannon which divides it from Clare on the north, by Limerick and Cork on the east, by another part of Cork on the south, and by the Atlantic ocean on the west. The best town in it is Dingle, situated in a bay of the same name. It comprehends a great part of the territory formerly called *Desmond*, and consists of very different kinds of soil. The south parts are plain and fertile, but the north full of high mountains, which though remarkably wild, produce a great number of natural curiosities. It contains 636,905 Irish plantation acres, 84 parishes, 8 baronies, 3 boroughs; returns 8 members to parliament, and gives title of earl to the family of Fitzmaurice. It is about 57 miles long, 45 broad, and lies within N. Lat. 51. 30. and 52. 24.; the longitude at the mouth of Kenmare river being 10° 35' west, or 42' 20" difference of time with London. It is the fourth county as to extent in Ireland, and the second in this province; but in respect to inhabitants and culture doth not equal many smaller counties. In it there are two episcopal sees, which have

Keri
||
Kerry.

Kersey
||
Kerwick.

have been annexed to the bishopric of Limerick since the year 1660, viz. Ardferit and Aghadoe. The see of Ardferit was anciently called the diocese of *Kerry*, and its bishops were named bishops of *Kerry*. Few mountains in Ireland can vie with those in this county for height; during the greater part of the year their sides are obscured by fogs, and it must be a very serene day when their tops appear. Iron ore is to be had in great plenty in most of the southern baronies. The principal rivers are the Blackwater, Feal, Gale, and Brick, Cashin, Mang, Lea, Flek, Laun, Carrin, Fartin, Inry, and Roughty; and the principal lake is Killarney. There are some good medicinal waters discovered in this county; particularly Killarney water, Iveragh Spa, Fellofswell, Dingle, Castlemain, and Trallee Spas, as also a saline spring at Maherybeg. Some rare and useful plants grown in Kerry, of which Dr Smith gives a particular account in his history of that county.

KERSEY, a kind of coarse woollen cloth, made chiefly in Kent and Devonshire.

KESITAH. This word is to be met with in Genesis and in Job, and is translated in the Septuagint and Vulgate "sheep or lambs." But the Rabbins and modern interpreters are generally of opinion, that *kesitah* signifies rather a piece of money. Bochart and Euguibinus are of opinion the Septuagint meant *mina*, and not lambs; in Greek *hecatomnon*, *ἑκατομμύριον*, instead of *ἑκατον ἀρνίων*. Now a mina was worth 60 Hebrew shekels, and consequently 6l. 16s. 10 $\frac{1}{2}$ d. sterling. M. de Pelletier of Rouen is of opinion, that *kesitah* was a Persian coin, stamped on one side with an archer (*Kesitah*, or *Keseth*, in Hebrew signifying "a bow"), and on the other with a lamb; that this was a gold coin known in the east by the name of a *daric*. Several learned men, without mentioning the value of the *kesitah*, say it was a silver coin, the impression whereof was a sheep, for which reason the Septuagint and Vulgate translate it by this name. Calmet is of opinion, that *kesitah* was a purse of gold or silver. In the east they reckon at present by purses. The word *kista* in Chaldee signifies "a measure, a vessel." And Eustathius says, that *kista* is a Persian measure. Jonathan and the Targum of Jerusalem translate *kesitah* "a pearl." (Gen. xxxiii. 19. Job xlii. 11.) Or 9l. English, supposing, as Dr Prideaux does, that a shekel is worth 3s. A *daric* is a piece of gold, worth, as Dr Prideaux says, 25s. English.

KESSEL, a town of Upper Guelderland, in the Netherlands, with a handsome castle. It is the chief town in the territory of the same name, and seated on the river Meuse, between Ruremond and Venlo, it being about five miles from each. It was ceded to the king of Prussia by the treaty of Utrecht. E. Long. 6. 13. N. Lat. 41. 22.

KESSELDORF, a village of Germany, in the circle of Upper Saxony, three miles below Dresden, remarkable for the battle gained by the king of Prussia over the Saxons, on the 15th of December 1745.

KESTREL, the English name of a hawk, called also the *flannel* and the *windhover*, and by authors the *tinniculus* and *clenensis*. It builds with us in hollow oaks, and feeds on partridges and other birds. See FALCO, ORNITHOLOGY Index.

KESWICK, a town of Cumberland, situated on the

side of a lake in a fruitful plain, almost encompassed with mountains, called the *Derwent Fells*. It was formerly a town of good note, but now is much decayed. However, it is still noted for its mines and miners, who have a convenient smelting-house on the side of the river Derwent, the stream of which is so managed as to make it work the bellows, hammers, and forge, as also to saw boards. There is a workhouse here for employing the poor of this parish and that of Crosthwait. W. Long. 3. 0. N. Lat. 54. 30.

KETCH, a vessel equipped with two masts, viz. the main-mast and mizen-mast, and usually from 100 to 250 tons burden.—Ketches are principally used as yachts or as bomb vessels; the former of which are employed to convey princes of the blood, ambassadors, or other great personages, from one part to another; and the latter are used to bombard citadels, towns, or other fortresses. The bomb ketches are therefore furnished with all the apparatus necessary for a vigorous bombardment; they are built remarkably strong, as being fitted with a greater number of *riders* than any other vessel of war; and indeed this reinforcement is absolutely necessary to sustain the violent shock produced by the discharge of their mortars, which would otherwise in a very short time shatter them to pieces.

KETTLE, in the art of war, a term the Dutch give to a battery of mortars, because it is sunk under ground.

KETTLE Drums, are formed of two large basins of copper or brass, rounded at the bottom, and covered over with vellum or goat skin, which is kept fast by a circle of iron, and by several holes fastened to the body of the drum, and a like number of screws to screw up and down, and a key for the purpose. The two basins are kept fast together by two straps of leather which go through two rings, and are fastened the one before and the other behind the pommel of the kettle drum's saddle. They have each a banner of silk or damask, richly embroidered with the sovereign's arms or with those of the colonel, and are fringed with silver or gold; and, to preserve them in bad weather, they have each a cover of leather. The drumsticks are of crab-tree or of any other hard wood, of eight or nine inches long, with two knobs on the ends, which beat the drum-head and cause the sound. The kettle-drum with trumpets is the most martial sound of any. Each regiment of horse has a pair.

KETTLE Drummer, a man on horseback appointed to beat the kettle drums, from which he takes his name. He marches always at the head of the squadron, and his post is on the right when the squadron is drawn up.

KEVELS, in *Ship-building*, a frame composed of two pieces of timber, whose lower ends rest in a sort of step or foot, nailed to the ship's side, from whence the upper ends branch outward into arms or horns, serving to belay the great ropes by which the bottoms of the main-sail and fore-sail are extended.

KEW, a village of Surry, in England, opposite to Old Brentford, 10 miles west from London. Here is a chapel of ease erected at the expence of several of the nobility and gentry in the neighbourhood, on a piece of ground that was given for that purpose by the late Queen Anne. Here the late Mr Molineaux, secretary

Ketch
||
Kew.

Kexholm,
Key.

to the late king, when prince of Wales, had a fine seat on the Green, which became the residence of the late prince and princess of Wales, who greatly improved both the house and gardens; now occupied by his present majesty, who has greatly enlarged the gardens, and formed a junction with them and Richmond gardens. The gardens of Kew are not very large, nor is their situation by any means advantageous, as it is low and commands no prospects. Originally the ground was one continued dead flat; the soil was in general barren, and without either wood or water. With so many disadvantages it was not easy to produce any thing even tolerable in gardening; but princely munificence, guided by a director equally skilled in cultivating the earth and in the polite arts, overcame all difficulties. What was once a desert is now an Eden. In 1758, an act passed for building a bridge across the Thames to Kew Green; and a bridge was built of eleven arches; the two piers and their dependant arches on each side next the shore, built of brick and stone; the intermediate arches entirely wood; the centre arch 50 feet wide, and the road over the bridge 30.— But this bridge was taken down, and in its place a very elegant one was erected and completed about the year 1791.

KEXHOLM, that part of Finland which borders upon Russia. The lake Ladoga crosses it, and divides it into two parts. By the treaty between Russia and Sweden in 1721, the Swedes were obliged to abandon the best part to the Russians. The country in general is full of lakes and marshes, thinly inhabited, and badly cultivated. The lake above mentioned is 120 miles in length, and full of fish.

KEXHOLM, or *Carclgorod*, a town of Russia, in a territory of the same name, not very large, but well fortified, and has a strong castle. The houses are built with wood. It formerly belonged to the Russians, after which the Swedes had possession of it for a whole century; but it was retaken by the Russians in 1710. Near it is a considerable salmon fishery. It is seated on two islands on the north-west side of the lake Ladoga, in E. Long. 30. 25. N. Lat. 61. 12. Near it is another town called *New Kexholm*.

KEY, an instrument for the opening of locks. See LOCK.

L. Molinus has a treatise of keys, *De clavibus veterum*, printed at Upsal: he derives the Latin name *clavis*, from the Greek *κλειω claudo*, "I shut," or from the adverb *clam* "privately;" and adds, that the use of keys is yet unknown in some parts of Sweden.

The invention of keys is owing to one Theodore of Samos, according to Pliny and Polydore Virgil: but this must be a mistake, the use of keys having been known before the siege of Troy; mention even seems made of them in the 19th chapter of Genesis.

Molinus is of opinion, that keys at first only served for the untying certain knots, wherewith they anciently secured their doors: but the Laconic keys, he maintains, were nearly akin in use to our own; they consisted of three single teeth, and made the figure of an E; of which form there are still some to be seen in the cabinets of the curious.

There was another key called *Καλαναργα*, made in the manner of a male screw; which had its corresponding female in a bolt affixed to the door. Key is hence

become a general name for several things serving to shut up or close others. See the article LOCK.

KEY, or *Key-stone*, of an *Arch* or *Vault*, is the last stone placed a-top thereof; which being wider and fuller at the top than bottom, wedges, as it were, and binds all the rest. The key is different in the different orders: in the Tuscan and Doric it is a plain stone only projecting; in the Ionic it is cut and waved somewhat after the manner of consoles; in the Corinthian and Composite it is a console enriched with sculpture, foliage, &c.

KEY is also used for ecclesiastical jurisdiction; particularly for the power of excommunicating and absolving. The Romanists say, the pope has the power of the keys, and can open and shut paradise as he pleases; grounding their opinion on that expression of Jesus Christ to Peter, "I will give thee the keys of the kingdom of heaven." In St Gregory we read, that it was the custom heretofore for the popes to send a golden key to princes, wherein they enclosed a little of the filings of St Peter's chains kept with a world of devotion at Rome; and that these keys were worn in the bosom, as being supposed to contain some wonderful virtues.

KEY is also used for an index or explanation of a cipher. See CIPHER.

Keys of an Organ, Harpsichord, &c. those little pieces in the fore part of those instruments, by means whereof the jacks play, so as to strike the strings. These are in number 28 or 29. In large organs there are several sets of the keys, some to play the secondary organ, some for the main body, some for the trumpet, and some for the echoing trumpet, &c.: in some there are but a part that play, and the rest are only for ornament. There are 20 slits in the large keys which make half notes. See the article ORGAN, &c.

KEY, in *Music*, a certain fundamental note or tone, to which the whole piece, be it in cantata, sonata, concerto, &c. is accommodated, and with which it usually begins but always ends.

KEY, or *Quay*, a long wharf, usually built of stone, by the side of a harbour or river, and having several storehouses for the convenience of lading and discharging merchant ships. It is accordingly furnished with posts and rings, whereby they are secured; together with cranes, capsterns, and other engines, to lift the goods into or out of the vessels which lie alongside.

The verb *cajare*, in old writers, according to Scaliger, signifies to *keep in* or *restrain*; and hence came our term *key* or *quay*, the ground where they are made being bound in with planks and posts.

KEYS are also certain sunken rocks lying near the surface of the water, particularly in the West Indies.

KEYNSHAM, a town of Somersetshire, 116 miles from London. It is a great thoroughfare in the lower road between Bath and Bristol. They call it proverbially *smoky* Keynsham, and with equal reason they might call it *foggy*. It has a fine large church, a stone bridge of 15 arches over the Avon to Gloucestershire, and another over the river Chew. Its chief trade is malting. It has a charity school, a weekly market, and three fairs.

KEYSER'S PILLS, a celebrated mercurial medicine, the method of preparing which was purchased by the French

Key
||
Keyser's
pills.

Keyfler
||
Kiang-nan. French government, and was afterwards published by M. Richard. It is the acetate of mercury. See CHEMISTRY, and MATERIA MEDICA, *Index*.

KEYSLER, JOHN GEORGE, a learned German antiquarian, was born at Thournex in 1689. After studying at the university of Halle, he was appointed preceptor to Charles Maximilian and Christian Charles, the young counts of Giech Buchau; with whom he travelled through the chief cities of Germany, France, and the Netherlands, gaining great reputation among the learned as he went along, by illustrating several monuments of antiquity, particularly some fragments of Celtic idols lately discovered in the cathedral of Paris. Having acquitted himself of this charge with great honour, he procured in 1716 the education of two grandsons of Baron Bernstorff, first minister of state to his Britannic majesty as elector of Brunswick Lunenburg. However, obtaining leave in 1718 to visit England, he was elected a fellow of the Royal Society for a learned essay *De Dea Nehelennia, numine veterum Walachorum topico*: he gave also an explanation of the ancient monument on Salisbury plain called Stonehenge, with A Dissertation on the Consecrated Miletœe of the Druids. Which detached essays, with others of the same kind, he published on his return to Hanover, under the title of *Antiquitates selectæ Septentrionales et Celticæ*, &c. He afterwards made the grand tour with the young barons, and to this tour we owe the publication of his travels; which were translated into English, and published in 1756, in 4 vols. 4to. Mr Keyfler on his return spent the remainder of his life under the patronage of his noble pupils, who committed their fine library and museum to his care, with a handsome income. He died in 1743.

KIAM, a great river of China, which takes its rise near the western frontier, crosses the whole kingdom eastward, and falls into the bay or gulf of Nanking, a little below that city.

KIANG-SI, a province of China, bounded on the north by that of Kiang-nan, on the west by Hou-quang, on the south by Quang-tong, and on the east by Fo-kien and Tche-kiang. The country is extremely fertile; but it is so populous, that it can scarcely supply the wants of its inhabitants: on this account they are very economical; which exposes them to the sarcasms and raillery of the Chinese of the other provinces: however, they are people of great solidity and acuteness, and have the talent of rising rapidly to the dignities of the state. The mountains are covered with simples; and contain in their bowels mines of gold, silver, lead, iron, and tin; the rice it produces is very delicate, and several barks are loaded with it every year for the court. The porcelain made here is the finest and most valuable of the empire. This province contains 13 cities of the first class, and 78 of the second and third.

KIANG-NAN, a province of China, and one of the most fertile, commercial, and consequently one of the richest in the empire. It is bounded on the west by the provinces of Ho-nan and Hou-quang; on the south by Tche-kiang and Kiang-fi; and on the east by the gulf of Nan-king: the rest borders on the province of Chan-tong. The emperors long kept their court in this province; but reasons of state having obliged them to move nearer to Tartary, they made choice of

Pe-king for the place of their residence. This province is of vast extent; it contains fourteen cities of the first class, and ninety-three of the second and third. These cities are very populous, and there is scarcely one of them which may not be called a place of trade. Large barks can go to them from all parts; because the whole country is intersected by lakes, rivers, and canals, which have a communication with the great river Yang-tse-kiang, which runs through the middle of the province. Silk stuffs, lacquer ware, ink, paper, and in general every thing that comes from Nanking, as well as from the other cities of the province, are much more esteemed, and fetch a higher price, than those brought from the neighbouring provinces. In the village of Chang-hai alone, and the villages dependent on it, there are reckoned to be more than 200,000 weavers of common cotton cloths. The manufacturing of these cloths gives employment to the greater part of the women.—In several places on the sea coast there are found many salt pits, the salt of which is distributed all over the empire. In short, this province is so abundant and opulent, that it brings every year into the emperor's treasury about 32,000,000 taels (or ounces of silver), exclusive of the duties upon every thing exported or imported. The people of this country are civil and ingenious, and acquire the sciences with great facility: hence many of them become eminent in literature, and rise to offices of importance by their abilities alone. This province is divided into two parts, each of which has a distinct governor. The governor of the eastern part resides at Sou-tcheou-fou, that of the western at Ngan-king-fou. Each of these governors has under his jurisdiction seven *fou* or cities of the first class.

KIBURG, a town of the canton of Zurich in Switzerland, with a castle; seated on the river Theoff, in E. Long. 8. 50. N. Lat. 47. 20.

KID, in *Zoology*, the name by which young goats are called. See GOAT and CAPRA, MAMMALIA *Index*.

KIDDER, DR RICHARD, a learned English bishop, was born in Suffex, and bred at Cambridge. In 1689, he was installed dean of Peterborough; and in 1691, was nominated to the bishopric of Bath and Wells, in the room of Dr Thomas Ken, who had been deprived for not taking the oaths to King William and Queen Mary. He published, 1. The young man's duty. 2. A demonstration of the Messiah, 3 vols 8vo. 3. A commentary on the five books of Moses, 2 vols 8vo; and several other pious and valuable tracts. He was killed with his lady in his bed by the fall of a stack of chimneys, at his house in Wells, during the great storm in 1703. The bishop, in the dissertation prefixed to his commentary on the five books of Moses, having reflected upon Monsieur Le Clerc, some letters passed between them in Latin, which are published by Le Clerc in his *Bibliothèque Choisie*.

KIDDERMINSTER, or KEDDERMINSTER, a town of Worcestershire, seated under a hill on the river Stour, not far from the Severn, 128 miles from London. It is a large town of 1180 houses, with about 6000 inhabitants, who carry on an extensive trade in weaving in various branches. In 1735 a carpet manufactory was established with success, so as to employ in 1772 above 250 looms; and there are upwards of 700 looms em-

Kiburg
||
Kidder-
minster.

Kidders
||
Kidnap-
ping.

ployed in the silk and worsted. Above 1600 hands are employed as spinners, &c. in the carpet looms only in the town and neighbourhood; upwards of 1400 are employed in preparing yarn, which is used in different parts of England in carpeting; and it is supposed not less than 2000 are employed in the silk and worsted looms in the town and neighbourhood. The silk manufacture was established in 1755. The town is remarkably healthy, and has also an extensive manufacture of quilting in the loom in imitation of Marfeilles quilting. Here is a Presbyterian meeting house; and they have a handsome church, two good free schools, a charity school, and two alms houses, &c. The town is governed by a bailiff, 12 capital burgesses, 25 common councilmen, &c. who have a town hall. It formerly sent members to parliament. By the late inland navigation, it has communication by the junction of the Severn canal with the rivers Mersey, Dec, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles, in the counties of Lincoln, Nottingham, York, Lancaster, Westmorland, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c. This parish extends to Bewdley bridge, has a weekly market, and three fairs. W. Long. 2. 15. N. Lat. 52. 28.

KIDDERS, those that badge or carry corn, dead victuals, or other merchandise, up and down to sell: every person being a common badger, kidder, lader, or carrier, &c. says the stat. 5. Eliz. cap. 12. And they are called *kiddiers*, 13 Eliz. cap. 25.

KIDDLE, or KIDEL, (*Kidellus*), a dam or wear in a river with a narrow cut in it, for the laying of pots or other engines to catch fish.

The word is ancient; for in Magna Charta, cap. 24. we read, *Omnes kidelli deponantur per Thamefiam et Medweyam, et per totam Angliam, nisi per costeram maris*. And by King John's charter, power was granted to the city of London, *de kidellis amovendis per Thamefiam et Medweyam*. A survey was ordered to be made of the wears, mills, stanks, and kidells, in the great rivers of England, 1. Hen. IV. Fishermen of late corruptly call these dams *kettles*; and they are much used in Wales and on the sea coasts of Kent.

KIDDINGTON, a town of Oxfordshire, four miles from Woodstock, and 12 from Oxford. It is situated on the Glym river, which divides the parish in two parts, viz. Over and Nether Kiddington, in the latter of which stands the church. This parish was given by King Offa in 780 to Worcester priory. Here King Ethelred had a palace; in the garden of the manor house is an antique font brought from Edward the Confessor's chapel at Islip, wherein he received baptism. In Hill wood near this place is a Roman encampment in extraordinary preservation, but little noticed.

KIDNAPPING, the forcible abduction or stealing away of man, woman, or child, from their own country, and sending them into another. This crime was capital by the Jewish law: "He that stealeth a man and selleth him, or if he be found in his hand, shall surely be put to death †. So likewise in the civil law, the offence of spiriting away and stealing men and children, which was called *plagium*, and the offenders *plagiarii*, was punished with death. This is unques-

† *Emod.* xxi. 16.

tionably a very heinous crime, as it robs the king of his subjects, banishes a man from his country, and may in its consequence be productive of the most cruel and disagreeable hardships; and therefore the common law of England has punished it with fine, imprisonment, and pillory. And also the statute 11 and 12 W. III. c. 7. though principally intended against pirates, has a clause that extends to prevent the leaving of such persons abroad as are thus kidnapped or spirited away; by enacting, that if any captain of a merchant vessel shall (during his being abroad) force any person on shore, or wilfully leave him behind, or refuse to bring home all such men as he carried out, if able and desirous to return, he shall suffer three months imprisonment.

KIDNEYS, in *Anatomy*. See ANATOMY, N° 101.

KIDNEY-Bean. See PHASEOLUS, BOTANY *Index*.

KIEL, a city of Germany, in the duchy of Holstein, in the circle of Lower Saxony, and the residence of the duke of Holstein-Gottorp. It has a castle, and a university founded in 1665; and there is a very celebrated fair held here. It is seated at the bottom of a bay of the Baltic sea called *Killerwick*, at the mouth of the river Schwentin, in E. Long. 10. 17. N. Lat. 54. 26.

KIGGELARIA, in *Botany*, a genus of plants belonging to the dioecia class; and in the natural method ranking under the 37th order, *Columniferae*. See BOTANY *Index*.

KIGHLEY, a town in the west riding of Yorkshire, six miles to the south-east of Skipton in Craven. It stands in a valley surrounded with hills at the meeting of two brooks, which fall into the river Aire one mile below it. Every family is supplied with water brought to or near their doors in stone troughs from a never-failing spring on the west side of it. The parish is six miles long and two broad, and is 60 miles from the east and west seas; yet at the west end of it near Camel Cross is a rising ground, from which the springs on the east side of it run to the east sea, and those on the west to the west sea. By means of inland navigation, this town has a communication with the rivers Mersey, Dec, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles, in the counties of Lincoln, Nottingham, Lancaster, Westmorland, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c.

KILARNEY. See KILLARNEY.

KILBEGGAN, a post, fair, and borough town of Ireland, in the county of Westmeath and province of Leinster, 44 miles from Dublin. It formerly returned two members to parliament; patronage in the Lambert family. It is seated on the river Brosna, over which there is a bridge. There was here a monastery founded in 1200, and dedicated to the Virgin Mary, and inhabited by monks from the Cistercian abbey of Melefont. The fairs are two.

KILDA, ST, one of the Hebrides or Western islands of Scotland. It lies in the Atlantic ocean, about 58° 30' north latitude; and is about three English miles in length from east to west, and its breadth from south to north not less than two. The ground of St Kilda, like much the greatest part of that over all the Highlands, is much better calculated for pasture than tillage.

Kidneys
||
Kilda.

Kilda.

lage.—Restrained by idleness, a fault or vice much more pardonable here than in any other part of Great Britain, or discouraged by the form of government under which they live, the people of the island study to rear up sheep, and to kill wild-fowl, much more than to engage deeply in the more toilsome business of husbandry.—All the ground hitherto cultivated in this island lies round the village. The soil is thin, full of gravel, and of consequence very sharp. This, though naturally poor, is, however, rendered extremely fertile, by the singular industry of very judicious husbandmen: these prepare and manure every inch of their ground, so as to convert it into a kind of garden. All the instruments of agriculture they use, or indeed require, according to their system, are a spade, a mall, and a rake or harrow. After turning up the ground with a spade, they rake or harrow it very carefully, removing every small stone, every noxious root or growing weed that falls in their way, and pound down every stiff clod into dust. It is certain that a small number of acres well prepared in St Kilda, in this manner, will yield more profit to the husbandman than a much greater number when roughly handled in a hurry, as is the case in the other Western isles. The people of St Kilda sow and reap much earlier than any of their neighbours on the western coast of Scotland. The heat of the sun, reflected from the hills and rocks into a low valley facing the south-east, must in the summer time be quite intense; and however rainy the climate is, the corn must for these reasons grow very fast and ripen early.

The harvest is commonly over at this place before the beginning of September: and should it fall out otherwise, the whole crop would be almost destroyed by the equinoctial storms. All the islanders on the western coast have great reason to dread the fury of autumnal tempests: these, together with the excessive quantities of rain they have generally throughout seven or eight months of the year, are undoubtedly the most disadvantageous and unhappy circumstances of their lives.

Barley and oats are the only sorts of grain known at St Kilda; nor does it seem calculated for any other. Fifty bolls of the former, old Highland measure, are every year brought from thence to Harris; and all the Western islands hardly produce any thing so good of the kind. Potatoes have been introduced among that people only of late, and hitherto they have raised but small quantities of them. The only appearance of a garden in this whole land, so the natives call their principal island in their own language, is no more than a very inconsiderable piece of ground, which is enclosed and planted with some cabbages. On the east side of the island, at a short distance from the bay, lies the village, where the whole body of this little people (the number amounting in 1764 to 88, and in 1799 to about 120) live together like the inhabitants of a town or city. It is certain that the inhabitants were much more numerous formerly than at present; and the island, if under proper regulations, might easily support 300 souls. Martin, who visited it about the end of the last century, found 180 persons there; but about the year 1730, one of the people coming to the island of Harris, was seized with the smallpox and died. Unluckily his clothes were

Kilda.

carried away by one of his relations next year; and thus was the infection communicated, which made such havoc, that only four grown persons were left alive. The houses are built in two rows, regular, and facing one another; with a tolerable causeway in the middle, which they call the *street*. These habitations are made and contrived in a very uncommon manner. Every one of them is flat in the roof, or nearly so, much like the houses of some oriental nations. That from any one of these the St Kildans have borrowed their manner of building, no man of sense will entertain a suspicion. They have been taught this lesson by their own reason, improved by experience. The place in which their lot has fallen is peculiarly subject to violent squalls and furious hurricanes: were their houses raised higher than at present, they believe the first winter storm would bring them down about their ears. For this reason the precaution they take in giving them roofs much flatter than ordinary seems to be not altogether unnecessary. The walls of these habitations are made of a rough gritty kind of stones, huddled up together in haste, without either lime or mortar, from eight to nine feet high. In the heart of the walls are the beds, which are overlaid with flags, and large enough to contain three persons. In the side of every bed is an opening, by way of door, which is much too narrow and low to answer that purpose. All their dwelling houses are divided into two apartments by partition walls. In the division next the door, which is much the largest, they have their cattle stalled during the whole winter season; the other serves for kitchen, hall, and bedroom.

It will be readily expected, that a race of men and women bred in St Kilda must be a very slovenly generation, and every way inelegant. It is indeed impossible to defend them from this imputation. Their method of preparing a sort of manure, to them indeed of vast use, proves that they are very indelicate. After having burnt a considerable quantity of dried turf, they spread the ashes with the nicest care over the floor of that apartment in which they eat and sleep. These ashes, so exactly laid out, they cover with a rich friable sort of earth; over this bed of earth they scatter a proportionable heap of that dust into which peats are apt to crumble away: this done, they water, tread, and beat the whole compost into a hard floor, on which they immediately make new fires very large, and never extinguished till they have a sufficient stock of new ashes on hand. The same operations are repeated with a never-failing punctuality, till they are just ready to sow their barley; by that time the walls of their houses are sunk down, or, to speak more properly, the floors risen about four or five feet high.

To have room enough for accumulating heaps of this compost one above another, the ancient St Kildans had ingenuity enough to contrive their beds within the linings of their walls; and it was for the same reason they took care to raise these walls to a height far from being common in the other Western islands.

It is certain that cleanliness must contribute greatly to health, and of course longevity; but in spite of that instance of indelicacy now given, and many more which might have been added, the people of this island are not more short lived than other men. Their total want

Kilda. of those articles of luxury, which have so natural a tendency to destroy the constitution of the human body, and their moderate exercises, will, together with some other circumstances, keep the balance of life equal enough between them and those who are absolute strangers to slovenliness.

Besides the dwelling houses already described, there are a prodigious number of little cells dispersed over all the island; which consist entirely of stones, without any the smallest help of timber. These cells are from 12 to 18 feet in length, and a little more than seven in height. Their breadth at the foundation is nearly equal to the height. Every stone hangs above that immediately below, not perpendicularly, but inclines forward, so as to be nearer the opposite side of the grotto, and thus by imperceptible degrees till the two highest courses are near enough to be covered by a single flag at the top. To hinder the rain from falling down between the interstices above, the upper part of the building is overlaid with turf which looks like a fine green sward while new. The inhabitants secure their peats, eggs, and wild fowl, within these small repositories: every St Kildan has his share of them, in proportion to the extent of land he possesses, or the rent he pays to the steward. From the construction of these cells, and the toil they must have cost before they could have been finished, it seems plain, that those who put them together, were, if not more ingenious than their neighbours in the adjacent islands, at least more industrious than their own successors.

The St Kilda method of catching wild fowl is very entertaining. The men are divided into fowling parties, each of which consists generally of four persons distinguished by their agility and skill. Each party must have at least one rope about 30 fathoms long; this rope is made out of a strong raw cow hide, salted for that very purpose, and cut circularly into three thongs all of equal length; these thongs being closely twisted together, form a three-fold cord, able to sustain a great weight, and durable enough to last for about two generations: to prevent the injuries it would otherwise receive from the sharp edges of the rocks, against which they must frequently strike, the cord is lined with sheep skins, dressed in much the same manner.

This rope is a piece of furniture indispensably necessary, and the most valuable implement a man of substance can be possessed of in St Kilda. In the testament of a father, it makes the very first article in favour of his eldest son: should it happen to fall to a daughter's share, in default of male heirs, it is reckoned equal in value to the best two cows in the island.

By the help of such ropes, the people of the greatest prowess and experience here traverse and examine rocks prodigiously high. Linked together in couples, each having either end of the cord fastened about his waist, they go frequently through the most dreadful precipices: when one of the two descends, his colleague plants himself on a strong shelf, and takes care to have such sure footing there, that if his fellow adventurer makes a false step, and tumbles over, he may be able to save him.

The following anecdote of a steward of St Kilda's deputy will give the reader a specimen of the dangers

they undergo, and at the same time of the uncommon strength of the St Kildans. This man, observing his colleague lose his hold, and tumbling down from above, placed himself so firmly upon the shelf where he stood, that he sustained the weight of his friend, after falling the whole length of the rope. Undoubtedly these are stupendous adventures, and equal to any thing in the feats of chivalry. Mr Macaulay gives an instance of the dexterity of the inhabitants of St Kilda in catching wild fowl, to which he was an eye witness. Two noted heroes were drawn out from among all the ablest men of the community: one of them fixed himself on a craggy shelf; his companion went down 60 fathoms below him; and after having darted himself away from the face of a most alarming precipice hanging over the ocean, he began to play his gambols; he sung merrily, and laughed very heartily: after having performed several antic tricks, and given all the entertainment his art could afford, he returned in triumph, and full of his own merit, with a large string of fowls about his neck, and a number of eggs in his bosom. This method of fowling resembles that of the Norwegians, as described by Bishop Pontoppidan.

KILDARE, a town of Ireland, and capital of a county of the same name, is situated 28 miles south-west of Dublin. It is governed by a sovereign, recorder, and two portreeves. The church of Kildare was very early erected into a cathedral with episcopal jurisdiction, which dignity it retains to this day; the cathedral, however, has been for several years neglected, and at present is almost in ruins. St Brigid founded a nunnery at Kildare, which afterwards came into the possession of the regular canons of St Augustin; this saint died 1st February 523, and was interred here; but her remains were afterwards removed to the cathedral church of Down. In the year 638, *Aod Dubh* or *Black Hugh* king of Leinster abdicated his throne, and took on him the Augustinian habit in this abbey; he was afterwards chosen abbot and bishop of Kildare, and died on the 10th May. In 756, Eighitigin the abbot, who was also bishop of Kildare, was killed by a priest as he was celebrating mass at the altar of St Brigid; since which time no priest whatsoever was allowed to celebrate mass in that church in the presence of a bishop. In 1220 Henry de Loundres archbishop of Dublin put out the fire called *inextinguishable*, which had been preserved from a very early time by the nuns of St Brigid. This fire was however lighted, and continued to burn till the total suppression of monasteries. Here was also a Gray abbey on the south side of the town, erected for friars of the Franciscan order, or, as they were more generally called, *Gray friars*, in the year 1260, by Lord William de Vesey; but the building was completed by Gerald Fitzmaurice, Lord Offaley. A considerable part of this building yet remains, which appears not to have been of very great extent. A house for White friars was likewise founded in this town by William de Vesey in 1290; the round tower here is 130 feet high, built of white granite to about 12 feet above the ground, and the rest of common blue stone. The pedestal of an old cross is still to be seen here; and the upper part of a cross lies near it on the ground.

KILDARE, a county of Ireland, in the province of Leinster, which is 37 miles in length and 20 in breadth;

Kilderkin, Kilkenny. breadth; and is bounded on the east by Dublin and Wicklow, on the west by King's and Queen's counties, on the north by East Meath, and on the south by Carlow. It is a fine arable country, well watered by the Barrow, Liffey, and other rivers, and well inhabited and cultivated, containing 228,590 Irish plantation acres, 100 parishes, 10 baronies, and 4 boroughs. The chief town is of the same name, and gave title of earl to the noble family of Fitzgerald. It was anciently called *Chilledair*, i. e. "the wood of oaks," from a large forest which comprehended the middle part of this county; in the centre of this wood was a large plain, sacred to heathen superstition, and at present called the *Curragh of Kildare*; at the extremity of this plain, about the commencement of the 6th century, St Brigid, one of the heathen vestals, on her conversion to the Christian faith, founded, with the assistance of St Conlath, a church and monastery; near which, after the manner of the Pagans, St Brigid kept the sacred fire in a cell, the ruins of which are still visible.

KILDERKIN, a liquid measure, containing two firkins.

KILKENNY, a county of Ireland, in the province of Leinster, bounded on the south by the county of Waterford, on the north by the Queen's county, on the west by the county of Tipperary, on the east by the counties of Wexford and Carlow, and on the north-west by Upper Ossory. The greatest length of this county from north to south is 38 miles, the breadth from east to west 18; and it contains 10 baronies. It is one of the most healthful, pleasant, and populous counties of Ireland. It contains 287,650 Irish plantation acres, 96 parishes, 9 baronies, and 7 boroughs. Gilbert Clare, earl of Gloucester and Hereford, marrying Isabella, one of the daughters and co-heiresses of William earl Marshal, received as her dower the county of Kilkenny.

KILKENNY, the capital of a county of the same name in Ireland, situated in the province of Leinster, 57 miles south-west of Dublin. It takes its name from the cell or church of Canic, who was an eminent hermit in this country; and is one of the most elegant cities in the kingdom. It is the seat of the bishop of Ossory, which was translated from Agabo in Ossory, about the end of Henry II's reign, by Bishop O'Dulany. The city is pleasantly situated on the Neor, a navigable river that discharges itself into the harbour of Waterford. It is said of Kilkenny, that its air is without fog, its water without mud, its fire without smoke, and its streets paved with marble. The two latter are indeed matter of fact; for they have in the neighbourhood, a kind of coal that burns from first to last without smoke, and pretty much resembles the Welsh coal. Most of the streets also are paved with a stone called *black marble*; of which there are large quarries near the town. This stone takes a fine polish, and is beautifully intermixed with white granite. The air too is good and healthy, though not remarkably clearer than in many other parts of the kingdom. The city is governed by a mayor, recorder, aldermen, and sheriffs. It comprises two towns, viz. Kilkenny so called, and Irish town, each of which formerly sent two members to parliament, and both

together are computed to contain about 20,000 inhabitants. This city was once of great consequence, as may be seen by the venerable ruins yet remaining of churches, monasteries, and abbeys, which even now in their dilapidated state exhibit such specimens of exquisite taste in architecture as may vie with any modern improvements; and the remains of its gates, towers, and walls, show it to have been a place of great strength. Here too at different times parliaments were held, in which some remarkable statutes were passed. It has two churches, and several Catholic chapels; barracks for a troop of horse and four companies of foot: a market is held twice in the week, and there are several fairs in the year.—Irish town is more properly called the borough of *St Canice*, vulgarly *Kenny*; the patronage of which is in the bishop of Ossory. The cathedral, which stands in a sequestered situation, is a venerable Gothic pile built about 500 years ago; and close to it is one of those remarkable round towers which have so much engaged the attention of travellers. The bishop's palace is a handsome building, and communicates by a covered passage with the church. The castle was first built in 1195, on the site of one destroyed by the Irish in 1173. The situation in a military view was most eligible: the ground was originally a conoid, the elliptical side abrupt and precipitous, with the river running rapidly at its base: here the natural rampart was faced with a wall of solid masonry 40 feet high; the other parts were defended by bastions, curtains, towers, and outworks; and on the summit the castle was erected. This place, as it now stands, was built by the ancestors of the dukes of Ormond: here the Ormond family resided; and it is now in the possession of Mr Butler, a descendant of that illustrious race. The college originally founded by the Ormond family is rebuilt in a style of elegance and convenience. The tholfe and market house are both good buildings: and over the latter is a suite of rooms, in which during the winter and at races and assizes times, assemblies are held. There are two very fine bridges of cut marble over the Neor; John's bridge particularly is light and elegant. The Ormond family built and endowed a free school in this city. Here are the ruins of three old monasteries, called *St John's*, *St Francis's*, and the *Black abbey*: belonging to the latter are the remains of several old monuments, almost buried in the ruins; and the courts of the others are converted into barracks. The manufactures chiefly carried on here are, coarse woollen cloths, blankets of extraordinary fine quality, and considerable quantities of starch. In the neighbourhood also are made very beautiful chimney-pieces of that species of stone already mentioned, called *Kilkenny marble*: they are cut and polished by the power of water, a mill for that purpose being invented by a Mr Colles. The Kilkenny coal pits are within nine miles of the town. This city came by marriage into the ancient family of Le Despencer. It was incorporated by charter from King James I. in 1609. The market cross of Kilkenny continued an ornament to the city until 1771, when it was taken down; the date on it was MCCC. Sir James Ware mentions Bishop Cantwell's rebuilding the great bridge of Kilkenny, thrown down by an inundation about the year 1447. It appears also that St John's bridge

fell

Killaloe, fell down by a great flood in 1564; and on 2d October 1763, by another like circumstance, Green's bridge near the cathedral fell.—The borough of St Canice, or Irish town, always enjoyed very ancient prescriptive rights. A close roll of 5 Edward III. A. D. 1376, forbids the magistrates of Kilkenny to obstruct the sale of victuals in the market of Irish town, or within the cross, under the pretence of custom for murage: and left the ample grants made to Kilkenny might be interpreted so as to include Irish town, the corporation of the latter secured their ancient rights by letters-patent, 15 Edward IV. A. D. 1474. These renew their former privileges, and appoint a portrieve to be chosen every 21st September, and sworn into office on the 11th October. The portrieve's prison was at Troy-gate. Whenever the mayor of Kilkenny came within Water-gate, he dropt down the point of the city sword, to show he claimed no pre-eminence within the borough.

KILLALOE, a bishop's see in the county of Clare and province of Munster, in Ireland, 86 miles from Dublin, otherwise *Lounia*. It was anciently written *Kill-da-Lua*, i. e. "the church of Lua," from *Lua*, or *Molua*, who about the beginning of the 6th century founded an abbey near this place. St Molua appears to have derived his name from *Loania*, the place of his residence, as was customary amongst the ancient Irish. On the death of St Molua, St Flannan his disciple, and son of the chief of the district, was consecrated bishop of this place at Rome about the year 639, and the church endowed with considerable estates by his father Theodorick. Towards the close of the 12th century, the ancient see of Roscrea was united to that of Killaloe; from which period these united bishoprics have been governed by the same bishops. At Killaloe is a bridge over the Shannon of 17 arches; and here is a considerable salmon and eel fishery. There are many ancient buildings in and about this town. The cathedral is a Gothic edifice in form of a cross, with the steeple in the centre, supported by four arches; it was built by Donald king of Limerick in 1160. There is a building near it, once the oratory of St Molua; and there is another of the same kind in an island on the Shannon, having marks of still higher antiquity. The see house of the bishop is at Clarisford, near to Killaloe. Adjoining to the cathedral are yet some remains of the mausoleum of Brien Boru.

KILLARNEY, a post town of Ireland in the county of Kerry and province of Munster, seated near a fine lake called *Lough Lean*, or lake of Killarney. It is distant 143 miles from Dublin, and has two fairs. Within a mile and a half of this place are the ruins of the cathedral of Aghadoe, an ancient bishoprick united to Ardferit; and within four miles the ruins of Aglish church. At this town is the seat and gardens of Lord Kenmore.

The beautiful lake of Killarney is divided properly into three parts, called the *lower*, *middle*, and *upper* lake. The northern or lower lake is six miles in length and from three to four in breadth, and the town is situated on its northern shore. The country on this and the eastern boundary is rather of a tame character; but is here and there diversified with gentle swells, many of which afford delightful prospects of the lake, the

islands, and surrounding scenery. The southern shore is composed of immense mountains, rising abruptly from the water, and covered with woods of the finest timber. From the centre of the lake the view of this range is astonishingly sublime, presenting to the eye an extent of forest six miles in length, and from half a mile to a mile and a half in breadth, hanging in a robe of rich luxuriance on the sides of two mountains, whose bare tops rising above the whole form a perfect contrast to the verdure of the lower region. On the side of one of these mountains is O'Sullivan's cascade, which falls into the lake with a roar that strikes the timid with awe on approaching it. The view of this sheet of water is uncommonly fine, appearing as if it were descending from an arch of wood, which overhangs it about 70 feet in height from the point of view. Coasting along this shore affords an almost endless entertainment, every change of position presenting a new scene; and rocks hollowed and worn into a variety of forms by the waves, and the trees and shrubs bursting from the pores of the sapless stone, forced to assume the most uncouth shapes to adapt themselves to their fantastic situations. The islands are not so numerous in this as in the upper lake; but there is one of uncommon beauty, viz. Innisfallen, nearly opposite to O'Sullivan's cascade: It contains 18 Irish acres. The coast is formed into a variety of bays and promontories, skirted and crowned with arbutus, holly, and other shrubs and trees; the interior parts are diversified with hills, and dales, and gentle declivities, on which every tree and shrub appears to advantage: the soil is rich even to exuberance; and trees of the largest size incline across the vales, forming natural arches, with ivy entwining in the branches, and hanging in festoons of foliage. The promontory of Mucruis, which divides the upper from the lower lake, is a perfect land of enchantment; there is a road carried through the centre of the promontory, which unfolds all the interior beauties of the place. Amongst the distant mountains, Turk appears an object of magnificence; and Mangerton's loftier, though less interesting summit, rears itself above the whole. The passage to the upper lake is round the extremity of Mucruis, which confines it on one side, and the approaching mountains on the other. Here is the celebrated rock called the *eagle's nest*, which produces wonderful echoes. A French horn sounded here, raises a concert superior to 100 instruments; and the report of a single cannon is answered by a succession of peals resembling the loudest thunder, which seems to travel the surrounding scenery, and die away among the distant mountains. The upper lake is four miles in length, and from two to three in breadth; and is almost surrounded by mountains, from which descend a number of beautiful cascades. The islands in this lake are numerous, and afford an amazing variety of picturesque views.—The centre lake, which communicates with the upper, is but small in comparison with the other two, and cannot boast of equal variety. The shores, however, are in many places indented with beautiful bays, surrounded with dark groves of trees, some of which have a most picturesque appearance when viewed from the water. The eastern boundary is formed by the base of Mangerton, down the steep side of which descends a cascade visible for 150 yards: this fall of water is supplied by a circular lake

Killarney.

Killas,
Killcran-
kie.

lake near the summit of the mountain, called the *Devil's Punch Bowl*; which on account of its immense depth, and the continual overflow of water, is considered as one of the greatest curiosities in Killarney.—Mr Smith seems to think, that one of the best prospects this admired lake affords, is from a rising ground near the ruined cathedral of Aghadoe.

The lake of Killarney is otherwise called *Lough Lane*, or *Loch Lean*, from its being surrounded by high mountains. Nennius says, that these lakes were encompassed by four circles of mines; the first of tin, the second of lead, the third of iron, and the fourth of copper. In the several mountains adjacent to the lakes are still to be seen the vestiges of the ancient mines of iron, lead, and copper; but tin has not been discovered. Silver and gold are said by the Irish antiquaries to have been found in the early ages; but this is somewhat doubtful, especially in any considerable quantity, though some silver probably was extracted from the lead ore, and small quantities of gold might have been obtained from the yellow copper ore of Mucrus. However, in the neighbourhood of these lakes were found in the early ages, as well as at present, pebbles of several colours, which taking a beautiful polish, the ancient Irish wore in their ears, girdles, and different articles of their dress and furniture.

KILLAS, a genus of stones belonging to the argillaceous class, found chiefly in Cornwall in England. Its texture is either lamellar or coarsely granular; the specific gravity from 2630 to 2666. It contains 60 parts of siliceous earth, 25 of argillaceous, 9 of magnesia, and 6 of iron. The greenish kind contains more iron, and gives a green tincture to the nitrous acid.

KILLICRANKIE, a noted pass of Perthshire in Scotland. It is formed by the lofty mountains impending over the river Garie, which rushes through in a deep, darksome, and horrid channel, beneath. In the last century this was a pass of much danger and difficulty; a path hanging over a tremendous precipice threatened destruction to the least false step of the traveller: at present a fine road formed by the soldiery lent by government, and encouraged by an additional 6d. per day, gives an easy access to the remote Highlands; and the two sides are joined by a fine arch.

Near the north end of this pass, in its open and unimproved state, was fought in the year 1689 the battle of Killicrankie, between the adherents of James II. under Viscount Dundee, and of William III. under General Mackay. Dundee's army was very much inferior to that of Mackay. When he came in sight of the latter, he found them formed in eight battalions ready for action. They consisted of 4500 foot, and two troops of horse. The Highlanders under Dundee amounted to little more than half that number. These he ranged instantly in order of battle. Maclean, with his tribe, formed the right wing. The Macdonalds of Sky, under the chieftain's eldest son, formed the left. The Camerons, the Macdonalds of Glengary, the followers of Clanronald, and few Irish auxiliaries, were in the centre. A troop of horse were placed behind under Sir William Wallace. The officers sent by James from Ireland were distributed through all the

line. This whole army stood in fight of the enemy for several hours on the steep side of a hill, which faced the narrow plain where Mackay had formed his line. Dundee wished for the approach of night; a season suited for either victory or flight.

At five of the clock in the afternoon, a kind of slight skirmish began between the right wing of the Highlanders and the left of the enemy. But neither army wishing to change their ground, the firing was discontinued for three hours. Dundee in the mean time flew from tribe to tribe, and animated them to action. At eight of the clock he gave the signal for battle, and charged the enemy in person at the head of the horse. The Highlanders in deep columns rushed suddenly down the hill. They kept their shot till they were within a pike's length of the enemy; and having fired their muskets, fell upon them sword in hand. Mackay's left wing could not for a moment sustain the shock. They were driven by the Macleans with great slaughter from the field. The Macdonalds on the left of the Highlanders, were not equally successful. Colonel Hastings's regiment of foot stood their ground. They even forced the Macdonalds to retreat. Maclean, with a few of his tribe, and Sir Evan Cameron at the head of his clan, fell suddenly on the flank of this gallant regiment, and forced them to give way. The slaughter ended not with the battle. Two thousand fell in the field and the flight. The tents, baggage, artillery, and provisions of the enemy, and even King William's Dutch standard, which was carried by Mackay's regiment, fell into the hands of the Highlanders. The victory was now complete. But the Highlanders lost their gallant leader. Perceiving the unexpected resistance of Colonel Hastings's regiment, and the confusion of the Macdonalds, Dundee rode rapidly to the left wing. As he was raising his arm, and pointing to the Camerons to advance, he received a ball in his side. The wound proved mortal; and with Dundee fell all the hopes of King James at that time.

KILLIGREW, WILLIAM, eldest son of Sir Robert Killigrew knight, was born in 1605. He was gentleman-usher of the privy-chamber to King Charles I. and on the Restoration of Charles II. When the latter married the Princess Catharine of Portugal, he was created vice-chamberlain; in which station he continued 22 years, and died in 1693. He was the author of four plays, which, though now thrown aside, were much applauded by the poets of that time, particularly by Waller.

KILLIGREW, Thomas, brother of the former, was born in 1611; and was much distinguished in his time for wit. He was page of honour to King Charles I. and groom of the bedchamber to Charles II. with whom he suffered many years exile; during which he applied his leisure hours to the study of poetry, and to the composition of several plays. After the Restoration he continued in high favour with the king, and had frequently access to him when he was denied to the first peers in the realm; and being a man of great wit and liveliness of parts, and having from his long intimacy with that monarch, and being continually about his person during his troubles, acquired a freedom and familiarity with him, which even the pomp of majesty afterwards could not check in him; he sometimes, by way of jest, which

Killcran-
kie,
Killigrew.

Killigrew. which King Charles was ever fond of, if genuine, even though himself was the object of the satire, would adventure bold truths which scarcely any one besides would have dared even to hint at. One story in particular is related of him, which if true is a strong proof of the great lengths he would sometimes proceed in his freedoms of this kind, which is as follows:—When the king's unbounded passion for women had given his mistress such an ascendant over him, that, like the effeminate Persian monarch, he was much fitter to have handled a distaff than to wield a sceptre, and for the conversation of his concubines utterly neglected the most important affairs of state, Mr Killigrew went to pay his majesty a visit in his private apartments, habited like a pilgrim who was bent on a long journey. The king, surprised at the oddity of his appearance, immediately asked him what was the meaning of it, and whether he was going? "To hell," bluntly replied the wag. "Prithee (said the king, what can your errand be to that place?" To fetch back Oliver Cromwell (rejoined he), that he may take some care of the affairs of England, for his successor takes none at all.—One more story is related of him, which is not barren of humour. King Charles's fondness for pleasure, to which he almost always made business give way, used frequently to delay affairs of consequence, from his majesty's disappointing the council of his presence when met for the despatch of business, which neglect gave great disgust and offence to many of those who were treated with this seeming disrespect. On one of these occasions the duke of Lauderdale, who was naturally impetuous and turbulent, quitted the council chamber in a violent passion; and meeting Mr Killigrew presently after, expressed himself on the occasion in very disrespectful terms of his majesty. Killigrew begged his grace to moderate his passion, and offered to lay him a wager of 100*l.* that he himself would prevail on his majesty to come to council in half an hour. The duke, surprised at the boldness of the assertion, and warmed by his resentment against the king, accepted the wager; on which Killigrew immediately went to the king, and without ceremony told him what had happened; adding these words, "I know that your majesty hates Lauderdale, though the necessity of your affairs compels you to carry an outward appearance of civility: now, if you choose to get rid of a man who is thus disagreeable to you, you need only go this once to council; for I know his covetous disposition so perfectly, that I am well persuaded, rather than pay this 100*l.* he would hang himself out of the way, and never plague you more." The king was so pleased with the archness of this observation, that he immediately replied, "Well then, Killigrew, I positively will go;" and kept his word accordingly.—Killigrew died in 1682, and was buried in Westminster abbey.

KILLIGREW, *Anne*, "a Grace for beauty, and a Muse for wit," as Mr Wood says, was the daughter of Dr Henry Killigrew, brother of the two foregoing, and was born a little before the Restoration. She gave early indications of genius, and became eminent in the arts both of poetry and painting. She drew the duke of York and his duchess to whom she was maid of honour, as well as several other portraits and history pieces; and crowned all her other accomplishments with unblemished virtue and exemplary piety.

Mr Dryden seems quite lavish in her praise, though Wood assures us he has said no more of her than she was equal if not superior to. The amiable young woman died of the smallpox in 1685; and the year after her poems were published in a thin quarto volume.

KILLILEAGH, a town of Ireland, in the county of Down and province of Ulster, 80 miles from Dublin; otherwise written *Killyleagh*. It is the principal town in the barony of Duffrin; and seated on an arm of the lake of Strangford, from which it is supplied with a great variety of fish. The family of the Hamiltons created first Lords Clanbois, and afterwards earls of Clanbrassil, had their seat and residence here in a castle standing at the upper end of the great street; at the lower end of the street is a little safe bay, where ships lie sheltered from all winds; in the town are some good houses, a decent market-house, a horse barrack, and a Presbyterian meeting house. On an eminence a small distance from the town is a handsome church built in the form of a cross. This place suffered much in the calamitous year 1641. It is now thriving, and the linen manufacture carried on in it, and fine thread made, for which it has a great demand. It formerly returned two members to parliament. The celebrated naturalist and eminent physician Sir Hans Sloane was born here 16th April 1665, and his father Alexander Sloane was at the head of that colony of Scots which King James I. settled in the place. This town was incorporated by that king at the instance of the first earl of Clanbois.

KILLOUGH (otherwise PORT ST ARNE), a port town of Ireland, situated in the county of Down and province of Ulster, 76 miles from Dublin. It lies north of St John's Point, and has a good quay, where ships lie very safe. The town is agreeably situated; the sea flowing all along the backs of the houses, where ships ride in full view of the inhabitants. There is here a good church, and a horse barrack. They have good fishing in the bay; but the principal trade of the place consists in the exportation of barley, and the importation of such commodities as are consumed in the adjacent country. A manufacture of salt is also carried on with great advantage. The fairs held here are five. At a small distance from the town is a charter working school for the reception of 20 children, which was set on foot by the late Mr Justice Ward. There is a remarkable well here called *St Scordin's well*, and highly esteemed for the extraordinary lightness of its water. It gushes out of a high rocky bank, close upon the shore, and is observed never to diminish its quantity in the driest season. There is also a mineral spring near the school, the waters of which the inhabitants affirm to be both purgative and emetic. At a small distance from the town near the sea is a rock in which there is an oblong hole, from whence at the ebbing and flowing of the tide a strange noise is heard somewhat resembling the sound of a huntsman's horn. In an open field about a quarter of a mile from the town towards St John's point there is a very curious cave, which has a winding passage two feet and a half broad, with three doors in it besides the entrance, and leading to a circular chamber three yards in diameter, where there is a fine limpid well. The cave is about 27 yards long.

Killybegs
||
Killmallock.

KILLOUGH Harbour is tolerably safe and commodious; a small degree of caution, however, is necessary in sailing into it; for a rock stands in the middle of the entrance, covered at half flood, commonly called the *water rock*. Either to the east or west of this rock is a secure passage, the inlet lying south by east and north by west. On the west side of the rock open to Coney island is a strong quay, and a basin for ships, where they are defended from all winds, within which the harbour on both sides affords good anchorage for vessels of 150 tons. At the end of the quay the channel is 400 yards wide. The bay of Killough is formed by Rin-fad and the Long point to the east, and St John's point to the west, as the inner harbour is by a peninsula called *Coney isle* from the number of rabbits thereon, and not *Cane isle* as Sir William Petty supposes. An impetuous sea runs on all this coast in storms and spring tides.

KILLYBEGS, a borough and fair town in the county of Donegal and province of Ulster, 123 miles from Dublin. It is situated on the north side of Donegal bay; but is a place of no great trade, though it has a harbour spacious enough to contain a large fleet: it has a bold and ample opening to the sea on the south, and is secured within by the shelter of high lands surrounding it; so that vessels may enter at any time of the tide, there being from 5 to 8 fathoms water. The herring fishery is the most considerable of any carried on here; but the town is likely to increase in trade and consequence.

KILMAINHAM, a town of Ireland, situated about half a mile from Dublin. It has a session house and handsome gaol; and here the quarter sessions are held for the county of Dublin, and knights of the shire elected for that county. This place was sometimes the seat of government before Dublin castle was converted to that purpose; and though now much decayed, it gives title of baron to the family of Wenman. An ancient priory was founded here, and a house for knights hospitalers of St John of Jerusalem.

KILMALLOCK, a town of Ireland, in the county of Limerick and province of Munster, 16 miles from the city of Limerick, and 107 from Dublin.—This town makes a conspicuous figure in the military history of Ireland. In the 16th century it was a populous place; and the remains of the wall which entirely surrounded the town, and of several large houses, are still to be seen. Edward VI. granted a charter to it with many privileges, as did Queen Elizabeth another, dated 24th April 1584. In 1598, it was invested by the Irish forces, when the earl of Ormond hastened to its relief, and arrived in time to raise the siege: here was also some contest during the grand rebellion in 1641 and 1642. By an inquisition 11 Aug. 29 Eliz. it appears that there had been an abbey in Killmallock called *Flacispague*: on which a stone house was erected. In the cathedral church are the remains of a monument erected over the Verdon family, one of whom represented this town in parliament in 1613. This place once gave title of viscount to one of the Sarsfield family. Sir James Ware informs us, that an abbey of Dominicans or Black friars was built here in the 13th century by the sovereign, brethren, and commonalty. From the many ruins here of castles and ancient buildings, it has acquired the name of the *Irisb Balbeck*.

VOL. XI. Part II.

The parish church was formerly an abbey for regular canons founded by St Mochoallog, who died between the years 639 and 656; and some writers say, that the Dominican abbey just mentioned was founded in 1291, by Gilbert the second son of John of Calleen.

KILMARNOCK, a populous and flourishing town of Ayrshire in Scotland, noted for its manufacture of carpets, milled hosiery, and Scotch bonnets. It gave the title of earl to the noble family of Boyd, residing in this neighbourhood. This title was forfeited by the last earl, who, by engaging in the rebellion of 1745, was deprived of his honours, and lost his life on the scaffold. His son, however, who served in the king's army, afterwards succeeded to the earldom of Errol. The population in 1792 nearly amounted to 6000.

KILMORE, a bishop's see in the county of Cavan and province of Ulster in Ireland. It was called in former ages *Clunes*, or *Clunis*, i. e. the "sequestered place;" and is situated near Lough Earn. St Fedlimid founded this bishopric in the sixth century; it was afterwards removed to an obscure village called *Triburna*; where it continued until the year 1454, when Andrew Macbrady bishop of Triburna erected a church on the site of that founded by St Fedlimid, to whose memory it was dedicated, and denominated *Kilmore*, or "the great church." At present there are neither cathedral, chapter, nor canons, belonging to this see; the small parish church contiguous to the episcopal house serving for the purpose of a cathedral.

KILN, a stove used in the manufacture of various articles. A fabric formed for admitting heat, in order to dry or burn materials placed in it to undergo such operations.

KILWORTH, a town of Ireland, situated in the county of Cork and province of Munster, 108 miles from Dublin. It is a thriving place, with a good church, at the foot of a large ridge of mountains called *Kilworth mountains*, through which a good turnpike road is carried from Dublin to Cork: below the town runs the river Funcheon, which is well stored with salmon and trout, and discharges itself a mile south of this into the Blackwater. Near Kilworth is a good glebe and vicarage house. At this place is Moorpark, the superb seat of Lord Mountcashel; and adjoining to his lordship's improvements stands the castle of Clough-leagh, boldly situated on the river Funcheon, which has stood several sieges.

KIMBOLTON, a town of Huntingdonshire, seated in a bottom; and noted for the castle of Kimbolton, the seat of the duke of Manchester. W. Long. o. 15. N. Lat. 52. 18.

KIMCHI, DAVID, a Jewish rabbi, famous as a commentator on the Old Testament, lived at the close of the 12th and beginning of the 13th centuries. He was a Spaniard by birth, son of Rabbi Joseph Kimchi, and brother of Rabbi Moses Kimchi, both men of eminent learning among the Jews: but he exceeded them both, being the best Hebrew grammarian the Jews ever had. He wrote a Grammar and Dictionary of that language; out of the former of which Buxtorf made his *Thesaurus linguæ Hebrææ*, and his *Lexicon Lingue Hebrææ* out of the latter. His writings have been held in such estimation among the Jews, that no one can

Kilmarnock
||
Kimchi.

Kincardine,
Kincardineshire.

arrive at any reputation in letters and theology without studying them.

KINCARDINE, a town in Perthshire, situated upon the banks of the Forth, four miles west from Alloa, and 22 south from Perth. The houses are well built, and the streets regular, with a dry and healthy situation. The harbour is commodious, with an excellent roadstead opposite to the town, where 100 vessels of all dimensions may ride in perfect safety. Shipbuilding is extensively carried on at this place, and nine or ten have sometimes been upon the stocks at once, some of them 200 and 300 tons burden. In 1792 there were 75 vessels belonging to the town, furnishing employment for 300 sailors. These import wood, iron, flax, &c. from the Baltic, barley from England and other places; and export coals to different parts of Europe. It contains at present about 1000 inhabitants.

KINCARDINESHIRE, or **MEARNS-SHIRE**, a county of Scotland, bounded on the north by Aberdeenshire, on the east by the German ocean, and on the south-west by Angus or Forfarshire. In form it resembles a harp, having the lower point towards the south. Its length alongst the coast is about 30 miles; its greatest breadth about 20. Various opinions have been held concerning the derivation of the word *Mearns*; but the other name is taken from its ancient capital, *Kincardine*, now an inconsiderable village. The tract of country through which the Dee passes, and the plain along the sea coast, are well cultivated, and produce much corn and flax. The fields are in many places screened by woods; and the heaths afford sheep-walks and much good pasture for cattle. But the most extensive tract under cultivation, is what is called the *how* or *hollow* of the Mearns. This tract forms part of Strathmore, or the great vale which runs from Stonehaven in the north-east to Argyleshire in the south-west, nearly across the kingdom. Near Stonehaven, to the south, are the ruins of Dunnotar castle, the ancient seat of the earls marischal of Scotland, situated on a high perpendicular rock, almost surrounded by the sea. In this neighbourhood is a precipitous cliff overhanging the sea, called *Fowls Cleugh*; noted as the resort of kittiwakes, the young of which are much sought after in the hatching season, being esteemed a great delicacy.—At a little distance from Stonehaven, up the river, stands Urie, the birth-place of Barclay the famous apologist for the Quakers. The Quakers have here a burying ground; and in the vicinity are seen the traces of a Roman station. There are other fine mansion houses in this county, as *Burn*, the seat of the late Lord Adam Gordon; *Arbuthnot*, the seat of Viscount Arbuthnot; *Criggie*, *Benholm Castle*, &c.—The village of Fordun, a little south from the centre of the county, is supposed to be the birth-place of the celebrated author of the *Scotichronicon*. In the churchyard of Fordun is shewn what is said to be the tomb of St Palladius, a small plain building, which from its appearance is comparatively of modern date. Near the village, and along the river Bervie, the country is flat and well cultivated. The small town of **INVERBERVIE** was made a royal borough by David Bruce, who landed with his queen at Craig David near this after his long retreat into France. Near the village of *Fettercairn* are still seen some vestiges of a castle said to have been the residence of *Finella*, daughter of a nobleman

of large possessions in this country, or, as Major calls her, *countess of Angus*, who was accessory to the murder of Kenneth II. About two miles from this place, on the road side, is a cairn of a stupendous size and uncommon form, which probably might give name to the parish. About six miles west from Bervie, is situated *Laurencekirk*, which, formerly an insignificant village, by the judicious and liberal exertions of Lord Gardenstone, has become a handsome little town, with a right to elect magistrates, and to hold an annual fair and a weekly market. He established here manufactures of lawn, cambric, linen, and various other articles. He has also freely renounced all the oppressive services due by his tenants; services which have been so long and so justly complained of as a check to agriculture in many parts of Scotland.—The north-west part of the shire, being mountainous, is more employed in pasture than in cultivation. The principal mountains are *Montbattoo*, and *Cloch-na-bean*: the former is the highest in the county; the latter is remarkable, as the name imports, for a huge detached rock near its summit. The population of this county, according to its parishes, is the following.

Kincardineshire
||
King.

Parishes.	Population in 1755.	Population in 1790—1798.
1 Arbuthnot	997	1041
Banchory Devenich	1495	1700
Banchory Ternan	1736	1340
Benholm	1367	1557
5 Bervie	655	1200
Conveth	757	1200
Dunnotar	1570	1962
Durris	889	651
Fettercairn	1950	2000
10 Fetteressloe	3082	3370
Fordun	1890	2258
Garvock	755	460
Glenbervie	958	1307
Kinneff	858	1000
15 Maryculter	746	719
Marykirk	1285	1481
Nigg	1289	1090
St Cyrus	1271	1763
19 Strachan	796	700
	24,346	26,799
		24,346

Increase, 2453 * * Statist. Hist.

KINDRED, in *Law*, persons related to one another, whereof the law reckons three degrees or lines, viz. the descending, ascending, and collateral line. See **CONSANGUINITY** and **DESCENT**.

On there being no kindred in the descending line, the inheritance passes in the collateral one.

KING, a monarch or potentate who rules singly and sovereignly over a people.—Camden derives the word from the Saxon *cyning*, which signifies the same; and that from *can*, "power," or *ken*, "knowledge," wherewith every monarch is supposed to be invested. The Latin *rex*, the Scythian *reix*, the Punic *resch*, the Spanish *rey*, and French *roy*, come all, according to Pofsel, from the Hebrew *רֹאשׁ*, *rosch*, "chief, head."

Kings were not known amongst the Israelites till the.

King. the reign of Saul. Before him they were governed at first by elders as in Egypt; then by princes of God's appointment, as Moses and Joshua; then by judges till the time of Samuel; and last of all by kings. See JUDGES.

Most of the Grecian states were governed at first by kings, who were chosen by the people to decide differences and execute a power which was limited by laws. They commanded armies, presided over the worship of the gods, &c. This royalty was generally hereditary; but if the vices of the heir to the crown were odious to the people, or if the oracle had so commanded, he was cut off from the right of succession; yet the kings were supposed to hold their sovereignty by the appointment of Jupiter. The ensign of majesty was the sceptre, which was made of wood adorned with studs of gold, and ornamented at the top with some figure; commonly that of an eagle, as being the bird of Jove.

Rome also was governed at first by kings, who were elected by the people, with the approbation of the senate and concurrence of the augurs. Their power extended to religion, the revenues, the army, and the administration of justice. The monarchical form of government subsisted 244 years in Rome, under seven kings, the last of whom was Tarquinius Superbus. See ROME.

Among the Greeks the king of Persia had anciently the appellation of the *great king*; the king of France now has that of the *most Christian king*; and the king of Spain has that of *Catholic king*. The king of the Romans is a prince chosen by the emperor, as a coadjutor in the government of the empire.

The kings of England, by the Lateran council, under Pope Julius II. had the title of *Christianissimus* conferred on them; and that of *defender of the faith* was added by Pope Leo X. though it had been used by them some time before. The title of *grace* was first given to our kings about the time of Henry IV. and that of *majesty* first to Henry VIII. before which time our kings were called *grace*, *highness*, &c.—In all public instruments and letters, the king styles himself *nos*, “we;” though till the time of King John he spoke in the singular number.

The definition of *king* above given, is according to the general acceptation of the term. It will not therefore strictly apply to the sovereign of Britain; and still less of late to that of France, formerly one of the most absolute, now the most degraded, of princes, without power and without consequence. In Britain, a happy mean prevails. The power of the king is indeed subject to great limitations: but they are the limitations of wisdom, and the sources of dignity; being so far from diminishing his honour, that they add a glory to his crown: For while other kings are absolute monarchs over innumerable multitudes of slaves, the king of Britain has the distinguished glory of governing a free people, the least of whom is protected by the laws: he has great prerogatives, and a boundless power in doing good; and is at the same time only restrained from acting inconsistently with his own happiness, and that of his people.

To understand the royal rights and authority in Britain, we must consider the king under six distinct views. 1. With regard to his title. 2. His royal family.

3. His councils: 4. His duties. 5. His prerogative. 6. His revenue.

I. His title. For this, see *HEREDITARY Right*, and *SUCCESSION*.

II. His royal family. See *ROYAL Family*.

III. His councils. See *COUNCIL*.

IV. His duties. By our constitution, there are certain duties incumbent on the king; in consideration of which, his dignity and prerogative are established by the laws of the land: it being a maxim in the law, that protection and subjection are reciprocal. And these reciprocal duties are what Sir William Blackstone apprehends were meant by the convention in 1688, when they declared that King James had broken the original contract between king and people. But however, as the terms of that original contract were in some measure disputed, being alleged to exist principally in theory, and to be only deducible by reason and the rules of natural law, in which deduction different understandings might very considerably differ; it was, after the Revolution, judged proper to declare these duties expressly, and to reduce that contract to a plain certainty. So that, whatever doubts might be formerly raised by weak and scrupulous minds about the existence of such an original contract, they must now entirely cease; especially with regard to every prince who hath reigned since the year 1688.

The principal duty of the king is, To govern his people according to law. *Nec regibus infinita aut libera potestas*, was the constitution of our German ancestors on the continent. And this is not only consonant to the principles of nature, of liberty, of reason, and of society; but has always been esteemed an express part of the common law of England, even when prerogative was at the highest. “The king (saith Bracton, who wrote under Henry III.) ought not to be subject to man; but to God, and to the law: for the law maketh the king. Let the king therefore render to the law, what the law has invested in him with regard to others; dominion, and power: for he is not truly king, where will and pleasure rules, and not the law.” And again: “The king hath a superior, namely God; and also the law, by which he was made a king.” Thus Bracton; and Fortescue also, having first well distinguished between a monarchy absolutely and despotically regal, which is introduced by conquest and violence, and a political or civil monarchy, which arises from mutual consent (of which last species he asserts the government of England to be), immediately lay it down as a principle, that “the king of England must rule his people according to the decrees of the laws thereof; inasmuch that he is bound by an oath at his coronation to the observance and keeping of his own laws.” But to obviate all doubts and difficulties concerning this matter, it is expressly declared by statute 12 and 13 W. III. c. 2. “that the laws of England are the birthright of the people thereof; and all the kings and queens who shall ascend the throne of this realm ought to administer the government of the same according to the said laws, and all their officers and ministers ought to serve them respectively according to the same: and therefore all the other laws and statutes of this realm, for securing the established religion, and the rights and liberties of the people thereof, and all other laws and statutes of the same now in force, are by his majesty, by and with

King. the advice and consent of the lords spiritual and temporal, and commons, and by authority of the same, ratified and confirmed accordingly."

And as to the terms of the original contract between king and people, these, it is apprehended, are now couched in the coronation oath, which by the statute 1 W. and M. stat. 1. c. 6. is to be administered to every king and queen who shall succeed to the imperial crown of these realms, by one of the archbishops or bishops of the realm, in the presence of all the people; who on their parts do reciprocally take the oath of allegiance to the crown. This coronation oath is conceived in the following terms:

"*The archbishop or bishop shall say, Will you solemnly promise and swear to govern the people of this kingdom of Britain, and the dominions thereto belonging, according to the statutes in parliament agreed, and the laws and customs of the same?—The king or queen shall say, I solemnly promise so to do.*

"*Archbishop or bishop. Will you to your power cause law and justice, in mercy, to be executed in all your judgements?—King or queen. I will.*

"*Archbishop or bishop. Will you to the utmost of your power maintain the laws of God, the true profession of the gospel, and the Protestant reformed religion established by the law? And will you preserve unto the bishops and clergy of this realm, and to the churches committed to their charge, all such rights and privileges as by law do or shall appertain unto them, or any of them?—King or queen. All this I promise to do.*

"*After this the king or queen, laying his or her hand upon the holy gospel, shall say, The things which I have here before promised, I will perform and keep: so help me God. And then shall kiss the book.*"

This is the form of the coronation oath, as it is now prescribed by our law; the principal articles of which appear to be at least as ancient as the *Mirror of Justices*, and even as the time of *Bracton*: but the wording of it was changed at the Revolution, because (as the statute alleges) the oath itself had been framed in doubtful words and expressions, with relation to ancient laws and constitutions at this time unknown. However, in what form soever it be conceived, this is most indisputably a fundamental and original express contract; though, doubtless, the duty of protection is impliedly as much incumbent on the sovereign before coronation as after: in the same manner as allegiance to the king becomes the duty of the subject immediately on the descent of the crown, before he has taken the oath of allegiance, or whether he ever takes it at all. This reciprocal duty of the subject will be considered in its proper place. At present we are only to observe, that in the king's part of this original contract are expressed all the duties which a monarch can owe to his people, viz. to govern according to law; to execute judgement in mercy; and to maintain the established religion. And with respect to the latter of these three branches, we may farther remark, that by the act of union, 5 Ann. c. 8. two preceding statutes are recited and confirmed; the one of the parliament of Scotland, the other of the parliament of England: which enact; the former, that every king at his accession shall take and subscribe an oath, to preserve the Protestant reli-

gion, and Presbyterian church-government in Scotland; the latter, that at his coronation he shall take and subscribe a similar oath, to preserve the settlement of the church of England within England, Ireland, Wales, and Berwick, and the territories thereunto belonging.

V. His prerogative. See PREROGATIVE.

VI. His revenue. See REVENUE.

King. Having in the preceding articles chalked out all the principal outlines of this vast title of the law, the supreme executive magistrate, or the king's majesty, considered in his several capacities and points of view; it may not be improper to take a short comparative review of the power of the executive magistrate, or prerogative of the crown, as it stood in former days, and as it stands at present. And we cannot but observe, that most of the laws for ascertaining, limiting, and restraining this prerogative, have been made within the compass of little more than a century past; from the petition of right in 3 Car. I. to the present time. So that the powers of the crown are now to all appearance greatly curtailed and diminished since the reign of King James I. particularly by the abolition of the star-chamber and high-commission courts in the reign of Charles I. and by the disclaiming of martial law, and the power of levying taxes on the subject, by the same prince: by the disuse of forest laws for a century past; and by the many excellent provisions enacted under Charles II.; especially the abolition of military tenures, purveyance, and pre-emption; the *habeas corpus* act; and the act to prevent the discontinuance of parliaments for above three years; and since the Revolution, by the strong and emphatical words in which our liberties are asserted in the bill of rights, and act of settlement; by the act for triennial, since turned into septennial elections; by the exclusion of certain officers from the house of commons; by rendering the seats of the judges permanent, and their salaries independent; and by restraining the king's pardon from obstructing parliamentary impeachments. Besides all this, if we consider how the crown is impoverished and stripped of all its ancient revenues, so that it greatly depends on the liberality of parliament for its necessary support and maintenance, we may perhaps be led to think that the balance is inclined pretty strongly to the popular scale, and that the executive magistrate has neither independence nor power enough left, to form that check upon the lords and commons which the founders of our constitution intended.

But, on the other hand, it is to be considered, that every prince, in the first parliament after his accession, has by long usage a truly royal addition to his hereditary revenue settled upon him for his life; and has never any occasion to apply to parliament for supplies, but upon some public necessity of the whole realm. This restores to him that constitutional independence, which at his first accession seems, it must be owned, to be wanting. And then with regard to power, we may find perhaps that the hands of government are at least sufficiently strengthened; and that a British monarch is now in no danger of being overborne by either the nobility or the people. The instruments of power are not perhaps so open and avowed as they formerly were, and therefore are the less liable to jealous and invidious reflections; but they are not the weaker upon

King.

upon that account. In short, our national debt and taxes (besides the inconveniences before mentioned) have also in their natural consequences thrown such a weight of power into the executive scale of government, as we cannot think was intended by our patriot ancestors; who gloriously struggled for the abolition of the then formidable parts of the prerogative, and by an unaccountable want of foresight established this system in their stead. The entire collection and management of so vast a revenue, being placed in the hands of the crown, have given rise to such a number of new officers, created by and removable at the royal pleasure, that they have extended the influence of government to every corner of the nation. Witness the commissioners, and the multitude of dependents on the customs, in every port of the kingdom; the commissioners of excise, and their numerous subalterns, in every inland district; the postmasters and their servants, planted in every town, and upon every public road; the commissioners of the stamps, and their distributors, which are fully as scattered and fully as numerous; the officers of the salt duty, which, though a species of excise, and conducted in the same manner, are yet made a distinct corps from the ordinary managers of that revenue; the surveyors of houses and windows; the receivers of the land tax; the managers of lotteries; and the commissioners of hackney coaches; all which are either mediately or immediately appointed by the crown, and removable at pleasure without any reason assigned: these, it requires but little penetration to see, must give that power, on which they depend for subsistence, an influence most amazingly extensive. To this may be added the frequent opportunities of conferring particular obligations, by preference in loans, subscriptions, tickets, remittances, and other money transactions, which will greatly increase this influence; and that over those persons whose attachment, on account of their wealth, is frequently the most desirable. All this is the natural, though perhaps the unforeseen, consequence of erecting our funds of credit, and, to support them, establishing our perpetual taxes: the whole of which is entirely new since the Restoration in 1660; and by far the greatest part since the Revolution in 1688. And the same may be said with regard to the officers in our numerous army, and the places which the army has created. All which put together give the executive power so persuasive an energy with respect to the persons themselves, and so prevailing an interest with their friends and families, as will amply make amends for the loss of external prerogative.

But though this profusion of offices should have no effect on individuals, there is still another newly acquired branch of power; and that is, not the influence only, but the force of a disciplined army: paid indeed ultimately by the people, but immediately by the crown; raised by the crown, officered by the crown, commanded by the crown. They are kept on foot, it is true, only from year to year, and that by the power of parliament: but during that year they must, by the nature of our constitution, if raised at all, be at the absolute disposal of the crown. And there need but few words to demonstrate how great a trust is thereby reposed in the prince by his people: A trust that is more than equivalent to a thousand little troublesome prerogatives.

King.

Add to all this, that besides the civil list, the immense revenue of almost seven millions sterling, which is annually paid to the creditors of the public, or carried to the sinking fund, is first deposited in the royal exchequer, and thence issued out to the respective offices of payment. This revenue the people can never refuse to raise, because it is made perpetual by act of parliament; which also, when well considered, will appear to be a trust of great delicacy and high importance.

Upon the whole, therefore, it seems clear, that whatever may have become of the *nominal*, the real power of the crown has not been too far weakened by any transactions in the last century. Much is indeed given up; but much is also acquired. The stern commands of prerogative have yielded, to the milder voice of influence: the slavish and exploded doctrine of non-resistance has given way to a military establishment by law; and to the disuse of parliaments has succeeded a parliamentary trust of an immense perpetual revenue. When, indeed, by the free operation of the sinking fund, our national debts shall be lessened; when the posture of foreign affairs, and the universal introduction of a well planned and national militia, will suffer our formidable army to be thinned and regulated; and when (in consequence of all) our taxes shall be gradually reduced; this adventitious power of the crown will slowly and imperceptibly diminish, as it slowly and imperceptibly rose. But till that shall happen, it will be our especial duty, as good subjects and good Englishmen, to reverence the crown, and yet guard against corrupt and servile influences from those who are intrusted with its authority; to be loyal, yet free; obedient, and yet independent; and above every thing, to hope that we may long, very long, continue to be governed by a sovereign, who, in all those public acts that have personally proceeded from himself, hath manifested the highest veneration for the free constitution of Britain; hath already in more than one instance remarkably strengthened its outworks; and will therefore never harbour a thought, or adopt a persuasion, in any the remotest degree detrimental to public liberty.

KING at Arms, or of *Arms*, is an officer of great antiquity, and anciently of great authority, whose business is to direct the heralds, preside at their chapters, and have the jurisdiction of armoury.

In England there are three kings of arms, viz. garter, clarencieux, and norroy.

Garter, principal *KING of Arms*, was instituted by Henry V. His business is to attend the knights of the garter at their assemblies, to marshal the solemnities at the funerals of the highest nobility, and to carry the garter to kings and princes beyond the sea; on which occasion he used to be joined in commission with some principal peer of the kingdom. See *GARTER*.

Clarencieux KING at Arms, is so called from the duke of Clarence, to whom he first belonged. His office is to marshal and dispose the funerals of all the inferior nobility, as baronets, knights, esquires, and gentlemen, on the south side of the Trent. See *CLARENCEUX*.

Norroy KING at Arms, is to do the same on the north side of the river Trent.

These two last are also called *provincial heralds*, in regard

King. regard they divide the kingdom between them into provinces. By charter, they have power to visit noblemen's families, to set down their pedigrees, distinguish their arms, appoint persons their arms, and with garter to direct the other heralds.

Anciently the kings at arms were created and solemnly crowned by the kings of England themselves; but in later times the earl marshal has a special commission at every creation to personate the king.

Lyon KING at Arms, for Scotland, is the second king at arms for Great Britain; he is invested and crowned with great solemnity. To him belong the publishing king's proclamations, marshalling funerals, reversing arms, &c. See LYON.

KING, *Dr John*, a learned English bishop in the 17th century, was educated at Westminster school, and at Oxford, and was appointed chaplain to Queen Elizabeth. In 1605 he was made dean of Christ church, and for several years vice-chancellor of Oxford, and in 1611 he was advanced to the bishopric of London. Besides his *Lectures upon Jonah*, delivered at York, he published several sermons. King James I. used to style him *the king of preachers*; and Lord Chief Justice Coke often declared, that *he was the best speaker in the Star-chamber in his time*. He was so constant in preaching after he was a bishop, that, unless he was prevented by want of health, he omitted no Sunday in visiting some pulpit in or near London. Soon after his death, it was reported, that he died a member of the Romish church. But the falsity of this story was sufficiently exposed by his son Dr Henry King, who was bishop of Chichester, in a sermon at St Paul's cross soon after; by Bishop Godwin in the *Appendix to his Commentarius de presulibus Angliæ*, printed in 1622; and by Mr John Gee, in his book, entitled, *The Foot out of the Snare*.

KING, *Dr William*, a facetious English writer in the beginning of the 18th century, was allied to the noble families of Clarendon and Rochester. He was elected a student of Christ church from Westminster school in 1681, aged 18. He afterward entered upon the study of law, and took the degree of doctor of civil law, soon acquired a considerable reputation as a civilian, and was in great practice. He attended the earl of Pembroke, lord lieutenant of Ireland, into that kingdom, where he was appointed judge advocate, sole commissioner of the prizes, keeper of the records, vicar general to the lord primate of Ireland; was countenanced by persons of the highest rank, and might have made a fortune. But so far was he from heaping up riches, that he returned to England with no other treasure than a few merry poems and humorous essays, and returned to his student's place at Christ church. He died on Christmas day in 1712, and was interred in the cloisters of Westminster abbey. His writings are pretty numerous. The principal are, 1. Animadversions on a pretended Account of Denmark, wrote by Mr Moleworth, afterwards Lord Moleworth. The writing of these procured Dr King the place of secretary to Princess Anne of Denmark. 2. Dialogues of the dead. 3. The art of love, in imitation of Ovid *De arte amandi*. 4. A volume of poems. 5. Useful transactions. 6. An historical account of the heathen gods and heroes. 7. Several translations.

KING, *Dr William*, archbishop of Dublin in the 18th century, was descended from an ancient family in

the north of Scotland, but born in the county of Antrim in the north of Ireland. In 1674 he took priests orders, and in 1679 was promoted by his patron, Dr Parker, archbishop of Dublin, to the chancellorship of St Patrick. In 1687 Peter Manby, dean of Londonderry, having published at London, in 4to, a pamphlet entitled *Considerations* which obliged Peter Manby dean of Londonderry to embrace the Catholic Religion, our author immediately wrote an answer. Mr Manby, encouraged by the court, and assisted by the most learned champions of the church of Rome, published a reply under this title, *A reformed Catechism*, in two Dialogues, concerning the English Reformation, &c. in reply to Mr King's Answer, &c. Our author soon rejoined, in *A Vindication of the Answer*. Mr Manby dropped the controversy; but dispersed a loose sheet of paper, artfully written, with this title, *A Letter to a Friend*, showing the Vanity of this Opinion, that every Man's Sense and Reason are to guide him in Matters of Faith. This Dr King refuted in *A Vindication of the Christian Religion and Reformation against the Attempts of a Letter*, &c. In 1689 he was twice confined in the tower by order of King James II. and the same year commenced doctor of divinity. In 1690, upon King James's retreat to France after the battle at the Boyne, he was advanced to the see of Derry. In 1692 he published at London in 4to, *The State of the Protestants of Ireland under the late King James's Government*, &c. "A history (says Bishop Burnet), as truly as it is finely written." He had by him at his death attested vouchers of every particular fact alledged in this book, which are now in the hands of his relations. However, it was soon attacked by Mr Charles Lesly. In 1693 our author finding the great number of Protestant dissenters, in his diocese of Derry, increased by a vast addition of colonists from Scotland, in order to persuade them to conformity to the established church, published *A Discourse concerning the Inventions of Men in the Worship of God*. Mr Joseph Boyse, a dissenting minister, wrote an answer. The bishop answered Mr Boyse. The latter replied. The bishop rejoined. In 1702 he published at Dublin, in 4to, his celebrated treatise *De Origine Mali*. Mr Edmund Law, M. A. fellow of Christ's college in Cambridge afterwards published a complete translation of this, with very valuable notes, in 4to. In the second edition he has inserted, by way of notes, a large collection of the author's papers on the same subject, which he had received from his relations after the publication of the former edition. Our author in this excellent treatise has many curious observations. He asserts and proves that there is more moral good in the earth than moral evil. A sermon by our author, preached at Dublin in 1709, was published under the title of *Divine Predestination and Foreknowledge consistent with the Freedom of Man's Will*. This was attacked by Anthony Collins, Esq. in a pamphlet entitled, *A Vindication of the Divine Attributes*; in some remarks on the archbishop of Dublin's sermon, entitled, *Divine Predestination*, &c. He published likewise, *A Discourse concerning the Consecration of Churches*; showing what is meant by dedicating them, with the Grounds of that Office. He died in 1720.

KING, *Dr William*, principal of St Mary's hall, Oxford, son of the reverend Peregrine King, was born at

King.

at Stepney in Middlesex, in the year 1685. He was made doctor of laws in 1715, was secretary to the duke of Ormond, and earl of Arran, as chancellors of the university; and was made principal of St Mary's hall on the death of Dr Hudson in 1719. When he stood candidate for member of parliament for the university, he resigned his office of secretary, but enjoyed his other preferment, and it was all he did enjoy to the time of his death. Dr Clark, who opposed him, carried the election; and after this disappointment, he in the year 1727 went over to Ireland, where he is said to have written an epic poem, called *The Toast*, which was a political satire, printed and given away to his friends, but never sold. On the dedication of Dr Radcliff's library in 1749, he spoke a Latin oration in the theatre of Oxford, which was received with the highest acclamations; but it was otherwise when printed, for he was attacked in several pamphlets on account of it. Again, at the memorable contested election in Oxfordshire 1755, his attachment to the old interest drew on him the resentment of the new, and he was libelled in newspapers and pamphlets, against which he defended himself in an *Apology*, and warmly retaliated on his adversaries. He wrote several other things, and died in 1762. He was a polite scholar, an excellent orator, an elegant and easy writer, and esteemed by the first men of his time for his learning and wit.

KING, *Peter*, lord high chancellor of Great Britain, was the son of an eminent grocer and salter, and was born at Exeter in 1669, and bred up for some years to his father's business; but his inclination to learning was so strong, that he laid out all the money he could spare in books, and devoted every moment of his leisure hours to study: so that he became an excellent scholar before the world suspected any such thing; and gave the public a proof of his skill in church history, in his *Inquiry into the Constitution, Discipline, Unity, and Worship of the primitive Church*, that flourished within the first 300 Years after Christ. London, 1691, in 8vo. This was written with a view to promote the scheme of a comprehension of the dissenters. He afterwards published the second part of the *Inquiry into the Constitution, &c.*; and having desired, in his preface, to be shown, either publicly or privately, any mistakes he might have made, that request was first complied with by Mr Edmund Elys; between whom and our author there passed several letters upon the subject, in 1692, which were published by Mr Elys in 1694, 8vo, under the title of *Letters on several Subjects*. But the most formal and elaborate answer to the *Inquiry* appeared afterwards, in a work entitled, *Original Draught of the Primitive Church*.

His acquaintance with Mr Locke, to whom he was related, and who left him half his library at his death, was of great advantage to him; by his advice, after he had studied some time in Holland, he applied himself to the study of the law; in which profession this learning and diligence made him soon taken notice of. In the two last parliaments during the reign of King William, and in five parliaments during the reign of Queen Anne, he served as burgess for Beer-Alston in Devonshire. In 1702, he published at London, in 8vo, without his name, his *History of the Apostles Creed*, with critical observations on its several articles; which

is highly esteemed. In 1708, he was chosen recorder of the city of London, and in 1710, was one of the members of the house of commons at the trial of Dr Sacheverell. In 1714, he was appointed lord chief justice of the common pleas; and the April following, was made one of the privy council. In 1715, he was created a peer, by the title of *Lord King, baron of Ockham, in Surry*, and appointed lord high chancellor of Great Britain; in which situation he continued till 1733, when he resigned; and in 1734 died at Ockham in Surry.

King's Bench. See BENCH, *King's*.

King Bird. See PARADISEA, ORNITHOLOGY *Index*.

King's Fisher. See ALCEDO, ORNITHOLOGY *Index*.

Books of Kings, two canonical books of the Old Testament, so called, because they contain the history of the kings of Israel and Judah from the beginning of the reign of Solomon down to the Babylonish captivity, for the space of near 600 years. The first book of Kings contains the latter part of the life of David, and his death; the flourishing state of the Israelites under Solomon, his building and dedicating the temple of Jerusalem, his shameful defection from the true religion, and the sudden decay of the Jewish nation after his death, when it was divided into two kingdoms: the rest of the book is taken up in relating the acts of four kings of Judah and eight of Israel. The second book, which is a continuation of the same history, is a relation of the memorable acts of 16 kings of Judah, and 12 of Israel, and the end of both kingdoms, by the carrying of the 10 tribes captive into Assyria by Shalmaneser, and the other two into Babylon by Nebuchadnezzar.

It is probable that these books were composed by Ezra, who extracted them out of the public records, which were kept of what passed in that nation.

King's County, a county of the province of Leinster in Ireland, taking its name from King Philip of Spain, husband to Queen Mary. It is bounded on the north by West Meath; on the south by Tipperary and Queen's county, from which it is divided by the Barrow; and part of Tipperary and Galway on the west, from which it is separated by the Shannon. It is a fine fruitful country, containing 257,510 Irish plantation acres, 56 parishes, 11 baronies, and two boroughs. It is about 38 miles long and 30 broad, and the chief town is Philipstown.

King's-Evil, or Scrophula. See MEDICINE *Index*.

KING-TE-TCHING, a famous village belonging to the district of Jao-tcheou-fou, a city of China, in the province of Kiang-si. This village, in which are collected the best workmen in porcelain, is as populous as the largest cities of China. It is reckoned to contain a million of inhabitants, who consume every day more than ten thousand loads of rice. It extends a league and a half along the banks of a beautiful river, and is not a collection of straggling houses intermixed with spots of ground: on the contrary, the people complain that the buildings are too crowded, and that the long streets which they form are too narrow; those who pass through them imagine themselves transported into the midst of a fair, where nothing is heard around but the noise of porters calling out to make way. Provisions are dear here, because every thing consumed

King's
Bench
||
King-te-
tching.

Kingdom
||
Kingston.

is brought from remote places; even wood, so necessary for their furnaces, is actually transported from the distance of an hundred leagues. This village, notwithstanding the high price of provisions, is an asylum for a great number of poor families, who could not subsist anywhere else. Children and invalids find employment here, and even the blind gain a livelihood by pounding colours. The river in this place forms a kind of harbour about a league in circumference: two or three rows of barks placed in a line sometimes border the whole extent of this vast basin.

KINGDOM, the territories or extent of country subject to a king.

KINGDOMS of Nature. Most naturalists following Linnæus, have divided all natural bodies into three great classes, called *kingdoms*. These are the *mineral*, the *vegetable*, and the *animal* kingdoms. See NATURAL HISTORY.

KINGHORN, a borough town in the county of Fife in Scotland, on the frith of Forth, directly opposite to Leith. The manufacture of thread stockings has been long established; and machinery has been introduced for spinning cotton and flax. Many of the men are employed in coasting ships, in the fishery, or the passage boats from hence to Leith, from which the town of Kinghorn derives considerable advantage. This place gives a second title to the earl of Strathmore. The population in 1793 was 1118.

KINGSBRIDGE, a town of Devonshire, 217 miles west-south-west from London, which has a harbour for boats, and it is a chapel of ease to Chaston, and has a bridge over the Salcomb to Dodbrook.

KINGSCLERE, a town of Hampshire, and on the Oxford road from Basingstoke, is 56 miles from London, and was once the seat of the Saxon kings.

KINGSFERRY, in Kent, the common way from the main land into the isle of Sheppey; where a cable of about 140 fathoms in length, fastened at each end across the water, serves to get the boat over by hand. For the maintenance of this ferry and keeping up the highway leading to it through the marshes for above one mile in length, and for supporting a wall against the sea, the land occupiers tax themselves yearly one penny per acre for fresh marsh land, and one penny for every 10 acres of salt marsh land. Here is a house for the ferry keeper, who is obliged to tow all travellers over free, except on these four days, viz. Palm Monday, Whit-Monday, St James's day, and Michaelmas day, when a horseman pays two pence and a footman one penny. But on Sunday, or after eight o'clock at night, the ferry-keeper demands sixpence of every horseman, and twopence of every footman, whether strangers or the land occupiers.

KINGSTON UPON THAMES, a town of Surry in England, situated 13 miles from London. It takes its name from having been the residence of many of our Saxon kings, some of whom were crowned here on a stage in the market place. It has a wooden bridge of 20 arches over the Thames, which is navigable here by barges. There is another bridge here of brick, over a stream that comes from a spring in a cellar four miles above the town, and forms such a brook as to drive two mills not above a bowshot from it and from each other. It is generally the place for the summer assizes of this county, there being a gallows on the

top of the hill that overlooks it. It is a populous, trading, well-built town, and in the reigns of King Edward II. and III. sent members to parliament. It has a free school; an alms house built in 1670, for six men and six women, and endowed with lands to the value of 80l. a-year: and a charity school for 30 boys, who are all clothed. Here is a spacious church with eight bells, adjoining to which, on the north side was formerly a chapel dedicated to St Mary, in which were the pictures of three of the Saxon kings that were crowned here, and also that of King John, who gave the inhabitants of this town their first charter of incorporation. But these were all destroyed by the fall of this chapel in 1730. Here is a good market for corn.

KINGSTON upon Hull, a town in the east riding of Yorkshire, 173 miles from London. Its common name is simply *Hull*, and it is situated at the conflux of the rivers Hull and Humber, and near the place where the latter opens into the German ocean. It lies so low, that by cutting the banks of the Humber the country may be laid under water for five miles round. Towards the land it is defended by a wall and a ditch, with the farther fortification of a castle, a citadel, and blockhouse. Hull has convenient docks for the shipping that frequent this port. The first dock was completed some years ago. The town is large and populous, containing two churches, several meeting houses, a free school, a charity school, and some hospitals. Among the latter is one called *Trinity house*, in which are maintained many distressed seamen, both of Hull and other places, that are members of its port. It is governed by 12 elder brethren and six assistants; out of the former are chosen annually two wardens, and out of the younger brethren two stewards; they determine questions between masters and seamen, and other sea matters. A handsome infirmary has lately been erected without the town to the north. Here are also an exchange and a customhouse, and over the Hull a wooden draw-bridge. A good harbour was made here by Richard II. This town has not only the most considerable inland traffic of any port in the north of England, but a foreign trade superior to any in the kingdom, excepting the ports of London, Bristol, Liverpool, and Yarmouth. By means of the many large rivers that fall into the Humber, it trades to almost every part of Yorkshire, as well as to Lincolnshire, Nottinghamshire, Staffordshire, Derbyshire, and Cheshire: the commodities of which counties are brought hither, and exported to Holland, Hamburgh, France, Spain, the Baltic, and other parts of Europe. In return for those, are imported iron, copper, hemp, flax, canvas, Russia linen and yarn, besides wine, oil, fruit, and other articles. Such quantities of corn are also brought hither by the navigable rivers, that Hull exports more of this commodity than London. The trade of Hull with London, particularly for corn, lead, and butter, and with Holland and France, in times of peace, for those commodities, as well as for cloth, kerseys, and other manufactures of Yorkshire, is very considerable. In 1803 the number of ships belonging to Hull, employed in the Greenland and Davis's straits whale fishery, amounted to 40. The mayor of Hull has two swords, one given by King Richard II. the other by Henry VIII. but only one is borne before him at a time; also a cap of maintenance, and an oar of lignum vitæ

Kingston
||
Kinfales.

Kintore
||
Kippis.

vitzæ as a badge of his admiralty jurisdiction within the limits of the Humber. This town gave title of earl to Robert Pierpont of Holme Pierpont, Viscount Newark, created in the 4th of Charles I. and afterwards that of duke in the same family. The last duke of Kingston died in 1773, and the title became extinct.

KINGSTON, a town of Ireland, in the province of Leinster, and capital of King's county. W. Long. 7. 20. N. Lat. 53. 15. It is otherwise called *Philips-Town*.

KINGSTON, a town of Jamaica, seated on the north side of the bay of Port Royal. It was founded in the year 1693, when the repeated desolations by earthquake and fire had driven the inhabitants from Port Royal. It extends a mile from north to south, and about as much from east to west, on the harbour. It contains about 3000 houses, besides negro houses, and warehouses. The number of white inhabitants in 1788 was about 7000; of free people of colour 3000; and of slaves, about 16,000. It is the county town, where the assizes are held, in January, April, July, and October, and last about a fortnight. It is a place of great trade. W. Long. 76. 52. N. Lat. 17. 50.

KINGTON, or KYNETON, a pretty large town in Herefordshire, 146 miles from London. It is situated on the river Arrow, and is inhabited chiefly by clothiers, who drive a considerable trade in narrow cloth. It has a considerable market for corn, cattle, leather, home made linen and woollen cloth, and all sorts of provisions.

KINNOR, or CHINNOR. See CHINNOR.

KINO, a gum resin. See MATERIA MEDICA Index.

KINROSS, the county town of Kinrossshire in Scotland, situated in W. Long. 3. 7. N. Lat. 56. 15. on the west side of Lochleven, a fresh water lake about 10 miles in compass, abounding with pike, trout, perch, and water fowl. The manufactures are linen and some cutlery ware. The house of Kinross, an elegant ancient structure, stands on the north side of the town. Kinross sends a member to parliament by turns with Clackmannan. In the lake are two islands; on one of which appear the ruins of a priory, heretofore possessed by the Culdees; the other is famous for the castle in which Queen Mary was imprisoned by her rebellious subjects.

The following is the population of this county according to its parishes*.

Parishes.	Population in 1755.	Population in 1790—1798.
Cleish	692	653
Kinross	1310	1839
Orwell	1891	1705
Portmoak	969	1105
	4889	5302
		4889
	Increase	413

KINSALE, a town of the county of Cork in Ireland, situated at the mouth of the river Ban or Bandon, 136 miles from Dublin. It is reckoned the third town in the kingdom, and inferior only to Cork in

point of trade. It is neat, well built, and wealthy; and is governed by a sovereign and recorder. It is defended by a strong fort built by King Charles II. called *Charles's fort*; and on the opposite shore there are two well-built villages, called *Cove* and *Scilly*. In the town and liberties are 6 parishes, 30 plough lands, and therein 6846 acres, and the population amounts to 10,000. The barracks hold 12 companies of foot, besides a regiment at Charles's fort. In the centre of the town is a good market-house, and near it a strong built prison; and there are scattered up and down the ruins of several monasteries and religious houses. In time of war Kinfales is a place of much business, being then frequented by rich homeward bound fleets and ships of war, for which reason most of the houses are then let at double rents. The harbour is very commodious, and perfectly secure; so large that the English and Dutch Smyrna fleets have anchored in it at the same time. There is a dock and yard for repairing ships of war, and a crane and gun wharf for landing and shipping heavy artillery. Ships may sail into or out of this harbour, keeping in the middle of the channel, with the utmost safety. Within the haven on the west side lies a great shelf, which shoots a great way off from the land; but leaves an ample passage by the side of it, in which, as in all the rest of the harbour, it is many fathoms deep. Lord Kinfales has the ancient privilege of keeping his hat on in the king's presence. Kinfales gives the title of *baron* to the very ancient family of Courcy, lineally descended from John de Courcy earl of Ulster, who from him have the privilege to be covered in the presence of the king of England.

KINTORE, a royal borough of Aberdeenshire in Scotland, situated on the river Don, in W. Long. 2. 5. N. Lat. 57. 38. It gives the title of *earl* to a branch of the noble family of Keith, but in other respects is inconsiderable.

KINTYRE. See CANTIRE.

KIOF, or KIOW, a considerable town of Poland, and capital of the Ukrain, in the palatinate of the same name, with an archbishop's see and castle. It belongs to Russia, and carries on a considerable trade. It is divided into the Old and New Town, and seated on the river Nieper, in E. Long. 31. 51. N. Lat. 50. 12.

KIPPIS, ANDREW, a learned and eminent English non-conformist divine and biographer, was born at Nottingham, on the 28th of March 1725. On the death of his father, he was removed to Sleaford in Lincolnshire at five years of age, where he received his grammar education, and gave such early proofs of talents and progress, as attracted the notice of Mr Merivale, the pastor of a congregation of dissenters at that place. To this excellent man it was probably owing that young Kippis directed his views to the profession of a dissenting minister, and to those studies in which he afterwards so much excelled. In 1741 he was placed in the academy at Northampton, under the tuition of the celebrated Dr Doddridge, a seminary at that time in high reputation. Of the advantages which this institution afforded him, Mr Kippis knew how to make the best improvement, and his regular conduct and proficiency secured him the esteem of his worthy tutor. Having completed his course of studies in five years, he was invited to a dissenting congregation at

* Statist. Hist.

Kippis. Dorchester, but he gave the preference to a similar call from Boston in Lincolnshire in 1746, where he remained till 1750, removing from thence to Dorking in Surry, and two years after to Long Ditch, Westminster, in the room of Dr Hughes deceased. This was in October 1753, and in the preceding month he married Miss Elizabeth Bott, the daughter of a merchant at Boston.

The situation, for which Mr Kippis was eminently qualified by his extensive abilities, being now respectable, introduced him to useful and honourable connections. He became a manager of the presbyterian fund for the assistance of poor congregations in the country in supporting their ministers, and in 1762 he was chosen a member of Dr Williams's trust, nearly for similar purposes, together with the doctor's valuable library, which afforded him opportunities of very extensive usefulness. In 1762, he signified among his friends his design of taking private pupils, and was on the eve of entering into engagements with the parents of two or three young gentlemen, when a more honourable although a less lucrative employment was offered him. He was appointed classical and philological tutor in Coward's academy, an office which he filled for upwards of 25 years with uncommon reputation to himself, and unpeakable advantage to his students. He received the degree of D. D. from the university of Edinburgh, by the unsolicited recommendation of the learned Professor Robertson in 1767; in 1778 he was made a member of the Antiquarian, and in 1779 a fellow of the Royal Society.

His literary engagements growing extremely numerous, in 1784 he was obliged to resign his appointment in Coward's academy, which was discontinued in the subsequent year. In 1786, attempts were made to establish a new academy in the vicinity of London; a design which Dr Kippis exerted all his influence to accomplish; and although his numerous engagements made it extremely difficult for him to fill any department in it, he reluctantly yielded to the wishes of the subscribers, and became a tutor. But the inconvenience arising from the distance of Hackney from his place of residence, made him resign that office in a few years. His professional duties and private studies occupied his time after this period; and as he enjoyed an uninterrupted state of good health and constitutional vigour, made his friends hope that his life and usefulness would be long continued; but in consequence of a cold which he caught on a journey, he was seized with a fever which no medical knowledge could subdue, and he died on the 5th of October 1795, in the 71st year of his age.

Dr Kippis was distinguished in a high degree for those virtues and accomplishments which are universally allowed to be the chief ornaments of human nature. His temper was mild and gentle, benevolent and candid; his manners and address were easy, polished and conciliating. Notwithstanding his great reputation, he was void of pride, vanity, and self-conceit; he was humble, modest, affable and engaging. The powers and vigour of his mind were far above mediocrity; he had a sound judgement, a comprehensive understanding, correct imagination, retentive memory, a refined taste, and he could exert his faculties on any subject

with the utmost facility. He was an early riser from his youth, to which in a great measure his good health may be ascribed. He excelled in his acquaintance with the classics, belles-lettres, history, and biography. He was the steady friend and advocate of genuine civil and religious liberty; and as a divine, he was well acquainted with the different branches of theology, and with those subjects which are subservient to the critical study of the Scriptures. He very seldom introduced controverted topics into the pulpit, but confined himself to such doctrines and duties as have an immediate influence on the temper and practice.

His works are numerous and valuable, of which we give the following as a specimen: Review of the Transactions of the present Reign; The History of Learning, Knowledge, and Taste in Great Britain; A Vindication of the Protestant Dissenting Ministers, with regard to their late application to Parliament; Considerations on the Provisional Treaty with America, and the Preliminary Articles of Peace with France and Spain; the Life of Sir John Pringle; Six Discourses delivered at the Royal Society, on assigning the Copley Medal; the Life of Captain James Cook, of Dr Lardner, and Dr Doddridge; Sermons preached on public occasions; Biographia Britannica, &c. &c. This last great work, which he did not live to finish, has assigned him a high rank among the learned of his country, and will transmit his name to posterity with distinguished reputation.

KIRCH, CHRISTIAN-FREDERIC, of Berlin, a celebrated astronomer, was born at Guben in 1694, and acquired great reputation in the observatories of Dantzic and Berlin. Godfrey Kirch his father, and Mary his mother, acquired considerable reputation by their astronomical observations. This family corresponded with all the learned societies of Europe, and their astronomical works are in some repute.

KIRCHER, ATHANASIUS, a famous philosopher and mathematician, was born at Fulde in 1601. In 1618, he entered into the society of the Jesuits, and taught philosophy, mathematics, the Hebrew and Syriac languages, in the university of Witzburg, with great applause, till the year 1631. He went to France on account of the ravages committed by the Swedes in Franconia, and lived some time at Avignon. He was afterwards called to Rome, where he taught mathematics in the Roman college, collected a rich cabinet of machines and antiquities, and died in 1680.—The quantity of his works is immense, amounting to 22 vols in folio, 11 in quarto, and 3 in 8vo; enough to employ a man for a great part of his life even to transcribe them. Most of them are rather curious than useful; many of them visionary and fanciful; and if they are not always accompanied with the greatest exactness and precision, the reader, it is presumed, will not be astonished. The principal of his works are, 1. *Praelustiones magneticae*. 2. *Primitiae gnomonicae catoptricae*. 3. *Ars magna lucis et umbræ*. 4. *Musurgia universalis*. 5. *Obeliscus Pamphilius*. 6. *Oedipus Ægyptiacus*, four volumes, folio. 7. *Itinerarium extaticum*. 8. *Obeliscus Ægyptianus*, in four volumes folio. 9. *Mundus subterraneus*. 10. *China illustrata*.

KIRIATHAIM, in *Ancient Geography*, one of the towns built by the Reubenites; reckoned to the tribe

Kirch
||
Kiriathaim.

Kiriath-Arba || Kirkby-Thore. tribe of Reuben (Joshua xiii.), 12 miles to the west of Midaba. The ancient residence of the giants called *Emin*.

KIRIATH-ARBA. See HEBRON.

KIRIATH-Baal, or *Cariath-Baal*, called also *Kiriath-jearim*, "the city of the woods; one of the cities of the Gibeonites, belonging to the tribe of Judah, nine miles from Ælia, in the road to Diospolis. It was also called *Baal* (Joshua.) The ark of the covenant, after its recovery from the Philistines, stood for some time in this city (1 Sam. vii.)

KIRK, a Saxon term, signifying the same with church.

Kirk-Sessions, the name of a petty ecclesiastical judicatory in Scotland. Each parish, according to its extent, is divided into several particular districts; every one of which has its own elder and deacon to oversee it. A consistory of the ministers, elders, and deacons of a parish, forms a *kirk-session*.—These meet once a-week, the minister being their moderator, but without a negative voice. It regulates matters relating to public worship, catechising, visitations, &c. It judges in lesser matters of scandal; but greater, as adultery, are left to the presbytery; and in all cases an appeal lies from it to the presbytery. *Kirk-sessions* have likewise the care of the poor and poor's funds.

KIRKALDY, a town of the county of Fife in Scotland, two miles to the north-east of Kinghorn. It is a royal borough, the seat of a presbytery, and gives the title of *baron* to the earl of Melville. The town is populous, well built, and extends a mile in length from east to west, enjoying a considerable trade by exporting its own produce and manufactures of corn, coal, linen, and salt. W. Long. 3. o. N. Lat. 56. 8.

KIRKBY-LONSDALE, a town of Westmorland, 233 miles from London. It is a large place, with a woollen manufactory, and a market on Tuesday. It has a free school well endowed, with three presentations to Christ's college Cambridge. It has a large church, and a good stone bridge of three arches over the Lon. From its churchyard and the banks of the river, there is a very fine prospect of the mountains at a vast distance, as well as of the course of the river, which abounds with salmon, trout, &c. and provisions of all sorts are very cheap here.

Kirkby-Steven, or *Stephen's Church*, a town of Westmorland, 257 miles from London, stands on the river Eden near Sedbergh and Afsarh. The church is a large building with a lofty tower; in it are several old monuments. Here is a good free school that has two exhibitions. The town is noted for the manufactory of yarn stockings; and it has a market and a fair.

Kirkby-Thore, a town of Westmorland, stands also on the river Eden, north-west of Appleby, 267 miles from London. A horn of a moose deer was found here a few years since, at the depth of four feet from the surface of the earth: and several other antiquities have been dug up or taken out of a well, discovered at the end of the town near the bridge. Below it are the vast ruins of an ancient town, where Roman coins and urns are frequently dug up. The people call it *Whely castle*, 300 yards in length, and 150 in breadth,

with three entrances on each side, with bulwarks before them. At a little distance from thence Roman urns are found, containing bones and ashes. The old military way runs through it, called the *Maiden-way*, because it began at Maiden-castle in Stainmore in Yorkshire, north riding.

Kirkcudbright, Kirkham.

KIRKCUDBRIGHT, county or stewartry of, makes a considerable part of Galloway, and of which the earls of Nithisdale were hereditary stewards. It is 45 miles long and 30 broad, and with Wigtonshire formed the ancient province of Galloway. The face of the country exhibits the appearance of one continued heath, producing nothing but pasture for sheep and small black cattle, which are generally sold in England; yet these dusky moors are intersected with pleasant valleys, and adorned with a great number of castles belonging to private gentlemen, every house being surrounded with an agreeable plantation. It is watered by the river Dee; which, taking its rise from the mountains near Carrick, runs through a tract of land about 70 miles in length, and, entering the Irish sea, forms the harbour of Kirkcudbright, a borough town, well situated for the fishery and other branches of commerce. There is no other town of any consequence in this stewartry. Kirkcudbright gives title of *baron* to the Maclellans, formerly a powerful family in the county. The population of this county, according to its parishes, is the following.

<i>Parishes.</i>	Population in 1795.	Population in 1790—1798.
1 Anwoth	531	495
Balmaclellan	534	495
Balmacghie	697	862
Borg	697	771
5 Buittle	899	855
Carfeairn	609	461
Colvend	898	964
Crosmichael	613	772
Dalry	891	1100
10 Girthon	367	1730
Irongray	895	762
Kells	784	869
Kelton	811	1600
Kirkbean	529	660
15 Kirkcudbright	1513	2295
Kirkgunion	489	520
Kirkmabreck	858	1088
Kirkpatrick Durham	699	1000
Lochrutton	564	528
20 Minigaff	1209	1420
Newabbay	634	649
Orr	1193	1354
Parton	396	409
Rerwick	1051	1050
25 Terregles	397	510
Troqueer	1391	2600
Tungland	537	520
28 Twynhame	519	620
	21,205	26,959
		21,205
	Increase	5754

* Statist. Hist.

KIRKHAM, a town of Lancashire, 221 miles from 3 N 2

Kirkoswald from London, stands near the Ribble, six miles from the Irish sea, in that part of the county called the **Kirkoswald Field lands**. It has a market and three fairs, and a free school well endowed. By means of inland navigation, it has a communication with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles, in the counties of Lincoln, Nottingham, York, Westmorland, Chester, Warwick, Leicester, Oxford, Worcester, &c.

KIRKOSWALD, a town of Cumberland on the Eden, 291 miles from London. It had formerly a castle, which was demolished above 100 years ago. It has a market and two fairs. Its church is a very irregular old building; and the belfry is placed distant from the church on the top of a hill, that the sound of the bells might be more easily heard by the circumjacent villages.

KIRKWALL, the capital of the Orkneys, situated in the island of Pomona, in W. Long. o. 25. N. Lat. 58. 33. It is built upon an inlet of the sea near the middle of the island, having a very safe road and harbour for shipping. It is a royal borough, governed by a provost, bailiffs, and common council. It was formerly possessed by the Norwegians, who bestowed upon it the name of *Crucoviaca*. From King James III. of Scotland they obtained a new charter, empowering them to elect their own magistrates yearly, to hold borough courts, arrest, imprison, make laws and ordinances for the right government of the town; to have a weekly market, and three fairs annually at certain fixed terms: he moreover granted to them some lands adjoining to the town, with the customs and shore dues, the power of pit and gallows, and exempted them from the expence of sending commissioners to parliament. This charter has been confirmed by succeeding monarchs. At present Kirkwall is the seat of justice, where the steward, sheriff, and commissary, hold their several courts of jurisdiction: Here is likewise a public grammar school, endowed with a competent salary for the master. The town consists of one narrow street about a mile in length; the houses are chiefly covered with slate, though not at all remarkable for neatness and convenience.—The principal edifices are the cathedral church and the bishop's palace. The former, called *St Magnus*, from Magnus king of Norway, the supposed founder of the town, is a large Gothic structure: the roof is supported by 24 pillars on each side, and the spire is built upon four large columns. The gates are decorated with a kind of mosaic work, of red and white stones elegantly carved and flowered. By the ruins of the king's castle or citadel, it appears to have been a strong and stately fortress. At the north end of the town a fortification was built by the English in the time of Oliver Cromwell, but it is now in ruins. It is surrounded with a ditch and rampart, and still mounted with some cannon for the defence of the harbour.

KIRSTENSIUS, PETER, professor of physic at Upsal, and physician extraordinary to the queen of Sweden, was born at Breslaw in 1577. He studied Greek, Latin, Hebrew, Syriac, natural philosophy, anatomy, botany, and other sciences. Being told that a man could not distinguish himself in physic unless

he understood Avicenna, he applied himself to the study of Arabic; and not only to read Avicenna, but also Mesue, Rhasis, Abenzoar, Abukalis, and Averroes. He visited Spain, Italy, England, and did not return home from his travels till after seven years. He was chosen by the magistrates of Breslaw to have the direction of their college and of their schools. A fit of sickness having obliged him to resign that difficult employment, with which he was also much disgusted, he applied himself chiefly to the practice of physic, and went with his family into Prussia. Here he obtained the friendship and esteem of the chancellor Oxenstiern, whom he accompanied into Sweden; where he was made professor of physic in the university of Upsal, and physician to the queen. He died in 1640. It is said in his epitaph, that he understood 26 languages. He wrote many works; among which are, 1. *Liber secundus Canonis Avicennae, typis Arabicis, ex MSS. editus, et ad verbum in Latinum translatus*, in folio. 2. *De vero usu et abusu Medicinæ*. 3. *Grammatica Arabica*, folio. 4. *Vite quatuor Evangelistarum, ex antiquissimo codice MSS. Arabico erute*, in folio. 5. *Nota in Evangelium S. Matthæi, ex collatione textuum Arabicorum, Syriacorum, Egyptiacorum, Græcorum, et Latinorum*, in folio, &c.

He ought not to be confounded with *George Kirsenius*, another learned physician and naturalist, who was born at Stettin, and died in 1660; and is also the author of several works.

KIRTLE, a term used for a short jacket; also for a quantity of flax about a hundred weight.

KIRTON, or **KIRKTON**, a town of Lincolnshire, 151 miles from London. It had its name from its kirk or church, which is truly magnificent. It has a market and two fairs. This place is famous for the pippin, which, when grafted on its stock, is called the *rennet*. It gives name to its hundreds, in which are four villages of the same name.

KISSER, the ancient Colonia Assuras in Africa, as appears from many inscriptions still to be met with in the place. Here is a triumphal arch done in a very good taste: there is also a small temple of a square figure, having several instruments of sacrifice carved upon it; but the execution is much inferior to the design, which is very curious. The town is situated in the kingdom of Tunis, on the declivity of a hill, above a large fertile plain; which is still called the plain of *Surso*, probably from its ancient name *Affuras*.

KISSING, by way of salutation, or as a token of respect, has been practised in all nations. The Roman emperors saluted their principal officers by a kiss. Kissing the mouth or the eyes was the usual compliment upon any promotion or happy event. Soldiers kissed the general's hand when he quitted his office. Fathers, amongst the Romans, had so much delicacy, that they never embraced their wives in the presence of their daughters. Near relations were allowed to kiss their female kindred on the mouth: but this was done in order to know whether they smelt of wine or not; because the Roman ladies, in spite of a prohibition to the contrary, were found sometimes to have made too free with the juice of the grape. Slaves kissed their masters hand, who used to hold it out to them for that purpose. Kissing was a customary mode of salutation

Kirtle
||
Kissing.

Kisti. tation amongst the Jews, as we may collect from the circumstance of Judas approaching his Master with a kiss. Relations used to kiss their kindred when dying, and when dead; when dying, out of a strange opinion that they should imbibe the departing soul; and when dead, by way of valedictory ceremony. They even kissed the corpse after it was conveyed to the pile, when it had been seven or eight days dead.

* *Memoir of a map of the countries comprehended between the Black Sea and the Caspian.*

KISTI, an Asiatic nation, which extends from the highest ridge of Caucasus, along the Sundsha rivulets. According to Major Rennel*, they are bounded to the west by the little Cabarda, to the east by the Tartars and Lefguis, and to the south by the Lefguis and Georgians. He imagines they may be the people whom Gaerber calls the *Taulinzi*, i. e. "mountaineers," and to whom he attributes the following strange custom:—"When a guest or stranger comes to lodge with them, one of the host's daughters is obliged to receive him, to unsaddle and feed his horse, take care of his baggage, prepare his dinner, pass the night with him, and continue at his disposal during his stay. At his departure, she saddles his horse and packs up his baggage. It would be very uncourtly to refuse any of these marks of hospitality." The different tribes of this restless and turbulent nation are generally at variance with each other, and with all their neighbours. Their dialects have no analogy with any known language, and their history and origin are at present utterly unknown.

Their districts, as enumerated in Major Rennel's Memoir, are, 1. Ingushi, about 60 miles to the southward of Mosdok, in the high mountains about the Kumbelei. 2. Enderi; and, 3. Axai, on a low ridge between the Sundsha and Iaxai rivers. In their territories are the hot wells. 4. Ackinyurt towards the upper part of the Sundsha and Kumbelei. 5. Ardakli, on the Roshni that joins the Sundsha. 6. Wapi, near the Osetin village Tshim, towards the source of the Terek. 7. Angusht, on the upper part of the Kumbelei. 8. Shalkha, called by the Russians *Maloï Angusht*. 9. Thetshen, on the lower part of the Argun river. 10. Atakhi, a small district on the upper part of the Argun. 11. Kulga, or Dshanti, in the high mountains. 12. Galgai, or Halba, about the source of the Afai, a Sundsha rivulet. 13. Tshabrilo, and Shabul, on the Sundsha. 14. Tshishni-Kabul, on the Roshni, a Sundsha rivulet. 15. Karaboulak, a wandering tribe, who have their little villages about the six uppermost rivulets of the Sundsha, particularly the Fortan. 16. Meesti, Meredshi, Galashka, and Duban, are small tribes on the Axai.

The Ingushi, or first of the above tribes, submitted to Russia in 1770. They are capable of arming about 5000 men; they call themselves *Ingushi*, *Kisti*, or *Halha*; they live in villages near each other, containing about 20 or 30 houses; are diligent husbandmen, and rich in cattle. Many of their villages have a stone tower, which serves in time of war as a retreat to their women and children, and as a magazine for their effects. These people are all armed, and have the custom of wearing shields.—Their religion is very simple, but has some traces of Christianity: They believe in one God, whom they call *Dailé*, but have no saints or religious persons; they celebrate Sunday, not by any re-

ligious ceremony, but by resting from labour; they have a fast in spring, and another in summer; they observe no ceremonies either at births or deaths; they allow of polygamy, and eat pork. One kind of sacrifice is usual among them: at certain times a sheep is killed by a person who seems to be considered as a kind of priest, as he is obliged to live in a state of celibacy. His habitation is in the mountains, near an old stone church, which is said to be adorned with various statues and inscriptions. Under the church is a vault that contains certain old books, which, however, no one ever attempts to approach. Mr Guldenstaedt† was prevented by the weather from visiting this church.

The 6th, 7th, and 8th tribes, which were formerly tributary to the Cabardean princes, submitted to Russia in 1770. The 9th, Tshetshen, is governed by its own chiefs, who are related to the Avar-Khan. This tribe is so numerous and warlike, and has given the Russians so much trouble, that its name is usually given by them to the whole Kisti nation. The chief village of Tshetshen lies on the Argun, about 15 miles from its mouth. Its other principal villages are Hadshial and Iangejent, both on the Sundsha.

KIT, in *Music*, the name of a small violin of such form and dimension as to be capable of being carried in a case or sheath in the pocket. Its length, measuring from the extremities, is about 16 inches, and that of the bow about 17. Small as this instrument is, its powers are co-extensive with those of the violin.

KIT-Kat Club, an association of above 30 noblemen and gentlemen of distinguished merit, formed in 1703, purely to unite their zeal in favour of the Protestant succession in the house of Hanover. Their name was derived from Christopher Kat, a pastry cook, near the tavern where they met in King's street, Westminster, who often supplied them with tarts. Old Jacob Tonsen was their bookseller; and that family is in possession of a picture of the original members of this famous club, painted by Sir Godfrey Kneller. The design of these gentlemen was to recommend and encourage true loyalty by the powerful influence of wit and humour; and Sir Samuel Garth distinguished himself by the extempore epigrams he made on their toasts, which were inscribed on their drinking glasses.

KITCHEN, the room in a house where the provisions are cooked.

Army KITCHEN, is a space of about 16 or 18 feet diameter, with a ditch surrounding it three feet wide; the opposite bank of which serves as a seat for the men who dress the victuals. The kitchens of the flank companies are contiguous to the outline of the camp; and the intermediate space is generally distributed equally for the remaining kitchens; and as each tent forms a mess, each kitchen must have as many fire places as there are tents in the company.

KITCHEN Garden, a piece of ground laid out for the cultivation of fruit, herbs, pulse, and other vegetables, used in the kitchen. See GARDENING.

KITE. See FALCO, ORNITHOLOGY *Index*.

KITTIWAKE. See LARUS, ORNITHOLOGY *Index*.

KIU-HOA. See PARTHENIUM, BOTANY *Index*.

K'UN-TCHEOU-FOU. See HAI-NAN.

KLEINHOVIA, a genus of plants belonging to the

Kit
Kleinovia.

† *Ris*,
vol. 1.
p. 150.

Kleist. the gynandria class, and in the natural method ranking under the 37th order, *Columniferae*. See BOTANY Index.

KLEIST, EDWARD CHRISTIAN DE, a celebrated German poet, and a soldier of distinguished bravery, was born at Zeblin, in Pomerania, in 1715. At nine years of age he was sent to pursue his studies at Cron in Poland; and he afterwards studied at Dantzic and Koningberg. Having finished his studies, he went to visit his relations in Denmark, who invited him to settle there; and having in vain endeavoured to obtain preferment in the law, at 21 years of age accepted of a post in the Danish army. He then applied himself to the study of all the sciences that have a relation to military affairs, with the same assiduity as he had before studied civil law. In 1740, at the beginning of the reign of Frederic king of Prussia, Mr de Kleist went to Berlin, and was presented to his majesty, who made him lieutenant of his brother Prince Henry's regiment; and he was in all the campaigns which distinguished the five first years of the king of Prussia's reign. In 1749 he obtained the post of captain; and in that year published his excellent poem on the Spring. Before the breaking out of the last war, the king chose him, with some other officers at Potsdam, companion to the young Prince Frederic William of Prussia, and to eat at his table. In the first campaign, in 1756, he was nominated major of Hausen's regiment; which being in garrison at Leipzig, he had time to finish several new poems. After the battle of Rosbach, the king gave him, by an order in his own handwriting, the inspection of the great hospital established at Leipzig. And on this occasion his humanity was celebrated by the sick and wounded of both parties, and his disinterestedness was equally admired by all the inhabitants of that city. In 1758, Prince Henry coming to Leipzig, Mr Kleist desired to serve in his army with the regiment of Hausen, which was readily granted. Opportunities of distinguishing himself could not be wanting under that great officer, and he always communicated his courage to the battalion under his command. He also served that prince at the beginning of the campaign of 1759, when he was with him in Franconia, and in all the expeditions of that army, till he was detached with the troops under General de Fink to join the king's army. On the 12th of August was fought the bloody battle of Kunnersdorf, in which he fell. He attacked the flank of the Russians, and assisted in gaining three batteries. In these bloody attacks he received twelve contusions; and the two first fingers of his right hand being wounded, he was forced to hold his sword in the left. His post of major obliged him to remain behind the ranks; but he no sooner perceived the commander of the battalion wounded and carried away, than he instantly put himself at the head of his troop. He led his battalion in the midst of the terrible fire of the enemy's artillery, against the fourth battery. He called up the colours of the regiment; and, taking an ensign by the arm, led him on. Here he received a ball in his left arm; when, being no longer able to hold his sword in his left hand, he took it again in the right, and held it with the two last fingers and his thumb. He still pushed forward, and was within thirty steps of the battery, when his right leg

was shattered by the wadding of one of the great Klopstock. guns; and he fell from his horse, crying to his men, "My boys, don't abandon your king." By the assistance of those who surrounded him, he endeavoured twice to remount his horse; but his strength forsook him, and he fainted. He was then carried behind the line; where a surgeon, attempting to dress his wounds, was shot dead. The Cossacks arriving soon after, stripped Mr Kleist naked, and threw him into a miry place; where some Russian hussars found him in the night, and laid him upon some straw near the fire of the grand guard, covered him with a cloak, put a hat on his head, and gave him some bread and water. In the morning one of them offered him a piece of silver, which he refused; on which he tossed it upon the cloak that covered him, and then departed with his companions. Soon after the Cossacks returned, and took all that the generous hussars had given him. Thus he again lay naked on the earth; and in that cruel situation continued till noon, when he was known by a Russian officer, who caused him to be conveyed in a waggon to Frankfort on the Oder; where he arrived in the evening, in a very weak state, and was instantly put into the hands of the surgeons. But the fractured bones separating, broke an artery, and he died by the loss of blood. The city of Frankfort being then in the hands of the enemy, they buried this Prussian hero with all military honours: the governor, a great number of the Russian officers, the magistrates of the city, with the professors and the students, formed the procession, preceded by the funeral music. Mr Kleist's poems, which are greatly admired, are elegantly printed in the German tongue, in two volumes 8vo.

KLOPSTOCK, FREDERIC THEOPHILUS, who was born at Quedlinburg in 1724, was the greatest and most justly celebrated of the German poets. His father was a man of an elevated character, and a magistrate of that place, who afterwards farmed a bailiwick in the Brandenburg part of Mansfeld. Klopstock was the oldest of eleven children, and having received the rudiments of education at home, he was put to the public school of Quedlinburg, where he soon became conspicuous both for bodily and mental exercises. He went to the college of the same place at the age of sixteen, where, under the tuition of an able teacher, he obtained a knowledge of, and taste for, the beauties of the best classical authors. He composed some pastorals in verse; and even at this early period he conceived the bold design of writing an epic poem, fixing at length, after much deliberation on the "Messiah," by which he has rendered his name immortal.

He commenced the study of theology at the university of Jena, in the year 1745, although in his retirement he was constantly ruminating on his great projected work already mentioned, sketching out the three first cantos. They were first written in prose, as the common measure of German verse did not accord with his own sentiments. Transported with the melody of Homer's and Virgil's strains, he determined to make trial of German hexameters, in which he succeeded so entirely to his own satisfaction, that he fixed upon this majestic verse for the whole of his poem. By his removal from Jena to Leipzig in 1746, he became acquainted with a number of young votaries of the muses, who

Klopstock, who occasionally published their essays in a paper called the "Bremen Contributions," in which appeared the three cantos of Klopstock's *Messiah*, and a number of his odes, for which he was so applauded as to animate him to persevere.

He quitted Leipzig in 1748, and resided at Langensalza, where he carried on a fruitless correspondence with a beautiful young lady, who discovered no inclination to return his passion, which for some time threw a gloom over his mind. He now published ten books of his *Messiah*, by which he came to be known and admired all over Germany. It was an extremely popular work among all those who were at once the lovers of poetry and devotion. It was quoted from the pulpit by young divines, while others of a more stern deportment found fault with the author, as indulging too much in fiction on sacred topics.

He travelled into Switzerland in 1750 to pay a visit to Bodmer of Zurich, in consequence of an invitation, where he was received with every token of respect. The sublime scenery of that country, the simplicity of its inhabitants, and the freedom they enjoyed, were admirably suited to the taste and sentiments of Klopstock. Here in all probability he would have breathed his last, had not Baron Bernstorff, who was charmed with his poetry, engaged Count Molke, after returning from France to Copenhagen, to invite him to that city, with assurances of such a pension as would make him independent. Our author accordingly set out for Copenhagen in the year 1751, by the way of Brunswick and Hamburg, at which latter place he became acquainted with a young lady (Miss Moller) of literary abilities, and a heart susceptible of tender impressions. They were soon after married, and seemed destined by providence to be one of the happiest couples upon earth, but he was very soon deprived of her, for she died in childbed, and her memory was sacred to Klopstock to the last hour of his existence. He lived for the most part at Copenhagen till the year 1771, after which he resided at Hamburg in the capacity of royal Danish legate, and counsellor of the margrave of Baden, who gave him a pension, and engaged him to pass the year 1775 at his palace of Carlsruhe. Such was the diffidence of our poet, that it required the most extraordinary condescension on the part of the great to make him easy in their presence.

The decline of his health made no change on the habitual tranquillity of his mind; he contemplated his approaching dissolution without any dismay, and his pious fortitude continued unshaken amidst the severest sufferings. He died at Hamburg in March 1803, being 79 years of age, and his funeral was attended with such honours as justly belonged to the greatest poet of the country.

The character of Klopstock as a poet is that of exuberance of imagination and sentiment. His sublimity, which is nearly unparalleled, makes him almost lose himself in mytical attraction. A great critic claims for the author of the *Messiah*, and we think justly, a rank among the very first class of poets. His odes and lyric poems are much admired by his countrymen, and his dramatic works display great force and dignity, but are thought to be better adapted to the closet than the theatre. He was also an excellent

prose writer, as is fully evinced by his "Grammatical Dialogues."

KNARESBOROUGH, a town in the west riding of Yorkshire in England, 109 miles from London, is an ancient borough by prescription, called by foreigners *the Yorkshire Spaw*. It is almost encompassed by the river Nid, which issues from the bottom of Craven hills; and had a priory, with a castle, long since demolished, on a craggy rock, whence it took the name. The town is about three furlongs in length; and the parish is famous for four medicinal springs near each other, and yet of different qualities. 1. The sweet spaw, or vitriolic well, in Knareborough forest, three miles from the town, which was discovered in 1620. 2. The stinking or sulphureous spaw, which is used only in bathing. 3. St Mungo's, a cold bath, four miles from the town. 4. The dropping well, which is in the town, and the most noted petrifying spring in England, so called by reason of its dropping from the spongy rock hanging over it. The ground which receives it, before it joins the well, is, for 12 yards long, become a solid rock. From the well it runs into the Nid, where the spring water has made a rock that stretches some yards into the river. The adjacent fields are noted for liquorice, and a soft yellow marl which is rich manure. The town is governed by a bailiff. Its baths are not so much frequented since Scarborough Spaw has been resorted to. It has a good market and six fairs. Here is a stone bridge over the river, near one end of which is a cell dug out of the rock, and called *St Robert's Chapel*.

KNAPDALE, one of the divisions of Argyleshire in Scotland. It is parted from Cowal on the east by Lochfyn; bounded by Kintyre on the south, by Lorn on the north, by Braidalbin on the north-east, and on the west by the Hebrides. Its length from north to south does not exceed 20 miles, and the breadth in some places may amount to 13. It is joined to Kintyre by a neck of land not above a mile broad, over which the country people draw their boats, to avoid sailing round Kintyre. This part of Knardale abounds with lakes, some of them containing little islands, on which there are castles belonging to different proprietors. The grounds are more adapted for pasturage than grain; but that on the side of Lochow is fruitful in both.

KNAPSACK, in a military sense, a rough leather bag which a soldier carries on his back, and which contains all his necessaries. Square knapsacks are most convenient; and should be made with a division to hold the shoes, black ball and brushes, separate from the linen. White goat-skins are the best.

KNAVE, an old Saxon word, which had at first a sense of simplicity and innocence, for it signified a *boy*: Sax. *cnapa*, whence a *knave child*, i. e. a boy, distinguished from a girl, in several old writers; afterwards it was taken for a servant boy, and at length for any servant man. Also it was applied to a minister or officer that bore the shield or weapon of his superior; as *field knave*, whom the Latins call *armiger*, and the French *escuyer*, 14 Edw. III. c. 3. And it was sometimes of old made use of as a titular addition; as *Joannes C. filius Willicmi C. de Derby, knave*, &c. 22 Hen.

Knaveſhip
||
Knee.

VII. c. 37. The word is now perverted to the hardeſt meaning, viz. *a falſe deceitful fellow*.

KNAVESHIP, in *Scots Law*, one of the names of the ſmall duties payable in thirlage to the miller's ſervants, called *ſequels*.

KNAUTIA, a genus of plants belonging to the tetrandria claſs, and in the natural method ranking under the 48th order, *Aggregate*. See *BOTANY Index*.

KNEE, in *Anatomy*, the articulation of the thigh and leg bones. See *ANATOMY*, N^o 59.

KNEE, in a ſhip, a crooked piece of timber, having two branches or arms, and generally uſed to connect the beams of a ſhip with her ſides or timbers.

The branches of the knees form an angle of greater or ſmaller extent, according to the mutual ſituation of the pieces which they are deſigned to unite. One branch is ſecurely bolted to one of the deck beams, whilſt the other is in the ſame manner attached to a correſponding timber in the ſhip's ſide, as repreſented by **E** in the plate of *MIDSHIP Frame*.

Befides the great utility of knees in connecting the beams and timbers into one compact frame, they contribute greatly to the ſtrength and ſolidity of the ſhip, in the different parts of her frame to which they are bolted; and thereby enable her with greater firmneſs to reſiſt the effects of a turbulent ſea.

In fixing of theſe pieces, it is occaſionally neceſſary to give an oblique direction to the vertical or ſide branch, in order to avoid the range of an adjacent gunport, or becauſe the knee may be ſo ſhaped as to require this diſpoſition; it being ſometimes difficult to procure ſo great a variety of knees as may be neceſſary in the conſtruction of a number of ſhips of war.

In France, the ſcarcity of theſe pieces has obliged their ſhipwrights frequently to form their knees of iron.

Knees are either ſaid to be *lodging* or *hanging*. The former are fixed horizontally in the ſhip's frame, having one arm bolted to the beam, and the other acroſs two or three timbers, as repreſented in the Deck, Plate CLXIX. The latter are fixed vertically, as we have deſcribed above. See alſo *SHIP-Building*, DECK, and *MIDSHIP Frame*.

KNEE of the Head, a large flat piece of timber, fixed edgewiſe upon the fore part of a ſhip's ſtem, and ſupporting the ornamental figure or image placed under the bowsprit. See *SHIP-Building*.

The knee of the head, which may properly be defined a continuation of the ſtem, as being prolonged from the ſtem forwards, is extremely broad at the upper part, and accordingly compoſed of ſeveral pieces united into one, **YY** (*Pieces of the Hull, in SHIP-Building Plates*). It is let into the head, and ſecured to the ſhip's bows by ſtrong knees fixed horizontally upon both, and called *the cheeks of the head*. The heel of it is ſcarfed to the upper end of the fore foot; and it is faſtened to the ſtem above by a knee, called a *ſtandard*, expreſſed by & in the plate.

Befides ſupporting the figure of the head, this piece is otherwiſe uſeful, as ſerving to ſecure the boom or bumkin, by which the fore tack is extended to windward; and by its great breadth, preventing the ſhip from falling to leeward when cloſe hauled ſo much as ſhe would otherwiſe do. It alſo affords a greater ſecurity to the bowsprit, by increaſing the angle of the

bob-ſtay, ſo as to make it act more perpendicularly on the bowsprit.

The knee of the head is a phraſe peculiar to ſhipwrights; as this piece is always called the *cut-water* by ſeamen, if we except a few, who, affecting to be wiſer than their brethren, having adopted this expreſſion probably on the preſumption that the other is a cant phraſe or vulgariſm.

Carling KNEES, in a ſhip, thoſe timbers which extend from the ſhip to the hatchway, and bear up the deck on both ſides.

KNELLER, SIR GODFREY, a painter, whoſe fame is well eſtabliſhed in theſe kingdoms. He was born at Lubeck in 1648; and received his firſt inſtructions in the ſchool of Rembrandt, but became afterwards a diſciple of Ferdinand Bol. When he had gained as much knowledge as that ſchool afforded him, he travelled to Rome, where he fixed his particular attention on Titian and the Caracci. He afterwards viſited Venice, and diſtinguiſhed himſelf ſo effectually in that city by his hiſtorical pictures and portraits of the noble families there, that his reputation became conſiderable in Italy. By the advice of ſome friends he came at laſt to England, where it was his good fortune to gain the favour of the duke of Monmouth: by his recommendation, he drew the picture of King Charles II. more than once; who was ſo taken with his ſkill in doing it, that he uſed to come and ſit to him at his houſe in Covent Garden piazza. The death of Sir Peter Lely left him without a competitor in England, and from that time his fortune and fame were thoroughly eſtabliſhed. No painter could have more inceſſant employment, and no painter could be more diſtinguiſhed by public honour. He was ſtate painter to Charles II. James II. William III. Queen Anne, and George I. equally eſteemed and reſpected by them all: the emperor Leopold made him a knight of the Roman empire, and King George I. created him a baronet. Moſt of the nobility and gentry had their likeneſſes taken by him, and no painter excelled him in a ſure outline, or in the graceful diſpoſition of his figures: his works were celebrated by the beſt poets in his time. He built himſelf an elegant houſe at Whitton near Hampton Court, where he ſpent the latter part of his life; and died in 1766.

KNIFE, a well known inſtrument, made for cutting, and adapted in form to the uſes for which it is deſigned.

Knives are ſaid to have been firſt made in England in 1563, by one Matthews, on Fleet Bridge, London. The importation of all ſorts of knives is prohibited.

KNIGHT (*equus*), among the Romans, a perſon of the ſecond degree of nobility, following immediately that of the ſenators. See *EQUESTRIAN Order*, and *EQUITES*.

KNIGHT, (or *Cnecht*, Germ.), in feudal hiſtory, was originally an appellation or title given by the ancient Germans to their youth after being admitted to the privilege of bearing arms.

The paſſion for arms among the Germanic ſtates, as deſcribed by Dr Stuart *, was carried to extremity. * *View of* It was amidſt ſcenes of death and peril that the young *Society in* were educated: It was by valour and feats of prowels *Europe,* that the ambitious ſignalized their manhood. All the *P. 40.* honours

Knees
||
Knight.

Knights honours they knew were allotted to the brave. The sword opened the path to glory. It was in the field that the ingenious and the noble flattered most their pride, and acquired an ascendancy. The strength of their bodies, and the vigour of their councils, surrounded them with warriors, and lifted them to command.

But, among these nations, when the individual felt the call of valour, and wished to try his strength against an enemy, he could not of his own authority take the lance and the javelin. The admission of their youth to the privilege of bearing arms, was a matter of too much importance to be left to chance or their own choice. A form was invented by which they were advanced to that honour.

The council of the district, or of the canton to which the candidate belonged, was assembled. His age and his qualifications were inquired into; and if he was deemed worthy of being admitted to the privileges of a soldier, a chieftain, his father or one of his kindred, adorned him with a shield and the lance. In consequence of this solemnity, he prepared to distinguish himself; his mind opened to the cares of the public; and the domestic concerns, or the offices of the family from which he had sprung, were no longer the objects of his attention. To this ceremony, so simple and so interesting, the institution of *knighthood* is indebted for his rise.

Knighthood, however, as a system known under the denomination of CHIVALRY, is to be dated only from the 11th century. All Europe being reduced to a state of anarchy and confusion on the decline of the house of Charlemagne, every proprietor of a manor or lordship became a petty sovereign; the mansion house was fortified by a moat, defended by a guard, and called a *castle*. The governor had a party of 700 or 800 men at his command; and with these he used frequently to make excursions, which commonly ended in a battle with the lord of some petty state of the same kind, whose castle was then pillaged, and the women and treasures borne off by the conqueror. During this state of universal hostility, there were no friendly communications between the provinces, nor any high roads from one part of the kingdom to another: the wealthy traders, who then travelled from place to place with their merchandize and their families, were in perpetual danger; the lord of almost every castle extorted something from them on the road; and at last, some one more rapacious than the rest, seized upon the whole of the cargo, and bore off the women for his own use.

Thus castles became the warehouses of all kinds of rich merchandize, and the prisons of the distressed females whose fathers or lovers had been plundered or slain, and who being therefore seldom disposed to take the thief or murderer into favour, were in continual danger of a rape.

But as some are always distinguished by virtue in the most general defection, it happened that many lords insensibly associated to repress these sallies of violence and rapine, to secure property, and protect the ladies. Among these were many lords of great fiefs; and the association was at length strengthened by a solemn vow, and received the sanction of a religious ceremony. As the first knights were men of the

highest rank, and the largest possessions, such having most to lose, and the least temptation to steal, the fraternity was regarded with a kind of reverence, even by those against whom it was formed. Admission into the order was deemed the highest honour: many extraordinary qualifications were required in a candidate, and many new ceremonies were added at his creation. After having fasted from sunrise, confessed himself, and received the sacrament, he was dressed in a white tunic, and placed by himself at a side-table, where he was neither to speak, nor smile, nor to eat: while the knights and ladies, who were to perform the principal parts of the ceremony, were eating, drinking, and making merry at the great table. At night his armour was conveyed to the church where the ceremony was performed; and here having watched it till the morning, he advanced with his sword hanging about his neck, and received the benediction of the priest. He then kneeled down before the lady who was to put on his armour, who being assisted by persons of the first rank, buckled on his spurs, put a helmet on his head, and accoutred him with a coat of mail, a cuirass, bracelets, cuisses, and gauntlets.

Being thus armed cap-a-pee, the knight who dubbed him struck him three times over the shoulder with the flat side of his sword, in the name of God, St Michael, and St George. He was then obliged to watch all night in all his armour, with his sword girded, and his lance in his hand. From this time the knight devoted himself to the redress of those wrongs which "patient merit of the unworthy takes;" to secure merchants from the rapacious cruelty of banditti, and women from ravishers, to whose power they were by the particular confusion of the times continually exposed.

From this view of the origin of chivalry, it will be easy to account for the castle, the moat, and the bridge, which are found in romances; and as to the dwarf, he was a constant appendage to the rank and fortune of those times, and no castle therefore could be without him. The dwarf and buffoon were then introduced to kill time, as the card table is at present. It will also be easy to account for the multitude of captive ladies whom the knights, upon seizing a castle, set at liberty; and for the prodigious quantities of useless gold and silver vessels, rich stuffs, and other merchandize, with which many apartments in these castles are said to have been filled.

The principal lords who entered into the confraternity of knights, used to send their sons to each other to be educated, far from their parents, in the mystery of chivalry. These youths, before they arrived at the age of 21, were called *bachelors*, or *bas chevaliers*, inferior knights, and at that age were qualified to receive the order.

So honourable was the origin of an institution, commonly considered as the result of caprice and the source of extravagance; but which, on the contrary, rose naturally from the state of society in those times, and had a very serious effect in refining the manners of the European nations. Valour, humanity, courtesy, justice, honour, were its characteristics: and to these were added religion; which, by infusing a large portion of enthusiastic zeal, carried them all to a romantic excess, wonderfully suited to the genius of the age,

Knights and productive of the greatest and most permanent effects both upon policy and manners. War was carried on with less ferocity, when humanity, no less than courage, came to be deemed the ornament of knighthood, and knighthood a distinction superior to royalty, and an honour which princes were proud to receive from the hands of private gentlemen: more gentle and polished manners were introduced, when courtesy was recommended as the most amiable of knightly virtues, and every knight devoted himself to the service of a lady: violence and oppression decreased, when it was accounted meritorious to check and to punish them: a scrupulous adherence to truth, with the most religious attention to fulfil every engagement, but particularly those between the sexes as more easily violated, became the distinguishing character of a gentleman, because chivalry was regarded as the school of honour, and inculcated the most delicate sensibility with respect to that point; and valour, seconded by so many motives of love, religion, and virtue, became altogether irresistible.

That the spirit of chivalry sometimes rose to an extravagant height, and had often a pernicious tendency, must however be allowed. In Spain, under the influence of a romantic gallantry, it gave birth to a series of wild adventures which have been deservedly ridiculed: in the train of Norman ambition, it extinguished the liberties of England, and deluged Italy in blood; and at the call of superstition, and as the engine of papal power, it desolated Asia under the banner of the cross. But these ought not to be considered as arguments against an institution laudable in itself, and necessary at the time of its foundation; and those who pretend to despise it, the advocates of ancient barbarism and ancient rusticity, ought to remember, that chivalry not only first taught mankind to carry the civilities of peace into the operations of war, and to mingle politeness with the use of the sword; but roused the soul from its lethargy, invigorated the human character even while it softened it, and produced exploits which antiquity cannot parallel. Nor ought they to forget, that it gave variety, elegance, and pleasure, to the intercourse of life, by making women a more essential part of society; and is therefore entitled to our gratitude, though the point of honour, and the refinements in gallantry, its more doubtful effects, should be excluded from the improvement of modern manners. For,

To illustrate this topic more particularly, we may observe, that women, among the ancient Greeks and Romans, seem to have been considered merely as objects of sensuality, or of domestic conveniency: they were devoted to a state of seclusion and obscurity, had few attentions paid them, and were permitted to take as little share in the conversation as in the general commerce of life. But the northern nations, who paid a kind of devotion to the softer sex, even in their native forests, had no sooner settled themselves in the provinces of the Roman empire, than the female character began to assume new consequence. Those fierce barbarians, who seemed to thirst only for blood, who involved in one undistinguishing ruin the monuments of ancient grandeur and ancient ingenuity, and who devoted to the flames the knowledge of ages, always forbore to offer any violence to the women. They

brought along with them the respectful gallantry of the north, which had power even to restrain their savage ferocity; and they introduced into the west of Europe a generosity of sentiment, and a complaisance toward the ladies, to which the most polished nations of antiquity were strangers.—These sentiments of generous gallantry were fostered by the institution of chivalry, which lifted women yet higher in the scale of life. Instead of being nobody in society, she became his *primum mobile*. Every knight devoting himself to danger, declared himself the humble servant of some lady, and that lady was often the object of his love. Her honour was supposed to be intimately connected with his, and her smile was the reward of his valour: for her he attacked, for her he defended, and for her he shed his blood. Courage, animated by so powerful a motive, lost sight of every thing but enterprise: incredible toils were cheerfully endured, incredible actions were performed, and adventures seemingly fabulous were more than realized. The effect was reciprocal. Women, proud of their influence, became worthy of the heroism which they had inspired: they were not to be approached but by the high minded and the brave; and men then could only be admitted to the bosom of the chaste fair, after proving their fidelity and affection by years of perseverance and of peril.

Again, As to the change which took place in the operations of war, it may be observed, that the perfect hero of antiquity was superior to fear, but he made use of every artifice to annoy his enemy: impelled by animosity and hostile passion, like the savage in the American woods, he was only anxious of attaining his end, without regarding whether fraud or force were the means. But the true knight or modern hero of the middle ages, who seems in all his rencounters to have had his eye on the judicial combat or judgement of God, had an equal contempt for stratagem and danger. He disdained to take advantage of his enemy: he desired only to see him, and to combat him upon equal terms, trusting that heaven would declare in behalf of the just; and as he professed only to vindicate the cause of religion, of injured beauty, or oppressed innocence, he was further confirmed in this enthusiastic opinion by his own heated imagination. Strongly persuaded that the decision must be in his favour, he fought as if under the influence of divine inspiration rather than of military ardour. Thus the system of chivalry, by a singular combination of manners, blended the heroic and sanctified characters, united devotion and valour, zeal and gallantry, and reconciled the love of God and of the ladies.

Chivalry flourished most during the time of the crusades. From these holy wars it followed, that new fraternities of knighthood were invented: hence the knights of the Holy Sepulchre, the Hospitalers, Templars, and an infinite number of religious orders. Various other orders were at length instituted by sovereign princes: the Garter, by Edward III. of England; the Golden Fleece, by Philip the Good, duke of Burgundy; and St Michael, by Louis XI. of France. From this time ancient chivalry declined to an empty name; when sovereign princes established regular companies in their armies, knights bannerets were no more, though it was still thought an honour

Knights to be dubbed by a great prince or victorious hero; and all who professed arms without knighthood assumed the title of *esquire*.

There is scarce a prince in Europe that has not thought fit to institute an order of knighthood; and the simple title of *knight*, which the kings of Britain confer on private subjects, is a derivation from ancient chivalry, although very remote from its source. See *KNIGHT-BACHELOR*.

KNIGHT-Service (*servitium militare*, and in law French *chivalry*;) a species of TENURE, the origin and nature of which are explained under the articles CHIVALRY, and *Feodal System*, N° 13—21.

The knights produced by this tenure differed most essentially from the knights described in the preceding article; though the difference seems not to have been accurately attended to by authors (A). The one class of knights was of a high antiquity: the other was not heard of till the invention of a fee. The adorning with arms and the blow of the sword made the act of the creation of the ancient knight; the new knight was constituted by an investment in a piece of land. The former was the member of an order of dignity which had particular privileges and distinctions; the latter was the receiver of a feudal grant. Knighthood was an honour; knight service a tenure. The first communicated splendour to an army; the last gave it strength and numbers.—The knight of honour might serve in any station whatever; the knight of tenure was in the rank of a soldier.—It is true at the same time, that every noble

and baron were knights of tenure, as they held their lands by knight service. But the number of fees they possessed, and their creation into rank, separated them widely from the simple individuals to whom they gave out grants of their lands, and who were merely the knights of tenure. It is no less true, that the sovereign, without conferring nobility, might give even a single fee to a tenant; and such vassals *in capite* of the crown, as well as the vassals of single fees from a subject, were the mere knights of tenure. But the former, in respect of their holding from the crown, were to be called to take upon themselves the knighthood of honour; a condition in which they might rise from the ranks, and be promoted to offices and command. And as to the vassals *in capite* of the crown who had many fees, their wealth of itself sufficiently distinguished them beyond the state of the mere knights of tenure. In fact, they possessed an authority over men who were of this last description; for, in proportion to their lands were the fees they gave out and the knights they commanded.

By the tenure of knight service the greatest part of the lands in England were holden, and that principally of the king *in capite*, till the middle of the last century; and which was created as Sir Edward Coke expressly testifies, for a military purpose, viz. for defence of the realm by the king's own principal subjects, which was judged to be much better than to trust to hirelings or foreigners. The description here given is that of knight service proper, which was to attend the king in his wars. There were also some other

3 O 2

other

(A) "The terms *knight* and *chivaler* (Dr Stuart † observes), denoted both the knight of *honour* and knight of *tenure*; and *chivalry* was used to express both *knighthood* and *knight-service*. Hence, it has proceeded, that these persons and these states have been confounded. Yet the marks of their difference are so strong and pointed, that one must wonder that writers should mistake them. It is not, however, mean and common compilers only who have been deceived. Sir Edward Coke, notwithstanding his distinguishing head, is of this number. When estimating the value of the knight's fee at 20*l. per annum*, he appeals to the statute *de militibus*, an. 1 Ed. II. and, by the sense of his illustration, he conceives, that the knights alluded to there were the same with the possessors of knights fees: and they, no doubt, had knights fees but a knight's fee might be enjoyed not only by the tenants *in capite* of the crown, but by the tenants of a vassal, or by the tenants of a sub-vassal. Now, to these the statute makes no allusion. It did not mean to annex knighthood to every landholder in the kingdom who had a knight's fee; but to encourage arms, by requiring the tenants *in capite* of the crown to take to them the dignity. He thus confounds *knighthood* and the *knight's fee*. *Coke on Littleton*, p. 69.

"If I am not deceived, Sir William Blackstone has fallen into the same mistake, and has added to it. Speaking of the knights of honour, or the *equites aurati* from the gift spurs they wore, he thus expresses himself: 'They are also called, in our law, *milites*, because they formed a part, or indeed the whole, of the royal army, in virtue of their feudal tenures; one condition of which was, that every one who held a knight's fee (which in Henry II.'s time amounted to 20*l. per annum*), was obliged to be knighted, and attend the king in his wars, or fined for his noncompliance. The exertion of this prerogative, as an expedient to raise money, in the reign of Charles I. gave great offence, though warranted by law, and the recent example of Queen Elizabeth: but it was, at the Restoration, together with all other military branches of the feudal law, abolished; and this kind of knighthood has since that time fallen into great disrepute.' Book I. ch. 12.

"After what has been said, I need hardly observe, that this learned and able writer has confounded the knight of *honour* and the knight of *tenure*; and that the requisition to take knighthood was not made to every possessor of a knight's fee, but to the tenants of knights fees held *in capite* of the crown, who had merely a sufficiency to maintain the dignity, and were thence disposed not to take it. The idea that the whole force of the royal army consisted of knights of honour, or dubbed knights, is so extraordinary a circumstance, that it might have shown of itself to this eminent writer the source of his error. Had every soldier in the feudal army received the investiture of arms? could he wear a seal, surpass in silk and dress, use ensigns armorial, and enjoy all the other privileges of knighthood? But, while I hazard these remarks, my reader will observe, that it is with the greatest deference I dissent from Sir William Blackstone, whose abilities are the object of a most general and deserved admiration."

Knight. other species of knight service; so called, though improperly, because the service or render was of a free and honourable nature, and equally uncertain as to the time of rendering as that of knight service proper, and because they were attended with similar fruits and consequences. Such was the tenure by *grand serjeanty*, *per magnum servitium*, whereby the tenant was bound, instead of serving the king *generally* in his wars, to do some special honorary service to the king in person; as to carry his banner, his sword, or the like; or be his butler, champion, or other officer, at his coronation. It was, in most other respects, like knight service, only he was not bound to pay aid or escuage; and when tenant by knight service paid five pounds for a relief on every knight's fee, tenant by grand-serjeanty paid one year's value of his land, were it much or little. Tenure by *cornage*, which was to wind a horn when the Scots or other enemies entered the land, in order to warn the king's subjects, was (like other services of the same nature) a species of grand serjeanty.

These services, both of chivalry and grand serjeanty, were all personal, and uncertain as to their quantity or duration. But the personal attendance in knight service growing troublesome and inconvenient in many respects, the tenants found means of compounding for it, by first sending others in their stead, and in process of time making a pecuniary satisfaction to the lords in lieu of it. This pecuniary satisfaction at last came to be levied by assessments, at so much for every knight's fee; and therefore this kind of tenure was called *scutagium* in Latin, or *servitium scuti*; *scutum* being then a well-known denomination of money; and in like manner it was called, in our Norman French *escuage*; being indeed a pecuniary instead of a military service. The first time this appears to have been taken, was in the 5 Hen. II. on account of his expedition to Toulouse; but it soon came to be so universal, that personal attendance fell quite into disuse. Hence we find in our ancient histories, that, from this period when our kings went to war, they levied scutages on their tenants, that is on all the landholders of the kingdom, to defray their expences and to hire troops: and these assessments in the time of Henry II. seem to have been made arbitrarily, and at the king's pleasure. Which prerogative being greatly abused by his successors, it became matter of national clamour; and King John was obliged to consent, by his *magna charta*, that no scutage should be imposed without consent of parliament. But this clause was omitted in his son Henry III.'s charter; where we only find, that scutages or escuage should be taken as they were used to be taken in the time of Henry II.; that is, in a reasonable and moderate manner. Yet afterwards, by statute 25 Edw. I. c. 5. and 6. and many subsequent statutes, it was enacted, that the king should take no aids or tasks but by the common assent of the realm. Hence it is held in our old books, that escuage or scutage could not be levied but by consent of parliament; such scutages being indeed the ground-work of all succeeding subsidies, and the land tax of later times.

Since, therefore, escuage differed from knight service in nothing but as a compensation differs from actual service, knight service is frequently confounded with

it. And thus Littleton must be understood, when he tells us, that tenant by homage, fealty, and escuage, was tenant by knight service: that is, that this tenure (being subservient to the military policy of the nation) was respected as a tenure in chivalry. But as the actual service was uncertain, and depended upon emergencies, so it was necessary that this pecuniary compensation should be equally uncertain, and depend on the assessments of the legislature suited to these emergencies. For had the escuage been a settled invariable sum, payable at certain times, it had been neither more nor less than a mere pecuniary rent; and the tenure, instead of knight service, would have then been of another kind, called *SOCCAGE*.

By the degenerating of knight service, or personal military duty, into escuage or pecuniary assessments, all the advantages (either promised or real) of the feudal constitutions were destroyed, and nothing but the hardships remained. Instead of forming a national militia composed of barons, knights, and gentlemen, bound by their interest, their honour, and their oaths, to defend their king and country, the whole of this system of tenures now tended to nothing else but a wretched means of raising money to pay an army of occasional mercenaries. In the mean time the families of all our nobility and gentry groaned under the intolerable burdens (which in consequence of the fiction adopted after the conquest) were introduced and laid upon them by the subtlety and finess of the Norman lawyers. For, besides the scutages to which they were liable in defect of personal attendance, which however, were assessed by themselves in parliament, they might be called upon by the king or lord paramount for *aids*, whenever his eldest son was to be knighted, or his eldest daughter married; not to forget the ransom of his own person. The heir, on the death of his ancestor, if of full age, was plundered of the first emoluments arising from his inheritance, by way of *relief* and *primer seisin*: and if under age, of the whole of his estate during infancy. And then, as Sir Thomas Smith very feelingly complains, "when he came to his own, after he was out of *wardship*, his woods decayed, houses fallen down, stock wasted and gone, lands let forth and ploughed to be barren," to make amends, he was yet to pay half a year's profits as a fine for suing out his *livery*; and also the price or value of his *marriage*, if he refused such wife as his lord and guardian had bartered for, and imposed upon him; or twice that value, if he married another woman. Add to this, the untimely and expensive honour of *kighthood*, to make his poverty more completely splendid. And when, by these deductions, his fortune was so shattered and ruined, that perhaps he was obliged to sell his patrimony, he had not even that poor privilege allowed him, without paying an exorbitant fine for a *license of alienation*.

A slavery so complicated and so extensive as this, called aloud for a remedy in a nation that boasted of her freedom. Palliatives were from time to time applied by successive acts of parliaments, which assuaged some temporary grievances. Till at length the humanity of King James I. consented, for a proper equivalent, to abolish them all, though the plan then proceeded not to effect; in like manner, as he had formed a scheme, and began to put it in execution, for remov-

ing.

Order of the Garter



Star



Jewel



Order of the Bath



Jewel



Order of the Thistle



Star



Jewel



Order of St. Patrick



Star



Jewel



Baronet of Nova Scotia



Baronet of England



Knight. ing the feudal grievance of heritable jurisdictions in Scotland, which has since been pursued and effected by the statute 20 Geo. II. c. 43. King James's plan for exchanging our military tenures seems to have been nearly the same as that which has been since pursued; only with this difference, that by way of compensation for the loss which the crown and other lords would sustain, an annual fee-farm rent should be settled and inseparably annexed to the crown, and assured to the inferior lords, payable out of every knight's fee within their respective feignories. An expedient seemingly much better than the hereditary excise which was afterwards made the principal equivalent for these concessions. For at length the military tenures, with all their heavy appendages, were destroyed at one blow by the statute 12 Car. II. c. 24. which enacts, "that the court of ward or liveries, and all wardships, liveries, primer seifins, and ousterleimains, values and forfeitures of marriages, by reason of any tenure of the king or others, be totally taken away. And that all fines for alienations, tenures by homage, knights service, and escuage, and also aids for marrying the daughter or knighting the son, and all tenures of the king *in capite*, be likewise taken away. And that all sorts of tenures, held of the king or others, be turned into free and common soccage; save only tenures in frankalmoign, copyholds, and the honorary services (without the slavish part) of grand serjeanty." A statute which was a greater acquisition to the civil property of this kingdom than even *magna charta* itself: since that only pruned the luxuriances that had grown out of the military tenures, and thereby preserved them in vigour: but the statute of King Charles extirpated the whole, and demolished both root and branches.

KNIGHTS-Errant. During the prevalence of chivalry, the ardour of redressing wrongs seized many knights so powerfully, that, attended by esquires, they wandered about in search of objects whose misfortunes and misery required their assistance and succour. And as ladies engaged more particularly their attention, the relief of unfortunate damsels was the achievement they most courted. This was the rise of knights-errant, whose adventures produced romance. These were originally told as they happened. But the love of the marvellous came to interfere; and fancy was indulged in her wildest exaggerations; and poetry gave her charms to the most monstrous fictions, and to scenes the most unnatural and gigantic. See **KNIGHT.**

KNIGHT-Bachelor. See **BACHELOR.**

KNIGHT-Baronet.

KNIGHTS of the Shire, or Knights of Parliament, are two gentlemen of worth, chosen on the king's writ in *pleno comiatu*, by such of the freeholders of every county as can expend 40s. per annum, to represent such county in parliament. These, when every man who held a knight's fee *in capite* of the crown was customarily constrained to be a knight, were of necessity to be *miles gladio cincti*, for so the writ runs to this day; but now custom admits esquires to be chosen to this office. They must have at least 500l. per annum; and their expences are to be defrayed by the county, though this be seldom now required.

KNIGHT-Marshal, an officer in the king's household, who has jurisdiction and cognizance of any trans-

gression within the king's household and verge; as also of contracts made there, whereof one of the house is party.

KNIGHT-Fish. See **EQUES, ICHTHYOLOGY Index.**

KNIGHTS, in a ship, two short thick pieces of wood, commonly carved like a man's head, having four thivers in each, three for the haulyards, and one for the top to run in: one of them stands fast bolted on the beams abaft the foremast, and is therefore called the *fore-knight*; and the other, standing abaft the mainmast, is called the *main-knight*.

KNIGHTHOOD, a military order or honour, or a mark or degree of ancient nobility, or reward of personal virtue and merit.

There are four kinds of knighthood; military, regular, honorary, and social.

Military KNIGHTHOOD, is that of the ancient knights, who acquired it by high feats of arms. They are called *miles*, in ancient charters and titles, by which they were distinguished from mere bachelors, &c. These knights were girt with a sword, and wore a pair of gilt spurs; whence they were called *equites aurati*.

Knighthood is not hereditary, but acquired. It does not come into the world with a man like nobility; nor can it be revoked. The sons of kings, and kings themselves, with all other sovereigns, heretofore had knighthood conferred on them as a mark of honour. They were usually knighted at their baptism or marriage, at their coronation, before or after a battle, &c.

Regular KNIGHTHOOD, is applied to all military orders which profess to wear some particular habit, to bear arms against the infidels, to succour and assist pilgrims in their passage to the Holy Land, and to serve in hospitals where they should be received; such were the knights templars, and such still are the knights of Malta, &c.

Honorary KNIGHTHOOD, is that which princes confer on other princes, and even on their own great ministers and favourites; such are knights of the Garter, Bath, St Patrick, Nova Scotia, Thistle, &c. See these articles; and for a representation of their different insignia, see Plate CCLXXXVIII.

Social KNIGHTHOOD, is that which is not fixed nor confirmed by any formal institution, nor regulated by any lasting statutes; of which kind there have many orders been erected on occasion of factions, of tilts and tournaments, masquerades, and the like.

The abbot Bernardo Justiniani, at the beginning of his History of Knighthood, gives us a complete catalogue of the several orders: according to this computation, they are in number 92. Favin has given us two volumes of them under the title of *Theatre d'Honneur et de Chevalerie*. Menenius has published *Delicia Equestrium Ordinum*, and Andr. Mendo has written *De Ordinibus Militaribus*. Beloi has traced their original; and Geliot, in his Armorial Index, has given us their institutions. To these may be added, Father Menestrier de la *Chevalerie Ancienne et Moderne*, Michieli's *Tresor Militaire*, Caramuel's *Theologia Regolare*, Miræus's *Origines Equestrium sive Militarum Ordinum*: but above all, Justinian's *Historie Chronologiche dell' Origine de gl' Ordine Militari, e di tutte le Religione Cavaleresche*; the edition which is fullest is that of Venice in 1692, in two vols folio.

KNIGHTLOW

**Knight,
Knight-
hood.**

Knightlow
||
Knot.

KNIGHTLOW HILL or **CROSS**, which gives name to a hamlet in Warwickshire, stands in the road from Coventry to London, at the entrance of Dunsmore Heath. About 40 towns in this hamlet, which are specified by Dugdale, are obliged, on the forfeiture of 30s. and a white bull, to pay a certain rent to the lord of the hamlet, called *wroth-money*, or *swarf-penny*; which must be deposited every Martinmas day in the morning at this cross before sunrise; when the party paying it must go thrice about the cross, and say the wroth-money, and then lay it in the hole of the said cross before good witness.

KNIGHTON, a well built town of Radnorshire in South Wales, 155 miles from London. It is pleasantly situated on an elevation rising from a small river, which divides this part of Wales from Shropshire. It carries on a considerable trade, and has a market and a fair.

KNIGHTSBRIDGE, a village of Middlesex, and the first village from London on the great western road. It lies in the parishes of St Margaret's Westminster, and St George by Hanover Square; and has a chapel, which is nevertheless independent. At the entrance of it from London stands that noble infirmary for sick and wounded, called *St George's Hospital*, erected and maintained by the contributions of our nobility and gentry, of whom there are no less than 300 governors. In the centre of this village, there is a fabric lately erected, where is carried on one of the most considerable manufactures in England for painting floor-cloths, &c.

KNOCTOPHER, a borough and market town of Ireland, in the county of Kilkenny and province of Leinster, 63 miles from Dublin. Before the union, this town returned two members to the Irish parliament.

KNOLL, a term used in many parts of the kingdom for the top of a small hill, or for the hill itself.

KNOLLES, RICHARD, was born in Northamptonshire, about the middle of the 16th century, and educated at Oxford, after which he was appointed master of the free-school at Sandwich in Kent. He composed *Grammaticæ Latinæ, Græcæ, et Hebraicæ, compendium, cum radicibus*, London 1606; and sent many excellent scholars to the universities. He also spent 12 years in compiling a history of the Turks; which was first printed in 1610. It is called, *The general history of the Turks, from the first beginning of that nation to the rising of the Ottoman family*, &c. He died in 1610, and this history has been since continued by several hands: the best continuation is that by Paul Ricaut consul at Smyrna, folio, London 1680. Knolles wrote also, "The lives and conquests of the Ottoman kings and emperors to the year 1610;" which was not printed till after his death in 1621, to which time it was continued by another hand; and lastly, "A brief discourse of the greatness of the Turkish empire, and where in the greatness of the strength thereof consisteth," &c.

KNOT, a part of a tree, from which shoot out branches, roots, or even fruit. The use of the knots is, to strengthen the stem; they serve also as sences, to filtrate, purify, and refine the juices raised up for the nourishment of the plant.

Knots of a Rope, among seamen, are distinguished

into three kinds, viz. whole knot, that made so with the lays of a rope that it cannot slip, serving for sheets, tacks, and stoppers: bowline knot, that so firmly made and fastened to the cringles of the sails, that they must break or the sail split before it slips: and sheep-shank knot, that made by shortening a rope without cutting it, which may be presently loosened, and the rope not the worse for it.

Knots of the Log-line, at sea, are the divisions of it. See the article **LOG**.

KNOT. See **TRINGA**, **ORNITHOLOGY Index**.

Knof-Grass, or *Biflort*. See **POLYGONUM**, **BOTANY Index**.

KNOTTESFORD, a town of Cheshire, near the Mersey, 184 miles from London, is divided into the upper and lower towns by a rivulet called *Bicken*. In the former is the church; and in the latter is a chapel of ease, the market and town-house.

KNOTTINGLEY, a town in the west riding of Yorkshire, on the Aire near Ferrybridge, is noted for its trade in lime. The stones of which it is made are dug up plentifully at Elmet, and here burnt; from whence it is conveyed at certain seasons in great quantities to Wakefield, Sandal, and Standbridge, for sale, and so carried into the western parts of the county for manure.

KNOUT, the name of a punishment inflicted in Russia, with a kind of whip called *knout*, and made of a long strap of leather prepared for this purpose. With this whip the executioners dexterously carry off a slip of skin from the neck to the bottom of the back laid bare to the waist, and repeating their blows, in a little while rend away all the skin of the back in parallel stripes. In the common knout the criminal receives the lashes suspended on the back of one of the executioners: but in the great knout, which is generally used on the same occasions as racking on the wheel in France, the criminal is raised into the air by means of a pulley fixed to the gallows, and a cord fastened to the two wrists tied together; a piece of wood is placed between his two legs also tied together; and another of a crucial form under his breast. Sometimes his hands are tied behind over his back; and when he is pulled up in this position, his shoulders are dislocated. The executioners can make this punishment more or less severe; and it is said, are so dexterous, that when a criminal is condemned to die, they can make him expire at pleasure either by one or several lashes.

KNOWLEDGE, is defined by Mr Locke to be the perception of the connexion and agreement or disagreement and repugnancy of our ideas. See **METAPHYSICS** and **LOGIC**.

KNOX, JOHN, greatly distinguished by the part he took in the reformation in Scotland, was born in 1505, at Gifford near Haddington, and educated at the university of St Andrew's, where he took a degree in arts, and commenced teacher very early in life. At this time the new religion of Martin Luther was but little known in Scotland; Mr Knox therefore at first was a zealous Roman Catholic: but attending the sermons of a certain Black friar, named *Guialham*, he began to waver in his opinions; and afterwards conversing with the famous Wishart, who in 1544 came to Scotland with the commissioners sent by Henry VIII. he renounced the Romish religion, and became a zealous reformer. Being

Knots
||
Knox.

Knox.

ing appointed tutor to the sons of the lairds of Ormiston and Longniddery, he began to instruct them in the principles of the Protestant religion; and on that account was so violently persecuted by the bishop of St Andrew's, that with his two pupils he was obliged in the year 1547 to take shelter in the castle of that place. But the castle was besieged and taken by 21 French galleys. He continued a prisoner on board a galley two years, namely, till the latter end of the year 1549; when, being set at liberty, he landed in England, and having obtained a license, was appointed preacher, first at Berwick, and afterwards at Newcastle. Strype conjectures that in 1552 he was appointed chaplain to Edward VI. He certainly obtained an annual pension of 40*l.* and was offered the living of All-hallows in London; which he refused, not choosing to conform to the liturgy.

Soon after the accession of Queen Mary, he retired to Geneva; whence, at the command of John Calvin, he removed to Francfort, where he preached to the exiles: but a difference arising on account of his refusing to read the English liturgy, he went back to Geneva; and from thence in 1555 returned to Scotland, where the reformation had made considerable progress during his absence. He now travelled from place to place, preaching and exhorting the people with unremitting zeal and resolution. About this time (1556), he wrote a letter to the queen regent, earnestly entreating her to hear the Protestant doctrine; which letter she treated with contempt. In the same year the English Calvinists at Geneva, invited Mr Knox to reside among them. He accepted their invitation. Immediately after his departure from Scotland, the bishop summoned him to appear, and he not appearing, condemned him to death for heresy, and burned his effigy at the cross of Edinburgh.

Our reformer continued abroad till the year 1559, during which time he published his "First Blast against the monstrous Regiment of Women." Having now returned to Scotland, he resumed the great work of reformation with his usual ardour, and was appointed minister at Edinburgh. In 1561 Queen Mary arrived from France. She, it is well known, was bigotted to the religion in which she had been educated; and on that account was exposed to continual insults from her reformed subjects. Mr Knox himself frequently insulted her from the pulpit; and when admitted to her presence, regardless of her sex, her beauty, and her high rank, behaved to her with a most unjustifiable freedom. In the year 1571 our reformer was obliged to leave Edinburgh, on account of the confusion and danger from the opposition to the earl of Lenox, then regent; but he returned the following year, and resumed his pastoral functions. He died at Edinburgh in November 1572, and was buried in the churchyard of St Giles's in that city.—His History of the Reformation was printed with his other works at Edinburgh in 1584, 1586, 1644, 1732. He published many other pieces; and several more are preserved in Calderwood's History of the Church of Scotland. He left also a considerable number of manuscripts, which in 1732 were in the possession of Mr Woodrow, minister of Eastwood.

As to his character, it is easily understood, notwithstanding the extreme dissimilitude of the two portraits

drawn by Popish and Calvinistical pencils. According to the first, he was a devil; according to the latter, an angel. The following character is drawn by Dr Robertson. "Zeal, intrepidity, disinterestedness, were virtues that he possessed in an eminent degree. He was acquainted too with the learning cultivated in that age; and excelled in that species of eloquence which is calculated to rouse and to inflame. His maxims, however, were often too severe, and the impetuosity of his temper excessive. Rigid and uncomplying, he showed no indulgence to the infirmities of others. Regardless of the distinctions of rank and character, he uttered his admonitions with an acrimony and vehemence more apt to irritate than to reclaim; and this often betrayed him into indecent expressions, with respect to Queen Mary's person and conduct. Those very qualities, however, which now render his character less amiable, fitted him to be the instrument of Providence for advancing the Reformation among a fierce people, and enabled him to face dangers, and to surmount opposition, from which a person of a more gentle spirit would have been apt to shrink back. By an unwearied application to study and to business, as well as by the frequency and fervour of his public discourses, he had worn out a constitution naturally strong. During a lingering illness, he discovered the utmost fortitude; and met the approach of death with a magnanimity inseparable from his character. He was constantly employed in acts of devotion, and comforted himself with those prospects of immortality, which not only preserve good men from desponding, but fill them with exultation in their last moments. The earl of Morton, who was present at his funeral, pronounced his eulogium in a few words, the more honourable for Knox, as they came from one whom he had often censured with peculiar severity; "Here lies he who never feared the face of man."

KNOXIA, a genus of plants belonging to the tetrandria class; and in the natural method ranking under the 47th order, *Stellate*. See *BOTANY Index*.

KNUTZEN, MATTHIAS, a native of Holstein, the only person on record who openly professed and taught atheism. It is said he had about 1000 disciples in different parts of Germany. They were called *Conscientiaries*, because they asserted there is no other God, no other religion, no other lawful magistracy, but conscience, which teaches every man the three fundamental principles of the law of nature:—To hurt nobody, to live honestly, and to give every one his due. Several copies of a letter of his from Rome were spread abroad, containing the substance of his system. It is to be found entire in the last edition of Micrælius.

KOEDOE. See *CAPRA*.

KOEI-TCHEOU, a province of China, and one of the smallest in the empire. On the south it has Quang-si, on the east Hou-quang, on the north Se-tchuen, and Yun-nan on the west. The whole country is almost a desert, and covered with inaccessible mountains: it may justly be called the *Siberia* of China. The people who inhabit it are mountaineers, accustomed to independence, and who seem to form a separate nation: they are no less ferocious than the savage animals among which they live.—The mandarins and governors who are sent to this province are sometimes disgraced noblemen, whom the emperor does not think proper to discard entirely, either on account of their alliances, or the services which

Knoxia.

Koei-tcheou.

Kœmpfer, which they have rendered to the state: numerous garri- sons are intrusted to their charge, to overawe the in- habitants of the country; but these troops are found in- sufficient, and the court despairs of being ever able tho- roughly to subdue these untractable mountaineers.—Fre- quent attempts have been made to reduce them to obe- dience, and new forts have from time to time been erected in their country; but the people, who are not ignorant of those designs, keep themselves shut up among their mountains, and seldom issue forth but to destroy the Chinese works or ravage their lands. Neither silk stuffs nor cotton cloths are manufactured in this pro- vince; but it produces a certain herb much resembling our hemp, the cloth made of which is used for summer dresses. Mines of gold, silver, quicksilver, and copper, are found here; of the last metal, those small pieces of money are made which are in common circulation throughout the empire.—Kœi-tcheou contains 10 cities of the first class, and 38 of the second and third.

KœMPFER, ENGELBERT, was born in 1651 at Lemgow in Westphalia. After studying in several towns, he went to Dantzick, where he gave the first public specimen of his proficiency in a dissertation *De majestatis divisione*. He then went to Thorn; and from thence to the university of Cracow, where he took his degree of doctor in philosophy; after which he went to Königsberg in Prussia, and staid there four years. He next travelled into Sweden, where he soon began to make a figure, and was appointed secretary of the embassy to the sopher of Persia. He set out from Stock- holm with the presents for that emperor; and went through Aaland, Finland, and Ingermanland, to Nar- va, where he met Mr Fabricius the ambassador, who had been ordered to take Moscow in his way. The ambassador having ended his negociations at the Russian court, set out for Persia. During their stay, two years, at Isphahan, Dr Kœmpfer, whose curious and inquisitive disposition suffered nothing to escape him unobserved, made all the advantages possible of remaining so long in the capital of the Persian empire. The ambassador, to- wards the close of 1685, preparing to return into Eu- rope, Dr Kœmpfer chose rather to enter into the ser- vice of the Dutch East India Company, in quality of chief surgeon to the fleet, then cruising in the Persian gulf. He went aboard the fleet, which, after touching at many Dutch settlements, came to Batavia in Septem- ber 1689. Dr Kœmpfer here applied himself chiefly to natural history. Hence he set out for Japan, in qua- lity of a physician to the embassy which the Dutch East India Company send once a year to the Japanese court. He quitted Japan to return to Europe in 1692. In 1694 he took his degree of doctor of physic at Leyden; on which occasion he communicated, in what are called *Inaugural Theses*, ten very singular and curious observa- tions made by him in foreign countries. He intended to digest his memoirs into proper order; but was pre- vented, by being made physician to the count de Lippe. He died in 1716. His principal works are, 1. *Amœnitates Exoticæ*, in 4to; a work which includes many curious and useful particulars in relation to the civil and natural history of the countries through which he passed. 2. *Herbarium Ultra-Gangeticum*. 3. The history of Japan, in German, which is very curious and much esteemed; and for which the public is indebted to the late Sir Hans Sloane, who purchased for a con-

siderable sum of money all our author's curiosities, both natural and artificial, as likewise all his drawings and manuscript memoirs, and prevailed with the learn- ed Dr Scheuchzer to translate the Japanese history into English.

KœMPFERIA. See **KEMPFERIA**.

KOENIGIA, a genus of plants belonging to the triandria class. See **BOTANY Index**.

KONGSBERG, a town of Norway, belonging to Denmark, and celebrated for its silver mines, whose produce has been considerably exaggerated by most of the travellers that have published on this subject. The town, which stretches on both sides the river Lowe, contains about 1000 houses, and including the miners 6000 inhabitants. The mines, which lie about two miles from the town, were first discovered and worked during the reign of Christian IV.; and of their present state the following account is given by Mr Coxo*. There are 36 mines now working; the deepest where- of, called *Segen-Gottes in der North*, is 652 feet perpen- dicular. The matrix of the ore is the *saxum* of Lin- næus. The silver is extracted according to the usual process, either by smelting the ore with lead or by pounding. The pure silver is occasionally found in small grains and in small pieces of different sizes, sel- dom weighing more than four or five pounds. Some- times, indeed, but extremely rare, masses of a consi- derable bulk have been discovered; and one in parti- cular which weighed 409 marks, and was worth 3000 rix-dollars, or 600l. This piece is still preserved in the cabinet of curiosities at Copenhagen. Formerly these mines produced annually 350,000 rixdollars, or 70,000l.; and in 1769, even 79,000l.; at present they seldom yield above from 44,000l. to 50,000l. Formerly above 4000 men were necessary for working the mines, smelting and preparing the ore; but a few years ago 2400 miners were removed to the cobalt works lately established at Fossun, and to other mines; and the number is now reduced to 2500. By these and other reductions, the expence, which was before estimated at 5760l. per month, now amounts to only 4400l. or about 52,800l. per annum. Yet even with this diminution the expences generally equal, and some- times exceed the profits. Government, therefore, draws no other advantages from these mines, than by giving employment to so many persons, who would otherwise be incapable of gaining their livelihood, and by re- ceiving a certain quantity of specie, which is much wanted in the present exhausted state of the finances in Denmark. For such is the deficiency of specie, that even at Kongsberg itself change for a bank note is with difficulty obtained. The miners are paid in small bank notes, and the whole expences are defrayed in paper currency. The value of 13,000 rixdollars, or 2600l. in block silver is annually sent to Copenhagen; the remainder of the ore is coined in the mint at Kongsberg, and transferred to Copenhagen. The largest piece of money now struck at Kongsberg is only eight skillings or fourpence.

KONIG, GEORGE MATTHIAS, a learned German, born at Altorf in Franconia in 1616. He became professor of poetry and of the Greek tongue there, and librarian to the university; in which last office he suc- ceeded his father. He gave several public specimens of his learning; but is principally known for a Bio- graphical

Kœmp-
feria.
||
König.

* *Travels*
in Poland,
&c. v. 234.

Konigstein graphical Dictionary, entitled, *Bibliotheca vetus et nova*, 4to, Altorf, 1674: which, though it is very defective, is useful to biographers. He died in 1699.

KONIGSTEIN, the capital of a county of the same name in Germany. It is 11 miles north-west of Francofort on the Maine, and 30 miles north-east of Mentz.

KONIGSTEIN, is also the name of a town in Bavaria, and of one in Saxony.

KONINGSBERG, a town of Poland, and capital of Regal Prussia, with a magnificent palace, in which is a hall 274 feet long and 59 broad without pillars to support it, and a handsome library. It is about five miles in circumference; and, including the garrison of 7000 men, contains 60,000 inhabitants. The townhouse, the exchange, and the cathedral church, are all very fine structures. The tower of the castle is exceeding high; and has 284 steps to go to the top, from whence there is a very distant prospect. There are 18 churches in all; of which 14 belong to the Lutherans, three to the Calvinists, and one to the Papists. It stands on the Pregel, a navigable river which flows from the north-western provinces of Poland, and here falls into the eastern extremity of the Frische-Haf, an inlet of the Baltic. No ships drawing more than seven feet water can pass the bar and come up to the town; so that the large vessels anchor at Pillau, a small town on the Baltic, which is the port of Koningsberg; and the merchandise is sent in smaller vessels to this place. Its trade is very considerable.—Koningsberg contains an university founded by Albert of Brandenburg. According to the original endowment there were 40 professors; but their number is now reduced to 16. Each professor receives a salary of about 50l. per annum, which may be increased by private lectures. In 1775, the university contained 800 students, of whom 200 are lodged and boarded at the expence of the crown. There are three public libraries in the town, the royal or university library, the town library, and the *Wallenrodt library*, so called because it was given by Martien von Wallenrodt, in 1650. E. Long. 35. N. Lat. 54. 43.

KORAN, or **ALCORAN**. See **ALCORAN** and **MAHOMETANISM**.

KORAQUAS, a tribe of Hottentots inhabiting a district in the south of Africa, on the confines of the Nimiqua country. The people are much taller than the other Hottentots of the colonies, though they evidently appear to be descended of the same race, having the same language and customs with their neighbours the Nimiquas, who are undoubtedly of the same extraction. Like other savage tribes, the Koraquas are ever ready to pilfer, and appropriate to their own use whatever they find pleasing, or suited to their purposes. They attempted to carry off some of M. Vaillant's effects, even before his face, and he was obliged, either to watch over or deposit them in some place of safety, in order to prevent their rapacity.

The excessive dryness of the country renders springs extremely rare; but to supply this defect the inhabitants dig in the earth a kind of cisterns, to which they gradually descend by means of steps; the greatest marks of industry which M. Vaillant could discover among any of the African nations. To secure this scanty supply of water even from the birds, they are in the practice of covering the mouth of the hole with stones and the branches of trees; yet in spite of all this economy, the

VOL. XI. Part II.

wells frequently become dry, in which case the horde must remove to some other quarter. This circumstance renders the Koraquas a more wandering people than any of the other western tribes. They colour their bodies differently according to whim or caprice, and it is no uncommon thing to see them vary it every day, which gives them to each other a strange appearance as if they were dressed for a masquerade.

KOREKI, the country of the Koriacs. See the next article.

KORIACS, a people inhabiting the northern part of Kamtschatka, and all the coast of the Eastern ocean from thence to the Anadir.—They are divided into the Rein-deer or Wandering Koriacs, and the Fixed Koriacs. The former lead an erratic life, in the tract bounded by the Penschinska sea to the south-east, the river Kowyma to the west, and the river Anadir to the north. They wander from place to place with their rein deer, in search of the moss, the food of those animals, which are their only wealth. They are squalid, cruel, and warlike; the terror of the Fixed Koriacs, as much as the Tschutski are of them. They never frequent the sea, nor live on fish. Their habitations are jouts, or places half sunk in the earth; and they never use balagans or summer houses elevated on posts like the Kamtschatkans. They are in their persons lean, and very short; have small heads and black hair, which they shave frequently: their faces are oval; their nose is short; their eyes are small; their mouth is large; and their beard black and pointed, but often eradicated.—The Fixed Koriacs are likewise short; but rather taller than the others, and strongly made: the Anadir is also their boundary to the north, the ocean to the east, and the Kamtschatkans to the south. They have a few rein deer, which they use in their sledges; but neither of the tribes of Koriacs are civilized enough to apply them to the purposes of the dairy. Each speak a different dialect of the same language: but the Fixed in most things resemble the Kamtschatkans; and, like them, live almost entirely on fish. They are timid to a high degree, and behave to their wandering brethren with the utmost submission; who call them by a name which signifies *their slaves*. These poor people seem to have no alternative: for, by reason of the scarcity of rein deer, they depend on these tyrants for the essential article of clothing.—These two nations, Mr Pennant supposes, from their features, to be the offspring of Tartars, which have spread to the east, and degenerated in size and strength by the rigour of the climate, and often by scarcity of food.

KOS, in Jewish antiquity, a measure of capacity, containing about four cubic inches: this was the cup of blessing out of which they drank when they gave thanks after solemn meals, like that of the passover.

KOTTERUS, **CHRISTOPHER**, was one of the three fanatics whose visions were published at Amsterdam in 1657, with the title of *Lux in tenebris*. He lived at Sprotta in Silesia, and his visions began in 1616. He fancied he saw an angel under the form of a man, who commanded him to go and declare to the magistrates, that, unless the people repented, the wrath of God would make dreadful havock. The elector palatine, whom the Protestants had declared king of Bohemia, was introduced in these visions. Kotterus

Kou-chu
||
Kouc.

waited on him at Breslaw in December 1620, and informed him of his commission. He went to several other places, and at last to the court of Brandenburg. As most of these predictions promised felicity to the elector palatine, and unhappiness to his imperial majesty, the emperor's fiscal in Silesia and Lusatia got him seized, set on the pillory, and banished the emperor's dominions. Upon this he went to Lusatia, and there lived unmolested till his death, which happened in 1647.

Groser's
China, vol. i.
p. 486.

KOU-CHU, a Chinese shrub, which bears a great resemblance to the fig tree both in the make of its branches and the form of its leaves. From its root several twigs or shoots generally spring up, which form a kind of bush; but sometimes it consists of only one shoot. The wood of the branches of the kou-chu is soft and spongy, and covered with bark like that of the fig tree. Its leaves are deeply indented, and their colour and the texture of their fibres are exactly the same as those of the fig tree; but they are larger and thicker, and much rougher to the touch.

This tree yields a kind of milky juice, which the Chinese use for laying on gold leaf in gilding. They make one or more incisions in the trunk, into which they insert the edges of a shell, or something else of the same kind to receive the sap. When they have extracted a sufficiency, they use it with a small brush, and delineate whatever figures they intend for the decoration of their work. They then lay on the gold-leaf, which is so strongly attracted by this liquor, that it never comes off.

KOUANIN, in the Chinese language, the name of a tutelary deity of women. The Chinese make great numbers of the figures of this deity in white porcelain, and send them to all parts of the world, as well as keep them in their own houses. The figure represents a woman with a child in her arms. The women who have no children pay a sort of adoration to these images, and suppose the deity they represent to have power to make them fruitful. The statue always represents a handsome woman very modestly attired.

KOUC, or KOECK, Peter, an excellent painter in the 16th century, was born at Aloft, and was the disciple of Bernard Van Orley, who lived with Raphael. He went to Rome; and by studying the beautiful pieces which he found there, formed an excellent taste, and became a very correct designer. On his return to his own country, he undertook the office of directing the execution of some tapestry work after the designs of Raphael. He was afterwards persuaded by some merchants of Brussels to undertake a voyage to Constantinople; but when he came there, finding that the Turks were not allowed by their religion to draw any figure, and that there was nothing for him to do but to draw designs for tapestry, he spent his time in designing the particular prospects in the neighbourhood of Constantinople, and the manner of the Turks living; of which he has left many wooden cuts, that alone suffice to give an idea of his merit. After his return from Constantinople he settled at Antwerp, where he drew several pictures for the emperor Cha. V. He was also a good architect; and, in the latter part of his life, wrote A Treatise of Sculpture, Geometry, and Perspective; and translated Vitruvius and Serliu into the Flemish tongue. He died in 1550.

Kouli-
Khan,
Koumifs.

KOULI-KHAN, THAMAS, or *Schah Nadir*, was not the son of a shepherd, as the authors of the English Biographical Dictionary assert: his father being chief of a branch of the tribe of Affchars, and governor of a fortress erected by that people against the Turks. Upon his father's death, his uncle usurped his government, under the pretext of taking care of it during the minority of Kouli-Khan; or, more properly, young Nadir. Disgust at this affront made him commence adventurer. He entered into the service of the beglerbeg or governor of Muichada, in Khorasan; who, discovering in him strong marks of a military genius, promoted him to the command of a regiment of cavalry. In 1720, the Usbec Tartars having made an irruption into Khorasan with 10,000 men, the beglerbeg, whose whole force consisted only of 4000 horse and 2000 infantry, called a council of war, in which it was declared imprudent to face the enemy with such an inferior force: but Kouli-Khan proposed to march against the enemy, and engaged to conduct the expedition, and to be answerable for the success of it. He was accordingly made general; defeated the Tartars, and took their commander prisoner. Houssein Beglerbeg received him at his return with marks of distinction: but growing jealous of his rising fame, instead of obtaining him the rank of lieutenant-general of Khorasan, as he had promised, obtained it for another; which so exasperated Kouli-Khan, that he publicly complained of the governor's ingratitude and perfidy; who thereupon broke him, and ordered him to be punished with the bastinado so severely, that the nails of his great toes fell off. This affront occasioned his flight, and his joining a banditti of robbers (not his stealing his father's or his neighbour's sheep). The rest of his adventures are too numerous to be inserted in this work. In 1729 he was made general of Persia by Schah Thamas, and permitted to take his name *Thamas*, and that of *Kbuli*, which signifies *slave*: his title therefore was, *The slave of Thamas*; but he was ennobled by the addition of Khan. In 1736, he fomented a revolt against his master, for having made an ignominious peace with the Turks; and having the army at his command, he procured his deposition, and his own advancement to the throne. In 1739 he conquered the Mogul empire; and from this time growing as cruel as he was ambitious, he at length met with the usual fate of tyrants, being assassinated by one of his generals, in league with his nephew and successor, in 1747, aged sixty.

KOUMISS, a sort of wine made in Tartary, where it is used by the natives as their common beverage during the season of it, and often serves them instead of all other food. It is said to be so nourishing and salutary, that the Baschkir Tartars, who towards the end of winter are much emaciated, no sooner return in summer to the use of koumifs, than they become strong and fat. The author of "A historical description of all the nations which compose the Russian empire," says, speaking of koumifs, *Elle est fort nourrissante, et peut tenir lieu de tout autre aliment. Les Baschkirs s'en trouvent très bien, elle les rend bienportans et gais; elle leur donne de l'embonpoint, et de bonnes couleurs.* From the Tartars it has been borrowed by the Russians, who use it medicinally. It is made with fermented mares milk,

milk, according to the following recipe, communicated by Dr Grieve, in the Edinburgh Philosophical Transactions*, as he obtained it from a Russian nobleman, who went into that part of Tartary where it is made, for the sake of using it medicinally.

“ Take of fresh mares milk, of one day, any quantity; add to it a sixth part of water, and pour the mixture into a wooden vessel; use then, as a ferment, an eighth part of the fourest cows milk that can be got; but at any future preparation, a small portion of old koumiss will better answer the purpose of souring; cover the vessel with a thick cloth, and set in a place of moderate warmth; leave it at rest 24 hours, at the end of which time the milk will have become sour, and a thick substance will be gathered on the top; then with a stick made at the lower end in the manner of a churn staff, beat it till the thick substance above mentioned be blended intimately with the subjacent fluid. In this situation, leave it again at rest for 24 hours more; after which pour it into a higher and narrower vessel, resembling a churn, where the agitation must be repeated as before, till the liquor appear to be perfectly homogeneous; and in this state it is called *koumiss*, of which the taste ought to be a pleasant mixture of sweet and sour. Agitation must be employed every time before it be used.”—To this detail of the process the nobleman subjoined, that in order to obtain milk in sufficient quantity, the Tartars have a custom of separating the foal from the mare during the day, and allowing it to suck during the night; and when the milk is to be taken from the mare, which is generally about five times a-day, they always produce the foal, on the supposition that she yields her milk more copiously when it is present.

To the above method of making koumiss, our author has added some particulars taken from other communications with which he was favoured by Tartars themselves. According to the account of a Tartar who lived to the south-east of Orenbourg, the proportion of milk and souring ought to be the same as above; only, to prevent changing the vessel, the milk may be put at once into a pretty high and narrow vessel: and in order to accelerate the fermentation, some warm milk may be added to it, and, if necessary, more souring.—From a Tartar whom the doctor met with at the fair of Macarieff upon the Volga, and from whom he purchased one of the leathern bags (A) which are used by the Kalmucs for the preparation and carriage of their koumiss, he learned that the process may be much shortened by heating the milk before the souring be added to it, and as soon as the parts begin to separate, and a thick substance to rise to the top, by agitating it every hour or oftener. In this way he made some in the doctor's presence in the space of 12 hours. Our author learned also, that it was common among some Tartars to prepare it in one day during summer, and

that with only two or three agitations; but that in winter, when, from a deficiency of mares milk, they are obliged to add a great proportion of that of cows, more agitation and more time are necessary. And though it is commonly used within a few days after the preparation, yet when well secured in close vessels, and kept in a cold place, that it may be preserved for three months, or even more, without any injury to its qualities. He was told farther, that the acid fermentation might be produced by four milk as above, by a four paste of rye flour, by the rennet of a lamb's stomach, or what is more common, by a portion of old koumiss, and that in some places they saved much time, by adding the new milk to a quantity of that already fermented; on being mixed with which, it very soon undergoes the vinous change.

It was according to the process first mentioned, however, that all koumiss which the doctor employed in medicine was prepared.—It has been found serviceable in heftics and nervous complaints; and our author relates some very striking cases which the use of it had completely cured. All those who drank it, our author informs us, agreed in saying, that during its use, they had little appetite for food; that they drank it in very large quantities, not only without disgust, but with pleasure; that it rendered their veins turgid, without producing languor; that, on the contrary, they soon acquired from it an uncommon degree of sprightliness and vivacity; that even in cases of some excess it was not followed by indigestion, head-ach, or any of the symptoms which usually attend the abuse of other fermented liquors.

The utility, however, of this preparation as a medicine, supposing it completely ascertained, would among us, as our author observes, be greatly circumscribed by the scarcity of mares milk in this country. “ Hence (says he) inquiries will naturally be made, whether other species of milk admit of a similar vinous fermentation, and what proportion of spirit they contain. As these have never been the object, however, of my attention, I will here give the substance of what I have been able to learn from others respecting that which is the most common, the milk of cows.

“ Dr Pallas, in the work above quoted, says, that cows milk is also susceptible of the vinous fermentation, and that the Tartars prepare a wine from it in winter, when mares milk fails them; that the wine prepared from cows milk, they call *airen*; but that they always prefer koumiss when it can be got, as it is more agreeable, and contains a greater quantity of spirit; that koumiss on distillation yields of a weak spirit one third, but that *airen* yields only two ninth parts of its whole quantity, which spirit they call *arica*.

“ This account is confirmed by Oseretzkowsky, a Russian, who accompanied Lepechin and other academicians, in their travels through Siberia and Tartary.

(A) This bag was made of a horse's hide undressed, and by having been smoked had acquired a great degree of hardness. Its shape was conical, but was at the same time somewhat triangular, from being composed of three different pieces, set in a circular base of the same hide. The sutures, which were made with tendons, were secured by a covering on the outside, with a doubling of the same skin, very closely secured. It had a dirty appearance, and a very disagreeable smell. On being asked the reason of this, he said, “ The remains of the old koumiss were left, in order to supply a ferment to the new milk.”

Kraken
||
Krishna.

He published lately a dissertation on the ardent spirit to be obtained from cows milk.

“From his experiments it appears, that cows milk may be fermented with, or even without, souring, provided sufficient time and agitation be employed; that no spirit could be produced from any of its constituent parts taken separately, nor from any two of them, unless inasmuch as they are mixed with some part of the third; that the milk with all its parts in their natural proportion was the most productive of it; that the closer it was kept, or, which is the same thing, the more difficultly the fixed air is allowed to escape during the fermentation (care being taken, however, that we do not endanger the bursting of the vessel), the more spirit is obtained. He also informs us, that it had a sourer smell before than after agitation; that the quantity of spirit was increased, by allowing the fermented liquor to repose for some time before distillation; that from six pints of milk fermented in a close vessel, and thus set to repose, he obtained three ounces of ardent spirit, of which one was consumed in burning; but that from the same quantity of the same milk fermented in an open vessel, he could scarcely obtain an ounce.

KRAKEN, the name of an animal supposed to have been seen at sea, of a monstrous size, in the existence of which the weakness and credulity of the fishermen have excited the belief even among respectable naturalists, and among others Bishop Pontoppidan, who describes it in his *Natural History of Norway*. It is probable that the whole depends on certain optical appearances arising from a peculiar state of the atmosphere, which thus exhibits to the deluded fancy something of the form of a huge animal.

KRANTZIUS, ALBERTUS, a native of Hamburg, and a famous historian, who travelled over several parts of Europe, and was made rector of the university of Roitoch in 1482. He went from thence to Hamburg in 1508, where he was elected dean of the chapter in the cathedral. He did many good services to that church and city; and was so famed for his abilities and prudence, that John king of Denmark and Frederic duke of Holstein did not scruple to make him umpire in a dispute they had with the Ditmars. He wrote several good historical works; the most considerable of which is an *Ecclesiastical History of Saxony*, entitled *Metropolis*, in folio; the best edition is that of Francfort. He died in 1517.

KRAUT, or CROUT. See CROUT.

KRISHNA, or CRISHNA, an eastern river of considerable magnitude, very little known to Europeans. It annually overflows a vast tract of country, like the Indus on the western side of the empire. It rises from the foot of the western Ghauts, about 45 miles from Severndroog. There is another branch to the east, on which side is Sattara, a strong fortress, and once the capital of the Mahratta state. The river continues descending to the east. Into the north side of the Krishna falls the great river Bima, after traversing a country 350 miles in extent. The Krishna, above and below its conflux with the Bima, is fordable; and its channel is 600 yards wide a few miles below, rendered horrible by the number and rudeness of the different rocks, which are only covered during the rainy season.

Another extensive branch of the Krishna is Tung-

buddra, which falls into it in Lat. $16^{\circ} 25'$, and rises far to the southward from a dubious fountain. This river derives considerable celebrity from its having had on its banks at one period the splendid city of Vijanagar, in Lat. $15^{\circ} 22'$, founded in 1344 by Belaldeo king of the Carnatic, which at that time comprehended the whole peninsula. This vast city is said to have been 24 miles in circumference. In the remaining part of the course of the Krishna, there is nothing to be met with which is anyway remarkable.

KUBESHA. See LESGUIS.

KUMI, the name of an island situated between Japan and China, which was visited by the unfortunate navigator Perouse. The inhabitants of this island are neither Japanese nor Chinese, but seem to participate of the nature of both. They wear a shirt and cotton drawers, and their hair, tucked up on the crown of the head, is rolled round a needle, probably of gold. Each wears a dagger with a golden handle; their canoes are made of trees hollowed out, which they manage with no great dexterity. At Kumi, vessels in want of provisions, wood, and water, might find a seasonable supply; but as the whole island does not exceed 12 miles in circumference, the population can scarcely be estimated at more than 500; and as M. Perouse well observes, “a few gold needles are not of themselves a proof of wealth,” so that the trade with its inhabitants would of necessity be very limited. Kumi lies in $24^{\circ} 33'$ N. Lat. and $120^{\circ} 56'$ E. Long. from Paris.

KUNCKEL, JOHN, a celebrated Saxon chemist, born in the duchy of Sleswick, in 1630. He became chemist to the elector of Saxony, the elector of Brandenburg, and Charles XI. king of Sweden, who gave him the title of *counsellor in metals*, and letters of nobility, with the surname of *Louwensteing*. He employed 50 years in chemistry; in which, by the help of the furnace of a glasshouse which he had under his care, he made several excellent discoveries, particularly of the phosphorus of urine. He died in Sweden in 1702; and left several works, some in German, and others in Latin: among which, that entitled *Observationes Chemicæ*, and the *Art of making Glass*, printed at Paris in 1752, are the most esteemed.

KURIL or KURILSKI ISLES, extending from N. Lat. 51. to 45. which probably once lengthened the peninsula of Kamtschatka before they were convulsed from it, are a series of islands running south from the low promontory Lopatka, between which and Shoonska the most northerly is only the distance of one league. On the lofty Paramoufer, the second in the chain, is a high peaked mountain, probably volcanic; there is also a volcano on the fourth, called *Araumakutan*; and there are others on some of the smaller islands. Japan also abounds with volcanoes; so that there is a series of spiracles from Kamtschatka to Japan, the last great link of this extensive chain.—The Russians soon annexed these islands to their conquests. The sea abounded with otters, and the land with bears and foxes; and some of the isles sheltered the sable; but now it is said, the furs of the sea otters have become extremely scarce, both here and in Kamtschatka.

Of the 21 islands subject to the Russian empire, no more than four are inhabited, which are the first, second, thirteenth, and fourteenth, as they are delineated.

Kubeshia
||
Kuril.

Kurtus,
Kuster.

guished from each other by numbers instead of names. The inhabitants pass the winter on N° 14, and the summer months on N° 13. The rest of these islands are wholly uninhabited; but visited occasionally, for the purpose of hunting otters and foxes. Between the islands the currents are extremely violent, especially at the entrance of the channels, some of which are blocked up with rocks on a level with the sea. The population of the four inhabited islands may amount to 1400. The natives are hairy, have long beards, and subsist entirely on the produce of the chase, on seals, and other species of fish. At the time when Peroufe visited this island, the people were exempted for ten years from the tribute paid to the emperor of Russia, because the number of otters was greatly diminished; a pleasing proof of the mildness of that government, which has been so often represented as rigidly despotic. The people of these islands are represented as poor, but virtuous, given to hospitality, and docile, and all of them believers of the Christian religion. They extend from 51° to 45° N. Lat.

KURTUS, a genus of fishes belonging to the order *Jugulares*. See *ICHTHOLOGY Index*.

KUSTER, LUDOLF, a very learned writer in the 18th century, was born at Blomberg in Westphalia. When very young, he was upon the recommendation of Baron Spanheim appointed tutor to the two sons of the count de Schwerin, prime minister of the king of Prussia, who, upon our author's quitting that station, procured him a pension of 400 livres. He was promised a professorship in the university of Joachim; and till this should be vacant, being then but 25, he resolved to travel. He read lectures at Utrecht; went to England; and from thence to France, where he collated Suidas with three MSS. in the king's library, which furnished him with a great many fragments that had never been published. He was honoured with the degree of doctor by the university of Cambridge, which made him several advantageous offers to continue there: but he was called to Berlin, where he was installed in the professorship promised him. Afterwards he went to Antwerp; and being brought over to the Catholic religion, he abjured that of the Protestants. The king of France rewarded him with a pension, and ordered him to be admitted supernumerary associate of the Academy of Inscriptions. But he enjoyed this, however, a very short time; he died in 1716, aged 46. He was a great master of the

Latin tongue, and wrote well in it; but his chief excellence was his skill in the Greek language, to which he almost entirely devoted himself. He wrote many works; the principal of which are, 1. *Historia critica Homeri*. 2. *Jamblicus de vita Pythagoræ*. 3. An excellent edition of Suidas, in Greek and Latin, three volumes, folio. 4. An edition of Aristophanes, in Greek and Latin, folio. 5. A new Greek edition of the New Testament, with Dr Mills's Variations, in folio.

Kyle,
Kyphonism.

KYLE, a district of Ayrshire in Scotland, the limits of which are erroneously stated in the account which is given of that county. There are three districts in Ayrshire, Carrick to the south, Kyle in the middle, and Cunningham to the north. Carrick is divided from Kyle by the river Doon, and not by the river Ayr as has been noted by mistake; the boundaries of Kyle are the river Doon on the south, and the river Irvine on the north. See *AYRSHIRE*.

KYPHONISM, KYPHONISMUS, or *Cyphonismus*, an ancient punishment which was frequently undergone by the martyrs in the primitive times; wherein the body of the person to suffer was anointed with honey, and so exposed to the sun, that the flies and wasps might be tempted to torment him. This was performed in three ways: sometimes they only tied the patient to a stake; sometimes they hoisted him up into the air, and suspended him in a basket; and sometimes they stretched him out on the ground with his hands tied behind him. The word is originally Greek, and comes from *κυφωω*, which signifies either the *stake* to which the patient was tied, the *collar* fitted to his neck, or an *instrument* wherewith they tormented him: the scholiast on Aristophanes says, it was a wooden lock or cage; and that it was called so from *κυρσειν*, "to crook or bend," because it kept the tortured in a crooked, bowing posture; others take the *κυφωω* for a log of wood laid over the criminal's head, to prevent his standing upright: Hesychius describes the *κυφωω* as a piece of wood whereon criminals were stretched and tormented. In effect, it is probable the word might signify all these several things. It was a generic name, whereof these were the species.

Suidas gives us the fragment of an old law, which punished those who treated the laws with contempt with kyphonism for the space of twenty days; after which they were to be precipitated from a rock, dressed in women's habit.

L.

L, A semi-vowel, or liquid, making the eleventh letter of the alphabet.

It was derived from the old Hebrew Lamed, or Greek Lambda λ. It is founded by intercepting the breath between the tip of the tongue and forepart of the palate, with the mouth open; and makes a sweet sound, with something of an aspiration; and therefore the

Britons and Spaniards usually doubled it, or added an *h* to it, in the beginning of words, as in *llan*, or *llan*, "a temple," sounding nearly like *fl*, &c. In English words of one syllable it is doubled at the end, as *tell*, *bell*, *knell*, &c. but in words of more syllables than one it is single at the end, as *evil*, *general*, *constitutional*, &c. It is placed after most of the consonants in the beginning

La,
Labadie.

ning of words and syllables, as *black, glare, ad-le, ea-gle,* &c. but before none. Its sound is clear in *Abel*, but obscure in *able*, &c.

As a numeral letter, L denotes 50; and with a dash over it, thus, \bar{L} , 5000. Used as an abbreviation, L stands for Lucius; and L. L. S. for a letterce. See SESTERCE.

LA, the syllable by which Guido denotes the left sound of each hexachord; if it begins in C, it answers to our A; if in G, to E; and if in F, to D.

LABADIE, JOHN, a famous French enthusiast, son of John Charles Labadie, governor of Bourges and gentleman in ordinary of the bedchamber to the French king, was born in 1610. He entered young into the Jesuits college at Bourdeaux; which, by his own account, he afterwards quitted, but by other accounts was expelled for his peculiar notions, and for hypocrisy. He became a popular preacher; but being repeatedly detected in working upon female devotees with spiritual instructions for carnal purposes, his loss of character among the Catholics drove him among the Protestants. A reformed Jesuit being thought a great acquisition, he was precipitately accepted as a pastor at Montauban, where he officiated for eight years; but, attempting the chastity of a young lady whom he could not convert to his purpose, and quarrelling with the Catholic priest about the right of interring a dead body, he was at length banished that place. The story of his affair with the lady, as related by Mr Bayle, may here be given as a specimen of his ministry. Having directed this damsel to the spiritual life, which he made to consist in internal recollection and mental prayer, he gave her out a certain point of meditation; and having strongly recommended it to her to apply herself entirely for some hours to such an important object, he went up to her when he believed her to be at the height of her recollection, and put his hand into her breast. She gave him a hasty repulse, expressed a great deal of surprise at the proceeding, and was even preparing to rebuke him, when he, without being in the least disconcerted, and with a devout air, prevented her thus: "I see plainly, my child, that you are at a great distance from perfection; acknowledge your weakness with a humble spirit; ask forgiveness of God for your having given so little attention to the mysteries upon which you ought to have meditated. Had you bestowed all necessary attention upon these things, you would not have been sensible of what was doing about your breast. But you are so much attached to sense, so little centered with the Godhead, that you were not a moment in discovering that I had touched you. I wanted to try whether your fervency in prayer had raised you above the material world, and united you with the Sovereign Being, the living source of immortality and of a spiritual state; and I see, to my great grief, that you have made very small progress, and that you only creep on the ground. May this, my child, make you ashamed, and for the future move you to perform the duties of mental prayer better than you have hitherto done." The young lady, who had as much good sense as virtue, was no less provoked at these words than at the bold actions of her ghostly instructor; and could never afterwards bear the name of such a holy father. Labadie being driven out of Montauban, went to seek an asylum at Orange: but not finding himself

so safe there as he imagined, he withdrew privately to Geneva, where he imposed on the people by his devout preaching and carriage; and from thence was invited to Middleburg, where his spirituality made him and his followers be considered as so many saints, distinguished by the name of *Labadists*. They increased so much, that he excited the attention of the other churches, whose authority he disputed, till he was formally deposed by the synod of Dort. Instead of obeying, he procured a tumultuous support from a crowd of his devotees; and at length formed a little settlement between Utrecht and Amsterdam, where he erected a printing press, which sent forth many of his works. Here he was betrayed by some deserters, who exposed his private life, and informed the public of his familiarities with his female disciples, under pretence of uniting them more particularly to God; and was finally obliged to retire to Altena in Holstein, where he died in 1674.

LABADISTS, a sect of religionists in the 17th century, followers of the opinions of John Labadie, of whom an account is given in the preceding article. Some of their opinions were, 1. That God could, and did deceive men. 2. That, in reading the Scriptures, greater attention should be paid to the internal inspiration of the Holy Spirit than to the words of the text. 3. That baptism ought to be deferred till mature age. 4. That the good and the wicked entered equally into the old alliance, provided they descended from Abraham; but that the new admitted only spiritual men. 5. That the observation of Sunday was a matter of indifference. 6. That Christ would come and reign 1000 years on earth. 7. That the eucharist was only a commemoration of the death of Christ; and that, though the symbols were nothing in themselves, yet that Christ was spiritually received by those who partook of them in a due manner. 8. That a contemplative life was a state of grace, and of divine union during this life, the summit of perfection, &c. 9. That the man whose heart was perfectly content and calm, half enjoys God, has familiar entertainments with him, and sees all things in him. 10. That this state was to be come at by an entire self-abnegation, by the mortification of the senses and their objects, and by the exercise of mental prayer.

LABARUM, the banner or standard borne before the Roman emperors in the wars. The *labarum* consisted of a long lance, with a staff-a-top, crossing it at right angles; from which hung a rich streamer, of a purple colour, adorned with precious stones. Till the time of Constantine it had an eagle painted on it; but that emperor, in lieu thereof, added a cross with a cipher expressing the name of *Jesus*.

This standard the Romans took from the Germans, Dacæ, Sarmatæ, Pannonians, &c. whom they had overcome. The name *labarum* was not known before the time of Constantine; but the standard itself, in the form we have described it, abating the symbols of Christianity, was used by all the preceding emperors. Some derive the word from *labor*, as if this testified their labours; some from *εὐλαβεία*, "reverence, piety;" others from *λαμβάνειν*, "to take;" and others from *λαβύρα*, "spoils."

LABAT, JOHN BAPTIST, a celebrated traveller, of the order of St Dominic, was born at Paris, taught philosophy

Labadists
||
Labat.

Labdaaum **Laboratory** Philosophy at Nancy, and in 1693 went to America in quality of a missionary. At his return to France in 1705, he was sent to the chapter of his order at Bologna to give an account of his mission, and staid several years in Italy. He died at Paris in 1738. His principal works are, 1. A new voyage to the American islands, 6 vols 12mo. 2. Travels in Spain and Italy, 8 vols 12mo. 3. A new account of the western parts of Africa, 5 vols 12mo.; Father Labat was not in Africa, and therefore was not a witness of what he relates in that work. He also published the *Chevalier des Marchais's voyage to Guinea*, in 4 vols 12mo.; and *An historical account of the western parts of Ethiopia*, translated from the Italian of Father Cavazzi, 5 vols 12mo.

LABDANUM, or **LADANUM**, a resinous juice which exudes from a tree of the cistus kind. See **CHEMISTRY** and **MATERIA MEDICA Index**.

LABDASSEBA, a tribe of savage Arabs inhabiting the desert of Sahara in Africa. They are considered as the most powerful of all those tribes except the Ouadelims, and very much resemble them in every particular. See **SAHARA** and **OUADELIMS**.

LABEL, a long, thin, brass rule, with a small sight at one end, and a centre hole at the other; commonly used with a tangent line on the edge of a circumferentor, to take altitudes, &c.

LABEL, in *Law*, is a narrow slip of paper, or parchment, affixed to a deed or writing, in order to hold the appending seal.—Any paper annexed by way of addition or explication, to any will or testament, is also called a label or codicil.

LABEL, in *Heraldry*, a fillet usually placed in the middle along the chief of the coat, without touching its extremities. Its breadth ought to be a ninth part of the chief. It is adorned with pendants; and when there are above three of these, the number must be specified in blazoning.

It is used on the arms of eldest sons while the father is alive, to distinguish them from the younger; and is esteemed the most honourable of all differences. See **HERALDRY**.

LABIAL LETTERS, those pronounced chiefly by means of the lips.

LABIATED FLOWERS, monopetalous flowers, consisting of a narrow tube with a wide mouth, divided into two or more segments. See **BOTANY**.

LABIAU, a small town of Ducal Prussia, in a circle of the same name, seated at the mouth of the river Deime, with a strong castle, two sides of which are surrounded with water, and the other defended by a wall and ditch. E. Long. 19. 56. N. Lat. 55. 17.

LABORATORY, or **ELABORATORY**, the chemists workhouse, or the place where furnaces are built, vessels kept, and operations are performed. In general the term *laboratory* is applied to any place where physical experiments in pharmacy, chemistry, pyrotechny, &c. are performed.

As laboratories must be of very different kinds, according to the nature of the operations to be performed in them, it is impossible that any directions can be given which will answer for every one. Where the purposes are merely experimental, a single furnace or two of the portable kind will be sufficient. It is scarcely needful to add, that shelves are necessary for holding

vessels with the products of the different operations: **Laboratory** and that it is absolutely necessary to avoid confusion and disorder, as by these means the products of the operations might be lost or mistaken for one another. Mortars, filters, levigating stones, &c. must also be procured: but from a knowledge of the methods of performing the different chemical operations will easily be derived the knowledge of a proper place to perform them in; for which see **CHEMISTRY**, **METALLURGY**, and **FURNACE**.

Morveau has contrived a portable laboratory with which many chemical experiments may be conveniently performed. The following is a description of it.

Fig. 1. represents the whole apparatus ready mounted for distillation, with the tube of safety and a pneumatic receiver. A is the body or reservoir of Argand's lamp, with its shade and glass chimney. The lamp may be raised or lowered at pleasure by means of the thumb screw B, and the wick rises and falls by the motion of the small toothed wheel placed over the waste cup. This construction is most convenient, because it affords the facility of altering the position of the flame with regard to the vessels, which remain fixed; and the troublesome management of bended wires above the flame for the support of the vessels is avoided, at the same time that the flame itself can be brought nearer to the matter on which it is intended to act. D, a support consisting of a round stem of brass, formed of two pieces which screw together at about two-thirds of its height. Upon this the circular ring E, the arm F, and the nut G slide, and are fixable each by its respective thumb-screw. The arm also carries a moveable piece H, which serves to suspend the vessels in a convenient situation, or to secure their position. The whole support is attached to the square iron stem of the lamp by a piece of hard wood I, which may be fixed at any required situation by its screw. K represents a stand for the receivers. Its moveable tablet L is fixed at any required elevation by the wooden screw M. The piece which forms the foot of this stand is fixed on the board N; but its relative position with regard to the lamp may be changed by sliding the foot of the latter between the pieces O O. P, another stand for the pneumatic trough. It is raised or lowered, and fixed to its place, by a strong wooden screw Q. R is a tube of safety, or reversed syphon, which serves, in a great measure, to prevent the bad effects of having the vessels either perfectly closed, or perfectly open. Suppose the upper bell-shaped vessel to be nearly of the same magnitude as the bulb at the lower end of the tube, and that a quantity of water, or other suitable fluid, somewhat less than the contents of that vessel, be poured into the apparatus: In this situation, if the elasticity of the contents of the vessels be less than that of the external air, the fluid will descend in the bulb, and atmospheric air will follow and pass through the fluid into the vessels: but, on the contrary, if the elasticity of the contents be greater, the fluid will be either sustained in the tube, or driven into the bell-shaped vessel; and if the force be strong enough, the gaseous matter will pass through the fluid, and in part escape.

Fig. 2. Shews the lamp furnace disposed to produce the saline fusion; the chimney of glass shortened; the support D turned down; the capsule of platina or silver S placed on the ring very near the flame.

Fig.

Plate
CCLXXXIX

Laboratory
Labyrinth.

Fig. 3. The same part of the apparatus, in which, instead of the capsule, a very thin and small crucible of platina T is substituted, and rests upon a triangle of iron wire placed on the ring.

Fig. 4. Exhibits the plan of fig. 3.

LABORATORY, in military affairs, signifies that place where all sorts of fire-works are prepared, both for actual service and for experiments, viz. quick matches, fuzes, port-fires, grape shot, case shot, carcasses, hand-grenades, cartridges, shells filled, and fuzes fixed, wads, &c. &c.

LABOUR, in general, denotes a close application to work or business.—Among seamen a ship is said to labour when she rolls and tumbles very much, either a-hull, under sail, or at anchor.—It is also spoken of a woman in travail or childbirth; see MIDWIFERY.

LABOURER, generally signifies one that does the most slavish and less artful part of a laborious work, as that of husbandry, masonry, &c.

LABOUREUR, JOHN LE, almoner to the king of France, and prior of Juvigne, was born at Montmorency near Paris in 1623. At the age of 18, he distinguished himself by publishing "A collection of the monuments of illustrious persons buried in the church of the Celestines at Paris, with their elogies, genealogies, arms, and mottos," 4to. He afterwards published an excellent edition of The Memoirs of Michael de Castelneau, with several other genealogical histories; and died in 1675.—He had a brother, *Louis le Laboureur*, bailiff of Montmorency, author of several pieces of poetry; and an uncle, *Dome Claude le Laboureur*, provost of the abbey of L'Isle Barbe, of which abbey he wrote a history, and published notes and corrections upon the breviary of Lyons, with some other things.

LABRADOR, the same with *New Britain*, or the country round *Hudson's Bay*. See these articles.

LABRADORE STONE, a species of mineral which exhibits a great variety of colours. See MINERALOGY *Index*.

LABRUM, in antiquity, a great tub which stood at the entrance of the temples, containing water for the priests to wash themselves in previous to their sacrifices. It was also the name of a bathing tub used in the baths of the ancients.

LABRUS, a genus of fishes belonging to the order of thoracici. See *ICHTHOLOGY Index*.

LABURNUM. See *CYTISUS*, *BOTANY Index*.

LABYRINTH, among the ancients, was a large intricate edifice cut out into various aisles and meanders running into each other, so as to render it difficult to get out of it.

There is mention made of several of those edifices among the ancients; but the most celebrated are the Egyptian and the Cretan labyrinths.

That of Egypt, according to Pliny, was the oldest of all the known labyrinths, and was subsisting in his time after having stood 3600 years. He says it was built by King Petefucus, or Tithoes; but Herodotus makes it the work of several kings: it stood on the banks of the lake Mæris, and consisted of 12 large contiguous palaces, containing 3000 chambers, 1500 of which were under ground.—Strabo, Diodorus Siculus, Pliny, and Mela, speak of this monument with the same admiration as Herodotus: but not one of them tells us that it was constructed to bewilder those who

attempted to go over it; though it is manifest that, without a guide, they would be in danger of losing their way.

It was this danger, no doubt, which introduced a new term into the Greek language. The word *labyrinth*, taken in the literal sense, signifies a circumscribed space, intersected by a number of passages, some of which cross each other in every direction like those in quarries and mines, and others make larger or smaller circuits round the place from which they depart like the spiral lines we see on certain shells. In the figurative sense, it was applied to obscure and captious questions, to indirect and ambiguous answers, and to those discussions which, after long digressions, bring us back to the point from which we set out.

The Cretan labyrinth is the most famed in history or fable; having been rendered particularly remarkable by the story of the Minotaur, and of Theseus who found his way through all its windings by means of Ariadne's clue. On Plate CCLXXXIX. is exhibited a supposed plan of it, copied after a draught given by Meusius * *In Cret. lib. i. cap. 2.*—But what was the real nature of this labyrinth, merits a more particular inquiry.

Diodorus Siculus relates as a conjecture, and Pliny as a certain fact, that Dædalus constructed this labyrinth on the model of that of Egypt, though on a less scale. They add, that it was formed by the command of Minos, who kept the Minotaur shut up in it; and that in their time it no longer existed, having been either destroyed by time, or purposely demolished. Diodorus Siculus and Pliny, therefore, considered this labyrinth as a large edifice; while other writers represent it simply as a cavern hollowed in the rock, and full of winding passages. The two former authors, and the writers last mentioned, have transmitted to us two different traditions; it remains for us to choose that which is most probable.

If the labyrinth of Crete had been constructed by Dædalus under Minos, whence is it that we find no mention of it, neither in Homer, who more than once speaks of that prince and of Crete; nor in Herodotus, who describes that of Egypt, after having said that the monuments of the Egyptians are much superior to those of the Greeks; nor in the more ancient geographers; nor in any of the writers of the ages when Greece flourished?

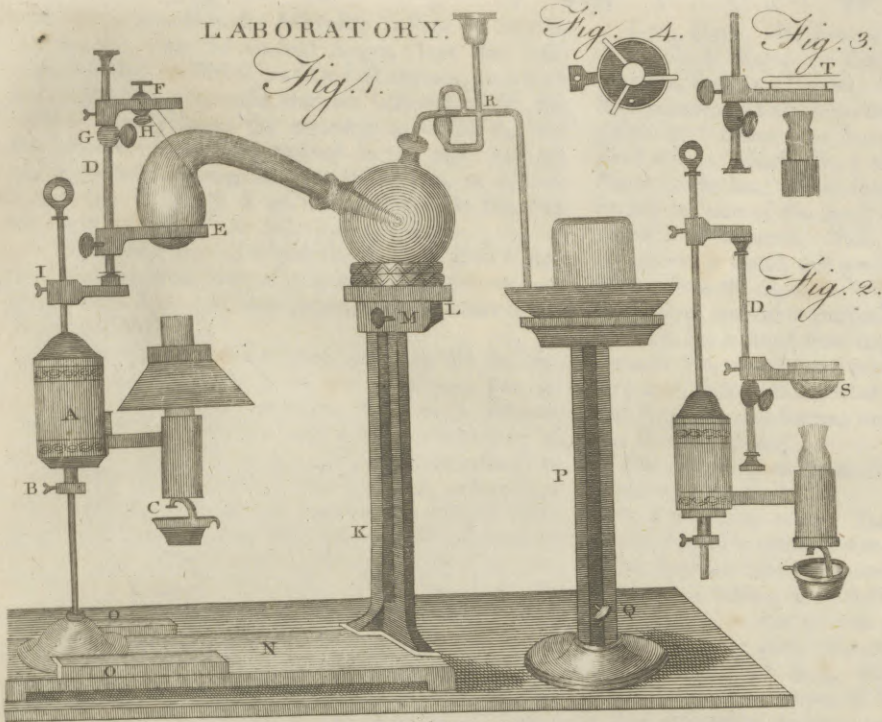
This work was attributed to Dædalus, whose name is alone sufficient to discredit a tradition. In fact, his name, like that of Hercules, had become the resource of ignorance, whenever it turned its eyes on the early ages. All great labours, all works which required more strength and ingenuity, were attributed to Hercules; and all those which had a relation to the arts, and required a certain degree of intelligence in the execution, were ascribed to Dædalus.

The opinion of Diodorus and Pliny supposes, that in their time no traces of the labyrinth existed in Crete, and that even the date of its destruction had been forgotten. Yet it is said to have been visited by the disciples of Apollonius of Tyana, who was contemporary with those two authors. The Cretans, therefore, then believed that they possessed the labyrinth.

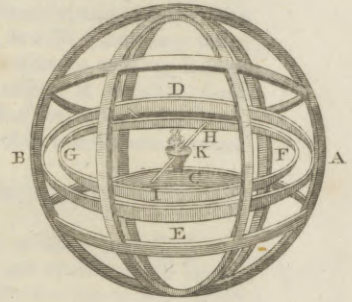
"I would request the reader (continues the abbé *Travels of Anacharsis*, vi. 441.†) Barthlemi *, from whom these observations are extracted)

LABORATORY.

Plate CCLXXXIX.



ROLLING LAMP.



LABYRINTH.



A. Bell Prin. W. ab. Sculptor fecit.

Labyrinth, traſted) to attend to the following paſſage in Strabo.
 Lac. At Napulia, near the ancient Argos, (ſays that judicious writer), are ſtill to be ſeen vaſt caverns, in which are conſtructed labyrinths that are believed to be the work of the Cyclops: the meaning of which is, that the labours of men had opened in the rock paſſages which croſſed and returned upon themſelves, as is done in quarries. Such, if I am not miſtaken, is the idea we ought to form of the labyrinth of Crete.

“ Were there ſeveral labyrinths in that iſland? Ancient authors ſpeak only of one, which the greater part place at Cnoſſus; and ſome, though the number is but ſmall, at Gortyna.

“ Belon and Tournefort have given us the deſcription of a cavern ſituated at the foot of Mount Ida, on the ſouth ſide of the mountain, at a ſmall diſtance from Gortyna. This was only a quarry according to the former, and the ancient labyrinth according to the latter; whoſe opinion I have followed, and abridged his account. Thoſe who have added critical notes to his work, beſides this labyrinth, admit a ſecond at Cnoſſus, and adduce as the principal ſupport of this opinion the coins of that city, which repreſent the plan of it, according as the artiſts conceived it. For on ſome of theſe it appears of a ſquare form, on others round: on ſome it is only ſketched out; on others it has, in the middle of it, the head of the Minotaur. In the Memoirs of the Academy of Belles Lettres, I have given an engraving of one which appears to me to be of about the 15th century before Chriſt, and on which we ſee on one ſide the figure of the Minotaur, and on the other a rude plan of the labyrinth. It is therefore certain, that at that time the Cnoſſians believed they were in poſſeſſion of that celebrated cavern; and it alſo appears that the Gortynians did not pretend to conteſt their claim, ſince they have never given the figure of it on their money.

“ The place where I ſuppoſe the labyrinth of Crete to have been ſituated, according to Tournefort, is but one league diſtant from Gortyna; and, according to Strabo, it was diſtant from Cnoſſus ſix or ſeven leagues. All we can conclude from this is, that the territory of the latter city extended to very near the former.

“ What was the uſe of the caverns to which the name of labyrinth was given? I imagine that they were firſt excavated in part by nature; that in ſome places ſtones were extracted from them for building cities; and that, in more ancient times, they ſerved for a habitation or aſylum to the inhabitants of a diſtrict expoſed to frequent incurſions. In the journey of Anachariſs through Phocis, I have ſpoken of two great caverns of Parnaſſus, in which the neighbouring people took refuge; in the one at the time of the deluge of Deucalion, and in the other at the invaſion of Xerxes. I here add, that, according to Diodorus Siculus, the moſt ancient Cretans dwelt in the caves of Mount Ida. The people when inquiries were made on the ſpot, ſaid that their labyrinth was originally only a priſon. It may have been put to this uſe; but it is difficult to believe that, to prevent the eſcape of a few unhappy wretches, ſuch imenſe labours would have been undertaken.”

Labyrinth of the Ear. See ANATOMY.

LAC, MILK. See MILK, CHEMISTRY Index.

VOL. XI. Part II.

LAC, Gum. See LACCA.

LACCA, LAC, or Gum Lac, is a ſubſtance, of which a ſpecies of inſects form cells upon trees, like honeycombs. This is the *coccus lacca*, Lin. See ENTOMOLOGY Index. In theſe cells remain ſome of the dead inſects, which give a red colour to the whole ſubſtance of the lac. That called *ſtick lac* is the wax adhering to ſome of the ſmall branches of the tree, and which is unprepared. This lac, when ſeparated from the adhering ſticks, and groſſly powdered, and deprived of its colour by diſteſtion with menſtruums, for the ſake of the dyes and other purpoſes, is called *ſeed lac*; when the ſtick lac is freed from impurities by melting it over a gentle fire, and formed into cakes, it is called *lump lac*; and, laſtly, that called *ſhell lac* is the cells liquefied, ſtrained, and formed into thin transparent laminæ. See DYEING Index.

The following are ſome of the purpoſes to which this ſubſtance is applied.

1. For *ſealing wax*. Take a ſtick, and heat one end of it upon a charcoal fire; put upon it a few leaves of the ſhell lac ſoftened above the fire; keep alternately heating and adding more ſhell lac until you have got a maſs of three or four pounds of liquefied ſhell lac upon the end of your ſtick (in which manner lump lac is formed from ſeed lac). Knead this upon a wetted board with three ounces of levigated cinnabar; form it into cylindrical pieces; and to give them a poliſh, rub them while hot with a cotton cloth.

2. For *japanning*. Take a lump of ſhell lac, prepared in the manner of ſealing wax, with whatever colour you pleaſe, fix it upon the end of a ſtick, heat the poliſhed wood over a charcoal fire, and rub it over with the half melted lac, and poliſh by rubbing it even with a piece of folded plantain leaf held in the hand; heating the lacquer and adding more lac as occaſion requires. Their figures are formed by lac, charged with various colours in the ſame manner.

3. For *varniſh*. In ornamenting their images and religious houſes, &c. they make uſe of very thin beat lead, which they cover with various varniſhes, made of lac charged with colours. The preparation of them is kept a ſecret. The leaf of lead is laid upon a ſmooth iron heated by fire below while they ſpread the varniſh upon it.

4. For *grindſtones*. Take of river ſand three parts, of ſeed lac waſhed one part: mix them over the fire in a pot, and form the maſs into the ſhape of a grindſtone, having a ſquare hole in the centre, fix it on an axis with liquefied lac, heat the ſtone moderately, and by turning the axis it may eaſily be formed into an exact orbicular ſhape. Poliſhing grindſtones are made only of ſuch ſand as will paſs eaſily through fine muſlin, in the proportion of two parts ſand to one of lac. This ſand is found at Ragimaul. It is compoſed of ſmall angular cryſtalline particles tinged red with iron, two parts to one of black magnetic ſand. The ſtonecutters, inſtead of ſand, uſe the powder of a very hard granite called *corune*. Theſe grindſtones cut very faſt. When they want to increaſe their power, they throw ſand upon them, or let them occaſionally touch the edge of a vitrified brick. The ſame compoſition is formed upon ſticks, for cutting ſtones, ſhells, &c. by the hand.

Lac,
Lacca.

Lacca.

5. For *painting*. Take one gallon of the red liquid from the first washing for shell lac, strain it through a cloth, and let it boil for a short time, then add half an ounce of soap earth (fossil alkali); boil an hour more, and add three ounces of powdered load (bark of a tree); boil a short time, let it stand all night, and strain next day. Evaporate three quarts of milk without cream to two quarts upon a slow fire, curdle it with sour milk, and let it stand for a day or two; then mix it with the red liquid above mentioned; strain them through a cloth, add to the mixture one ounce and a half of alum, and the juice of eight or ten lemons: mix the whole, and throw it into a cloth bag strainer. The blood of the insect forms a coagulum with the caseous part of the milk, and remains in the bag, while a limpid acid water drains from it. The coagulum is dried in a shade, and is used as a red colour in painting and colouring.

The method of obtaining the fine red lac used by painters from this substance, is by the following simple process: Boil the stick lac in water, filter the decoction, and evaporate the clear liquor to dryness over a gentle fire. The occasion of this easy separation is, that the beautiful red colour here separated, adheres only slightly to the outsides of the sticks broke off the trees along with the gum lac, and readily communicates itself to boiling water. Some of the sticking matter also adhering to the gum itself, it is proper to boil the whole together; for the gum does not at all prejudice the colour, nor dissolve in boiling water: so that after this operation the gum is as fit for making sealing wax as before, and for all other uses which do not require its colour.

6. For *dyeing*. See *DYEING Index*.

Lac is likewise employed for medicinal purposes.—The stick lac is the sort used. It is of great esteem in Germany, and other countries, for laxity and sponginess of the gums proceeding from cold or a scorbutic habit: for this use the lac is boiled in water, with the addition of a little alum, which promotes its solution; or a tincture is made from it with rectified spirit. This tincture is recommended also internally in the fluor albus, and in rheumatic and scorbutic disorders: it has a grateful smell, and not unpleasent, bitterish, astringent taste.

The gum-lac has been used as an electric, instead of glass, for electrical machines. See *LACQUER*, *LAKE*, and *VARNISH*.

Artificial Lacca, or *Lacque*, is also a name given to a coloured substance drawn from several flowers; as the yellow from the flower of the juniper, the red from the poppy, and the blue from the iris or violet. The tinctures of these flowers are extracted by digesting them several times in aqua vitæ, or by boiling them over a stove fire in a lixivium of pot ashes and alum.

An artificial lacca is also made of Brasil wood, boiled in a lixivium of the branches of the vine, adding a little cochineal, turmeric, calcined alum, and arsenic, incorporated with the bones of the cuttle fish pulverized and made up into little cakes and dried. If it be to be very red, they add the juice of lemon to it; to make it brown, they add oil of tartar. Dove-coloured or columbine lacca is made with Brasil of Fernambuc, steeped in distilled vinegar for the space of a month, and mixed with alum incorporated in

cuttle fish bone. For other processes, see *COLOUR-Making*.

LACE, in *Commerce*, a work composed of many threads of gold, silver, or silk, interwoven the one with the other, and worked upon a pillow with spindles according to the pattern designed. The open work is formed with pins, which are placed and displaced as the spindles are moved. The importation of gold and silver lace is prohibited.

Method of Cleaning Gold-LACE and Embroidery when tarnished.—For this purpose alkaline liquors are by no means to be used; for while they clean the gold, they corrode the silk, and change or discharge its colour. Soap also alters the shade, and even the species, of certain colours. But spirit of wine may be used without any danger of its injuring either the colour or quality of the subject; and in many cases proves as effectual, for restoring the lustre of the gold, as the corrosive detergents. A rich brocade, flowered with a variety of colours, after being disagreeably tarnished, had the lustre of the gold perfectly restored by washing it with a soft brush dipt in warm spirit of wine; and some of the colours of the silk, which were likewise soiled, became at the same time remarkably bright and lively. Spirit of wine seems to be the only material adapted to this intention, and probably the boasted secret of certain artists is no other than this spirit disguised. Among liquids, Dr Lewis says, he does not know of any other that is of sufficient activity to discharge the foul matter, without being hurtful to the silk: as to powders, however fine, and however cautiously used, they scratch and wear the gold, which here is only superficial and of extreme tenuity.

But though spirit of wine is the most innocent material that can be employed for this purpose, it is not in all cases proper. The golden covering may be in some parts worn off; or the base metal, with which it had been iniquitously alloyed, may be corroded by the air, so as to leave the particles of the gold disunited; while the silver underneath, tarnished to a yellow hue, may continue a tolerable colour to the whole; in which cases it is apparent, that the removal of the tarnish would be prejudicial to the colour, and make the lace or embroidery less like gold than it was before. A piece of old tarnished gold lace, cleaned by the spirit of wine, was deprived, with its tarnish, of the greatest part of its golden hue, and looked now almost like silver lace.

Method of separating the Gold and Silver from LACE without burning it. Cut the lace in pieces, and (having separated the thread from it by which it was sewed to the garment) tie it up in a linen cloth, and boil it in soap ley, diluted with water, till you perceive it is diminished in bulk; which will take up but a little time, unless the quantity of lace be very considerable. Then take out the cloth, and wash it several times in cold water; squeezing it pretty hard with your foot, or beating it with a mallet, to clear it of the soap ley; then untie the cloth, and you will have the metallic part of the lace pure, and nowhere altered in colour or diminished in weight.

This method is abundantly more convenient and less troublesome than the common way of burning; and as a small quantity of the ley will be sufficient, the expence

Lace.

Lace,
Lacedæmon.

expenditure will be trifling, especially as the same ley may be used several times, if cleared of the silky calcination. It may be done in either an iron or copper vessel.

The ley may be had at the soap boilers, or it may be made of pearl ash and quicklime boiled together in a sufficient quantity of water.

The reason of this sudden change in the lace will be evident to those who are acquainted with chemistry: for silk, on which all our laces are woven, is an animal substance, and all animal substances are soluble in alkalies, especially when rendered more caustic by the addition of quicklime; but the linen you tie it in, being a vegetable, will remain unaltered.

Blond-Lace, a lace made of fine linen thread or silk, much in the same manner as that of gold and silver. The pattern of the lace is fixed upon a large round pillow, and pins being stuck into the holes or openings in the patterns, the threads are interwoven by means of a number of bobbins made of bone or ivory, each of which contains a small quantity of fine thread, in such a manner as to make the lace exactly resemble the pattern. There are several towns in England, and particularly in Buckinghamshire, that carry on this manufacture; but vast quantities of the finest lace have been imported from Flanders.

LACEDÆMON, in fabulous history, a son of Jupiter and Taygete the daughter of Atlas, who married Sparta the daughter of Europa, by whom he had Amyclas and Eurydice the wife of Acrisius. He was the first who introduced the worship of the Graces in Laconia, and who first built them a temple. From Lacedæmon and his wife, the capital of Laconia was called *Lacedæmon* and *Sparta*.

LACEDÆMON, a noble city of Peloponnesus, called also *Sparta*; these names differing in this, that the latter is the proper and ancient name of the city, the former of the country, which afterwards came to be applied to the city (Strabo, Stephanus.) Homer also makes this distinction; who calls the country *holy*, because encompassed with mountains. It has also been severally known by the name of *Lelegia*, from the Leleges the first inhabitants of the country, or from Lelex one of their kings; and *Oebalia*, from *Oebalus* the sixth king from Eurotas. It was also called *Hecatompolis*, from 100 cities which the whole province once contained. This city was the capital of Laconia, situated on the right or west side of the Eurotas: it was less in compass than, however equal, or even superior to, Athens in power. Polybius makes it 48 stadia, a circuit much inferior to that of Athens. Lelex is supposed to have been the first king of Lacedæmon. His descendants, 13 in number, reigned successively after him, till the reign of the sons of Orestes, when the Heraclidæ recovered the Peloponnesus about 80 years after the Trojan war. Procles and Eurysthenes, the descendants of the Heraclidæ, usurped the crown together; and after them it was decreed that the two families should always sit on the throne together. The monarchical power was abolished, and the race of the Heraclidæ extinguished at Sparta about 219 years before Christ. Lacedæmon in its flourishing state remained without walls, the bravery of its citizens being instead of them (Nepos). At length in Cassander's time, or after, when the city was in the hands of tyrants, distrusting the defence by arms and

bravery, a wall was built round it, at first slight, and in a tumultuary or hasty manner; which the tyrant Nabis made very strong (Livy, Justin). Pausanias ascribes the first walls to the times of Demetrius and Pyrrhus, under Nabis. The walls of the city were pulled down 188 years before Christ by Philopœmen, who was then at the head of the Achæan league, and Laconia some time after became a Roman province when reduced by Mummius. See SPARTA.—The present city is called *Mistra*, situated in E. Long. 23. 0. N. Lat. 36. 55.

LACERNA, a coarse thick garment worn by the Romans over their gowns, like a cloak, to keep off the rain and cold. It was first used in the camp, but afterwards admitted into the city. The emperors wore the lacerna of a purple dye. The lacerna was at first very short, but was lengthened after it became fashionable, which was not till the civil wars and the triumvirate; before this time it was confined to the soldiers. Senators were forbidden wearing it in the city by Valentinian and Theodosius. Martial makes mention of lacernæ worth 10,000 sesterces. Some confound this garment with the penula; but it seems rather to have resembled the *chlamys* and *birrus*.

LACERTA, including the LIZARD, CROCODILE, &c. a genus of amphibious animals, belonging to the order of reptilia. See ERPETOLOGY Index.

LACHES, (from the French *lâcher*, i. e. *laxare*, or *lâche*, *ignavus*), in the English law signifies slackness or negligence, as it appears in Littleton, where *laches of entry* is a neglect of the heir to enter. And probably it may be an old English word: for where we say there is *laches* of entry, it is all one as if it were said there is a *lack* of entry: and in this signification it is used. No *laches* shall be adjudged in the heir within age; and regularly, *laches* shall not bar infants or femme covert for not entry or claim, to avoid descents; but *laches* shall be accounted in them for non-performance of a condition annexed to the state of the land.

LACHESIS, in *Mythology*, one of the Parcæ. Her name is derived from *λαχεν*, to measure out by lot. She presided over futurity, and was represented as spinning the thread of life, or, according to others, holding the spindle. She generally appeared covered with a garment variegated with stars, and holding spindles in her hand.

LACHISH, in *Ancient Geography*, a city southward of the tribe of Judah. Eusebius and St Jerome tell us, that in their time there was a village called *Lachish*, seven miles from Eleutheropolis, southward. Sennacherib besieged Lachish, but did not take it. From thence it was that he sent Rabshakeh against Jerusalem. Here King Amaziah was slain by his rebel subjects.

LACHNEA, a genus of plants belonging to the octandria class, and in the natural method ranking under the 31st order, *Veprecule*. See BOTANY Index.

LACHRYMAL, in *Anatomy*, an appellation given to several parts of the eye. See ANATOMY.

LACHRYMATORY, in antiquity, a vessel wherein were collected the tears of a deceased person's friends, and preserved along with the ashes and urn. They were small glass or earthen bottles, chiefly in the form of phials. At the Roman funerals, the friends

Lacerna
||
Lachrymatory.

Lacinium of the deceased, or the *præfica*, women hired for that purpose, used to fill them with their tears, and deposit them very carefully with the ashes, in testimony of their sorrow, imagining the manes of the deceased were thereby greatly comforted. Many specimens of them are preserved in the cabinets of the curious, particularly in the British Museum.

||
Lacquers.

LACINIUM, in *Ancient Geography*, a noble promontory of the Bruttii, in Italy, the south boundary of the Sinus Tarentinus and the Adriatic; all to the south of it being deemed the Ionian sea: it was famous for a rich temple of Juno, surnamed *Lacinia*, with a pillar of solid gold standing in it; which Hannibal intending to carry off, was, according to Cicero, dissuaded by a dream. Now *Capo delle Colonne*, from the columns of Juno's temple still standing on the north-east coast of Calabria Ultra.

LACK OF RUPEES, is 100,000 rupees; which supposing them standard, or siccas, at zs. 6d. amounts to 12,500l. sterling.

LACMUS, a dye stuff prepared by the Dutch from the *Lichen roccella*. See *DYEING Index*.

LACONIA, or **LACONICA**, a country in the southern parts of Peloponnesus, having Argos and Arcadia on the north, Messenia on the west, the Mediterranean on the south, and the bay of Argos on the east. Its extent from north to south was about 50 miles. It was watered by the river Eurotas. The capital was called Sparta, or Lacedæmon: (See *LACEDÆMON* and *SPARTA*.) The brevity with which the Laconians always expressed themselves is now become proverbial; and by the epithet of *Laconic* we understand whatever is concise, and is not loaded with unnecessary words.

LACONIUM, (whence our term *laconic*), a short pithy sententious speech, such as the Lacedæmonians were remarkable for: Their way of delivering themselves was very concise, and much to the purpose. See the preceding article.

LACQUERS, are varnishes applied upon tin, brass, and other metals, to preserve them from tarnishing, and to improve their colour. The basis of lacquers is a solution of the resinous substance called *seed lac*, in spirit of wine. The spirit ought to be very strong, in order to dissolve much of the lac. For this purpose, some authors direct dry potash to be thrown into the spirit. This alkali attracts the water, with which it forms a liquid that subsides distinctly from the spirit at the bottom of the vessel. From this liquid the spirit may be separated by decantation: but by this process the spirit is impregnated with part of the alkali, which depraves its colour, and communicates a property to the lacquer of imbibing moisture from the air. These inconveniences may be prevented by distilling the spirit; or, if the artist has not an opportunity of performing that process, he may cleanse the spirit in a great measure from the alkali, by adding to it some calcined alum; the acid of which uniting with the alkali remaining in the spirit, forms with it a vitriolated tartar, which, not being soluble in spirit of wine, falls to the bottom together with the earth of the decomposed alum. To a pint of the purified spirit, about three ounces of powdered shell lac are to be added; and the mixture to be digested during same day with a moderate heat. The li-

quor ought then to be poured off, strained, and cleared by settling. This clear liquor is now fit to receive the required colour from certain resinous colouring substances, the principal of which are gamboge and anotto; the former of which gives a yellow, and the latter an orange colour. In order to give a golden colour, two parts of gamboge are added to one of anotto; but these colouring substances may be separately dissolved in the tincture of lac, and the colour required may be adjusted by mixing the two solutions in different proportions. When silver leaf or tin are to be lacquered, a larger quantity of the colouring materials is requisite than when the lacquer is intended to be laid on brass.

LACSHA, the Indian name of the lac insect. See *LAC*, *CHEMISTRY* and *DYEING Index*.

LACTATIO, **LACTATION**, among medical writers, denotes the *giving suck*. The mother's breast, if possible, should be allowed the child, at least during the first month; for thus the child is more peculiarly benefited by what it sucks, and the mother is preserved from more real inconveniences than the falsely delicate imagine they would suffer by compliance herewith: but if by reason of an infirm constitution, or other causes, the mother cannot suckle her child, let dry nursing under the mother's eye be pursued.

When women lose their appetite by giving suck, both the children and themselves are thereby injured; wet nurses are to be preferred, who, during the time they give the breast, have rather an increased appetite, and digest more quickly; the former are apt to waste away, and sometimes die consumptive. In short, those nurses with whom lactation may for a while agree, should wean the child as soon as their appetite lessens, their strength seems to fail, or a tendency to hysteric symptoms is manifest.

When the new born child is to be brought up by the mother's breast, apply it thereto in ten or twelve hours after delivery: thus the milk is sooner and more easily supplied, and there is less hazard of a fever than when the child is not put to it before the milk begins to flow of itself.

If the mother does not suckle her child, her breasts should be kept so warm with flannels, or with a hare skin, that a constant perspiration may be supported; thus there rarely will arise much inconvenience from the milk.

The child, notwithstanding all our care in dry nursing, sometimes pines if a breast is not allowed. In this case a wet nurse should be provided, if possible one that hath not been long delivered of a child. She should be young, of a healthy habit, and an active disposition, a mild temper, and whose breasts are well filled with milk. If the milk is good, it is sweetish to the taste, and totally free from saltness; to the eye it appears thin, and of a bluish cast. That the woman hath her menses, if in other respects objections be not made, need not be any; and as to the custom with many, of abstaining from venery while they continue to suckle a child, it is so far without reason to support it, that the truth is, a rigorous chastity is as hurtful, and often more pernicious, than an immoderate use of venery. Amongst the vulgar errors, is that of red-haired women being improper for wet nurses.

Lactia,
Lactatio.

Motherby's
Medical
Dictionary.

Lactantius If the menfes do not appear during the firft months, but after fix or eight months fuckling they begin to de-
Lactiferous. fcend, the child fhould be weaned.

Wet nurfes fhould eat at leaft one hearty meal of animal food every day; with this a proper quantity of vegetables fhould be mixed. Thin broth or milk are proper for their breakfasts and their fuppers; and if the ftrength fhould feem to fail a little, a draught of good ale fhould now and then be allowed: but fpiritu-ous liquors muft in general be forborne; not but a fpoon-ful of rum may be allowed in a quart of milk and water, (i. e. a pint of each), which is a proper common drink.

Though it is well obferved by Dr Hunter, that the far greater number of thofe women who have can- cers in the breaft or womb are old maids, and thofe who refufe to give fuck to their children; yet it is the unhappinefs of fome willing mothers not to be able: for inftance, thofe with tender conftitutions, and who are fubject to nervous diforders; thofe who do not eat a fufficient quantity of folid food, nor enjoy the benefit of exercife and air: if children are kept at their breafts, they either die while young, or are weak and fickly after childhood is paft, and fo on through remaining life.

LACTANTIUS, **LUCIUS COELIUS FIRMIANUS**, a celebrated author at the beginning of the 4th century, was, according to Baronius, an African; but, accord- ing to others, was born at Fermo in the marquisate of Ancona, from whence it is imagined he was called *Firmitianus*. He ftudied rhetoric under Arnobius; and was afterwards a professor of that fcience in Africa and Nicomedia, where he was fo admired, that the empe- ror Conftantine chofe him preceptor to his fon Crifpus Cæfar. Lactantius was fo far from feeking the plea- fures and riches of the court, that he lived there in po- verty, and, according to Eufebius, frequently wanted neceffaries. His works are written in elegant Latin. The principal of which are, 1. *De ira divina*. 2. *De operibus Dei*, in which he treats of the creation of man, and of divine providence. 3. *Divine Inftitutions*, in feven books: this the moft confiderable of all his works: he there undertakes to prove the truth of the Chriftian religion, and to refute all the difficulties that had been raifed againft it; and he folidly, and with great ftrength, attacks the illufions of Paganifm. His ftyle is pure, clear, and natural, and his expreffions noble and elegant, on which account he has been called the *Cicero of the Chriftians*. There is alfo attributed to him a treatife *De morte perfecutorum*; but feveral of the learned doubt its being written by Lactantius. The moft copious edition of Lactantius's works is that of Paris in 1748, 2 vols. 4to.

LACTEALS, or **LACTEAL VESSELS**, a kind of long slender tubes for the conveyance of the chyle from the inteflines to the common refervatory. See **ANATOMY**, N^o 105.

LACTIFEROUS, an appellation given to plants abounding with a milky juice, as the fow thiftle and the like: The name of *lactiferous*, or *lactefcent*, is given to all thofe plants which abound with a thick coloured juice, without regarding whether it is white or not. Moft lactiferous plants are poifonous, except thofe with compound flowers, which are generally of an innocent quality.

Of the poifonous lactefcent plants the moft remark- able are fumach, agaric, maple, burning thorny plant, caffada, celandine, puccoon, prickly poppy, and the plants of the natural order *contortæ*, as fwallow-wort, apocynum, cynanchum, and cerbera.

The bell-shaped flowers are partly noxious, as cardi- nal flower; partly innocent, as campanula.

Among the lactefcent plants with compound flowers that are innocent in their quality, may be mentioned dandelion, picris, hyoferis, wild lettuce, gum fuccory, hawkweed, baftard hawkweed, hypochæris, goat's beard, and moft fpecies of lettuce: we fay moft fpe- cies, becaufe the prickly fpecies of that genus are faid to be of a very virulent and poifonous nature; though Mr Lightfoot denies this, and affirms that they are a fafe and gentle opiate, and that a fyrup made from the leaves and ftalks is much preferable to the common dia- codium.

LACTUCA, **LETTUCE**, a genus of plants belong- ing to the fyngenefia clafs; and in the natural method ranking under the 49th order, *Compositæ*. See **BO- TANY Index**. And for the method of cultivating lettuce fee **GARDENING Index**.

LACUNÆ, in *Anatomy*, certain excretory canals in the genital parts of women.

LACUNAR, in *Architecture*, an arched roof or ceiling, more efppecially the planking or flooring above porticos or piazzas.

LACYDES, a Greek philofopher, born at Cyrene, was the difciple of Arceflaus, and his fucceffor in the academy. He taught in a garden given him by At- talus king of Pergamus; but that prince fending for him to court, he replied, "That the pictures of kings fhould be viewed at a diftance." He imitated his mafter in the pleasure he took in doing good with- out caring to have it known: he had a goofe which followed him everywhere by night as well as by day; and when ſhe died, he made a funeral for her, which was as magnificent as if it had been for a fon or a brother. He taught the fame doctrine as Arceflaus; and pretended that we ought to determine nothing, but always to fufpend our opinion. He died 212. B. C.

LADDER, a frame made with a number of fteps, by means of which people may afcend as on a ftair to places otherwife inaccessible.

Scaling LADDERS, in the military art, are ufed in fcaling when a place is to be taken by furprife. They are made feveral ways: here we make them of flat ftaves, fo that they may move about their pins, and fhut like a parallel ruler, for conveniently carrying them: the French make them of feveral pieces, fo as to be joined together, and to be made of any neceffary length: fometimes they are made of fingle ropes, knotted at proper diftances, with iron hooks at each end, one to faften them upon the wall above, and the other in the ground; and fometimes they are made with two ropes, and ftaves between them, to keep the ropes at a proper diftance, and to tread upon. When they are ufed in the action of fcaling walls, they ought to be rather too long than too fhort, and to be given in charge only to the ftouteft of the detach- ment. The foldiers fhould carry thefe ladders with the left arm paffed through the fecond ftap, taking care to hold them upright clofe to their fides, and very

Lactuca
||
Ladder.

Laden
||
Ladoga.

very short below, to prevent any accident in leaping into the ditch.

The first rank of each division, provided with ladders, should set out with the rest at the signal, marching resolutely with their firelocks slung, to jump into the ditch; when they are arrived, they should apply their ladders against the parapet, observing to place them towards the salient angles rather than the middle of the curtain, because the enemy have less force there. Care must be taken to place the ladders within a foot of each other, and not to give them too much nor too little slope, so that they may not be overturned or broke with the weight of the soldiers mounting upon them.

The ladders being applied, they who have carried them, and they who come after, should mount up, and rush upon the enemy sword-in-hand: if he who goes first, happens to be overturned, the next should take care not to be thrown down by his comrade; but, on the contrary, immediately mount himself, so as not to give the enemy time to load his piece.

As the soldiers who mount first may be easily tumbled over, and their fall may cause the attack to fail, it would perhaps be right to protect their breasts with the fore parts of cuirasses; because, if they can penetrate, the rest may easily follow.

The success of an attack by scaling is infallible, if they mount the four sides at once, and take care to shower a number of grenades amongst the enemy, especially when supported by some grenadiers and picquets, who share the attention and fire of the enemy.

LADEN, in the sea language, the state of a ship when she is charged with a weight or quantity of any sort of merchandises, or other materials, equal to her tonnage or burden. If the cargo with which she is laden is extremely heavy, her burden is determined by the weight of the goods; and if it is light, she carries as much as she can *stow*, to be fit for the purposes of navigation. As a ton in measure is generally estimated at 2000lb. in weight, a vessel of 200 tons ought accordingly to carry a weight equal to 400,000lb. when the matter of which the cargo is composed is specifically heavier than the water in which she floats; or, in other words, when the cargo is so heavy that she cannot float high enough with so great a quantity of it as her hold will contain.

LADEN in *Bulk*, the state of being freighted with a cargo which is neither in casks, boxes, bales, nor cases, but lies loose in the hold; being defended from the moisture or wet of the hold, by a number of mats and a quantity of *dunage*. Such are usually the cargoes of corn, salt, or such materials.

LADENBURG, a town of Germany in the palatinate of the Rhine, seated on the river Neckar, in E. Long. 8. 42. N. Lat. 49. 27. It belongs to the bishopric of Worms, and the elector Palatine.

LADISLAUS, the name of several kings of Poland. See POLAND.

LADOGA, a lake in Russia, between the gulfs of Onega and Finland, measuring 150 miles by 90, and considered as the largest in Europe. Seals are among the fish with which it abounds. It is full of quicksands, which often prove fatal to the Russian flat-bottomed vessels; these sands often shifting from place to place by violent storms, and forming a number of shelves.

On this account Peter the Great cut a canal 67 miles in length from the south-west extremity of the lake, thus opening a communication between it and the gulf of Finland.

Ladoga
||
Ladone.

LADOGA, *New*, a town in the Russian government of Peterburgh, seated on the Volkhof, between the canal and lake of Ladoga. Old Ladoga is higher up the river, and a place of no great extent. The former is 70 miles east of Peterburgh, in N. Lat. 60°. E. Long. 30. 32.

LADOGNA, or LACEDOGNA, a town of Italy in the kingdom of Naples, and in the Capitanata, with a bishop's see. E. Long. 15. 12. N. Lat. 41. 16.

LADON, in *Ancient Geography*, a river of Arcadia falling in the ALPHEUS. The metamorphosis of Daphne into a laurel, and of Syrinx into a reed, happened near its banks.

LADRONE or MARIAN islands, a cluster of twelve islands lying in the Pacific ocean, in about 145° of east longitude, and between the 11th and 21st degree of north latitude. They were first discovered by Magellan, who sailed round the world through the straits which bear his name. He gave them the name of *Ladrone islanas*, or the *islands of Thieves*, from the thievish disposition of the inhabitants. At the time these islands were discovered by the Europeans, the natives were totally unacquainted with any other country besides their own; and having no traditionary accounts of their own origin, they imagined that the author of their race was formed of a piece of the rock of Funa, one of their smallest islands. Many things looked upon by us as absolutely necessary to our existence, were utterly unknown to these people. They had no animals of any sort; and would not even have had any idea of them, had it not been for the birds; and even of them they had but one species, somewhat like the turtle dove, which they never killed for eating, but only tamed them, and taught them to speak. They were much astonished on seeing a horse which a Spanish captain left among them in 1673, and could not for a long time be satisfied with admiring him. But what is more surprising and incredible in their history is, that they were utterly unacquainted with the element of fire till Magellan, provoked by their repeated thefts, burned one of their villages. When they saw their wooden houses blazing, they first thought that the fire was a beast which fed upon the wood; and some of them who came too near, being burnt, the rest stood at a distance, lest they should be devoured or poisoned by the breathings of this terrible animal.

The inhabitants of the Ladrone islands are olive coloured, but not of such a deep dye as those of the Philippine islands; their stature is good, and their limbs well proportioned. Though their food consists entirely of fish, fruits, and roots, yet they are so fat, that to strangers they appear swelled; but this does not render them less nimble and active. They often live to 100 years or more, yet retain the health and vigour of men of 50. The men go stark naked, but the women are covered. They are not ill looked, and take great care of their beauty, though their ideas on that subject are very different from ours. They love black teeth and white hair. Hence one of their principal occupations is to keep their teeth black by the help of certain

Ladronc. certain herbs, and to whiten their hair, sprinkling upon it a certain water for this purpose. The women have their hair very long; but the men generally shave it close, except a single lock on the crown of the head, after the manner of the Japanese. Their language much resembles that of the people called *Tagales* in the Philippine islands. It is agreeable to the ear, with a soft and easy pronunciation. One of its chief graces consists in the facility of transposing words, and even all the syllables of one word; and thus furnishing a variety of double meanings, with which these people are greatly delighted. Though plunged in the deepest ignorance, and destitute of every thing valued by the rest of mankind, no nation ever showed more presumption or greater conceit of themselves, than these islanders, looking on their own nation as the only wise, sensible, and polished one in the world, and beholding every other people with the greatest contempt. Though they are ignorant of the arts and sciences, yet, like every other nation, they have their fables which serve them for history, and some poems which they greatly admire. A poet is with them a character of the first eminence, and greatly respected.

It is not known at what time, or from what place, the Ladronc islands were first peopled. As Japan lies within six or seven days sail of them, some have been induced to believe, that the first inhabitants of the Ladrones came from Japan. But from their greater resemblance to the inhabitants of the Philippine islands than to the Japanese, it is more probable that they came from the former than the latter. Formerly most of the islands were inhabited; and about 90 years ago, the three principal islands, Guam, Tinian, and Rota, are said to have contained 50,000 people; but since that time, Tinian has been entirely depopulated, and only 200 or 300 Indians left at Rota to cultivate rice for the island of Guam, which alone is inhabited by Europeans, and where the Spaniards have a governor and a garrison: here also the annual Manilla ship touches for refreshments in her passage from Acapulco to the Philippines. The island of Tinian afforded an asylum to Commodore Anson in 1742; and the masterly manner in which the author of that voyage paints the natural beauties of the country, has given a degree of estimation not only to this island, but to all the rest, which they had not before. Commodore Byron, in 1765, continued nine weeks at Tinian, and anchored in the very spot where the Centurion lay; but gives a much less favourable account of this climate and country than the former navigator. The water, he says, is brackish, and full of worms; many of his men were seized with fevers, occasioned by the intense heat; the thermometer, which was kept on board the ship, generally stood at 86°, which is but 10 or 11 degrees less than the heat of the blood at the heart; and had the instrument been ashore, he imagines it would have stood much higher than it did. It was with the greatest difficulty that they could penetrate through the woods; and when they had fortunately killed a bull, and with prodigious labour dragged it through the forests to the beach, it stunk, and was full of fly-blows by the time it reached the shore. The poultry was ill tasted; and within an hour after it was killed, the flesh became as green as grass, and swarmed with maggots. The wild hogs were very

fierce; and so large, that a carcass frequently weighed 200 pounds. Cotton and indigo were found on the island. Captain Wallis continued here a month in 1767, but makes no such complaints.

LADY. This title is derived from two Saxon words, which signify *loaf-day*, which words have in time been contracted into the present appellation. It properly belongs only to the daughters of earls, and all of higher rank; but custom has made it a word of complaisance for the wives of knights and of all eminent women.

As to the original application of this expression, it may be observed, that heretofore it was the fashion for those families, whom God had blessed with affluence, to live constantly at their mansion houses in the country, and that once a-week, or oftener, the lady of the manor distributed to her poor neighbours, *with her own hands*, a certain quantity of bread; but the practice, which gave rise to this title is now as little known as the meaning of it; however, it may be from that hospitable custom, that to this day the ladies in this kingdom alone serve the meat at their own table.

LADY'S Bedstraw. See GALIUM,
LADY'S Mantle. See ALCHEMILLA,
LADY'S Smoke. See CARDAMINE,
LADY'S Slipper. See CYPRIPIEDUM,
LADY'S Traces. See OPHRYS,

} BOTANY
 } Index.

LADY Day, in Law, the 25th of March, being the annunciation of the Holy Virgin. See ANNUNCIATION.

LÆLIUS, CAIUS, a Roman consul and great orator, surnamed the *Wife*, distinguished himself in Spain in the war against Viriathus the Spanish general. He is highly praised by Cicero, who gives an admirable description of the intimate friendship which subsisted between Lælius and Scipio Africanus the Younger. His eloquence, his modesty, and his abilities, acquired him a great reputation; and he is thought to have assisted Terence in his comedies. He died about the year 126 B. C.

LÆNA, in antiquity, was a gown worn by the Roman augurs, and peculiar to their office. In this gown they covered their heads, when they made their observations on the flight of birds, &c. See AUGUR.

LAER. See BAMBOCCIA.

LÆSTRYGONES, the most ancient inhabitants of Sicily. Some suppose them to be the same as the people of Leontium, and to have been neighbours to the Cyclops. They fed on human flesh; and when Ulysses came on their coasts, they sunk his ships and devoured his companions. They were of a gigantic stature, according to Homer's description. A colony of them, as some suppose, passed over into Italy with Lamus at their head, where they built the town of Formia, whence the epithet of *Læstrygonia* is often used for that of *Formiana*.

LÆTIA, a genus of plants belonging to the polyandria class, and in the natural method ranking with those of which the order is doubtful. See BOTANY Index.

LÆVINUS, TORRENTINUS, commonly called *Vander Bekin*, or *Torrentin*, was a native of Ghent, and bred in the university of Louvain. He afterwards made the tour of Italy, where his virtues obtained him the friendship of the most illustrious personages of his time.

Lady
 ||
 Lævinus.

La v'us
||
Lagunes.

time. On his return to the Low Countries; he was made canon of Liege, and vicar-general to Ernest de Baviere, bishop of that see. At length, having executed a successful embassy to Philip II. of Spain, he was rewarded with the bishopric of Antwerp; from whence he was translated to the metropolitan church of Mechlin, and died there in 1595. He founded a college of Jesuits at Louvain, to which he left his library, medals, and curiosities. He wrote several poems that obtained him the character of being, after Horace, the prince of lyric poets.

LÆVIUS, a Latin poet. It is not well known at what time he lived, but probably before the age of Cicero. A poem of his, entitled *Erotopagnia*, i. e. *Love-Games*, is quoted by Aulus Gellius. Apuleius also quotes six lines from the same poet; but he does not tell from what work he borrowed them. Lævius had also composed a poem entitled *The Centaurs*, which Festus quotes under the title of *Petrarum*.

LAGAN, or LAGON. See FLOTSOM.

LAGEMAN (*lagamannus*), *homo habens legem*, or *homo legalis seu legitimus*; such as we call now "good men of the jury." The word is frequently used in *Domesday*, and the laws of Edward the Confessor, cap. 38.

LAGEN (*Lagena*), in ancient time, was a measure of wine, containing six sextarii: whence probably is derived our *flagon*. The lieutenant of the tower has the privilege to take *unam lagenam vini ante malum et retro*, of all wine ships that come upon the Thames; and Sir Peter Leicester, in his *Antiquities of Cheshire*, interprets *lagena vini*, "a bottle of wine."

LAGERSTROEMIA, a genus of plants belonging to the polyandria class. See *BOTANY Index*.

LAGNY, a town of the Isle of France, with a famous Benedictine abbey. It is seated on the river Marne, in E. Long. 2. 45. N. Lat. 48. 50.

LAGOECIA, a genus of plants belonging to the pentandria class. See *BOTANY Index*.

LAGOON, an island in the South sea, lying in S. Lat. 18. 47. W. Long. 139. 28. It is of an oval form, with a lake in the middle, which occupies much the greatest part of it. The whole is covered with trees of different growth. It is inhabited by a race of Indians, tall, of a copper colour, with long black hair. Their weapons are poles or spikes, which are twice as long as themselves. Their habitations were seen under some clumps of palm trees, which formed very beautiful groves. This island was discovered by Captain Cook in April 1769.

LAGOPUS, the PTARMIGAN. See TETRAO, ORNITHOLOGY *Index*.

LAGOS, a sea port town of Portugal, in the province of Algarva, with a castle near the sea, where there is a good harbour, and where the English fleets bound to the Straits usually take in fresh water. W. Long. 8. 5. N. Lat. 36. 45.

LAGUNA, or *San Christoval de Laguna*, a considerable town in the island of Teneriffe, near a lake of the same name, on the declivity of a hill. It has very handsome buildings, and a fine square. W. Long. 16. 24. S. Lat. 28. 30.

LAGUNES OF VENICE, are marshes or lakes in Italy on which Venice is seated. They communicate

with the sea, and are the security of the city. There are about 60 islands in these Lagunes, which together make a bishop's see. Eurano is the most considerable, next to those on which Venice stands.

Lagurus
||
Laireffe.

LAGURUS, a genus of plants belonging to the triandria class, and in the natural method ranking under the 4th order, *Gramina*. See *BOTANY Index*.

LAHOLM, a sea port town of Sweden, in the province of Gothland, and territory of Halland, seated near the Baltic sea, with a castle and a harbour, in E. Long. 13. 13. N. Lat. 56. 35.

LAHOR, a large town of Asia, in Indostan, and capital of a province of the same name, and one of the most considerable in the Mogul's dominions. It is of a vast circumference, and contains a great number of mosques, public baths, caravanseras, and pagods. It was the residence of the Great Mogul; but since the removal of the court, the fine palace is going to decay. There is a magnificent walk of shady trees, which runs from this to Agra, that is upwards of 300 miles. Here they have manufactures of cotton cloths and stuffs of all kinds, and they make very curious carpets. E. Long. 75. 55. N. Lat. 31. 40.

LAINÉZ, JAMES, a Spaniard, companion of Ignatius of Loyola, second general of the Jesuits, and a man of a more daring and political character. Having procured from Pope Paul IV. the perpetual generalship of the new order of Jesuits, after the death of Ignatius, he got the following privileges ratified by that pontiff, which show that he was in fact the founder of the worst part of their institution: 1. The right of making all sorts of contracts (without the privity of the community) vested in the generals and their delegates. 2. That of giving authenticity to all comments and explanations of their constitutions. 3. The power of making new, and altering the old: this opened the door to their bloody political tenets, not to be attributed to Loyola. 4. That of having prisons independent of the secular authority, in which they put to death refractory brethren. Lainez died in 1565, aged 53.

LAIRESSE, GERARD, an eminent Flemish painter, born at Liege in 1640. He received the principal part of his instruction from his father Renieve de Laireffe, though he is also accounted a disciple of Bar-tolet. He first settled at Utrecht, where he lived in distressed circumstances; but an accidental recommendation carrying him to Amsterdam, he soon exchanged want and obscurity for affluence and reputation. He was a perfect master of history; his designs are distinguished by the grandeur of the composition; and the back grounds, wherever the subjects required it, are rich in architecture, which is an uncommon circumstance in that country. He had the unhappiness to lose his sight several years before his death, which happened in 1711; so that the treatise on Design and Colouring, which passes under his name, was not wrote by him, but collected from his observations after he was blind, and published after his death. He had three sons, two of whom were painters; and also three brothers, Ernest, James, and John: Ernest and John painted animals, and James was a flower painter. He engraved a good deal in aquafortis: his works consist of 256 plates, above half of which were done with his own hand. He wrote an excellent book on the art, which

Lais
||
Lake.

which has been translated into English, and printed at London both in 4to and 8vo.

LAIS, a celebrated courtesan, daughter of Timandra the mistress of Alcibiades, born at Hyccara in Sicily. She was carried away from her native place, when Nicias the Athenian general invaded Sicily. She first began to sell her favours at Corinth for 10,000 drachmas, and the immense number of princes, noblemen, philosophers, orators, and plebeians, which courted her embraces, show how much commendation is owed to her personal charms. The expences which attended her pleasures, gave rise to the proverb of *Non cuius homini contingit adire Corinthum*. Even Demosthenes himself visited Corinth for the sake of Lais; but when he was informed by the courtesan, that admittance to her bed was to be bought at the enormous sum of about 200l. English money, the orator departed, and observed that he would not buy repentance at so dear a price. The charms which had attracted Demosthenes to Corinth, had no influence upon Xenocrates. When Lais saw the philosopher unmoved by her beauty, she visited his house herself; but there she had no reason to boast of the licentiousness or easy submission of Xenocrates. Diogenes the cynic was one of her warmest admirers, and though filthy in his dress and manners, yet he gained her heart and enjoyed her most unbounded favours. The sculptor Mycon also solicited the favours of Lais, but he met with coldness: he, however, attributed the cause of his ill reception to the whiteness of his hair, and dyed it of a brown colour, but to no purpose: "Fool that thou art (said the courtesan) to ask what I refused yesterday to thy father." Lais ridiculed the austerity of philosophers, and laughed at the weakness of those who pretend to have gained a superiority over their passions, by observing that the sages and philosophers of the age were not above the rest of mankind, for she found them at her door as often as the rest of the Athenians. The success which her debaucheries met at Corinth encouraged Lais to pass into Thessaly, and more particularly to enjoy the company of a favourite youth called Hippostratus. She was however disappointed: the women of the place, jealous of her charms, and apprehensive of her corrupting the fidelity of their husbands, assassinated her in the temple of Venus, about 340 years before the Christian era. Some suppose that there were two persons of this name, a mother and her daughter.

LAITY, the people as distinguished from the clergy; (see CLERGY). The lay part of his majesty's subjects is divided into three distinct states; the civil, the military, and the maritime. See CIVIL, MILITARY, MARITIME.

LAKE, a collection of waters contained in some cavity in an inland place, of a large extent, surrounded with land, and having no communication with the ocean. Lakes may be divided into four kinds. 1. Such as neither receive nor send forth rivers. 2. Such as emit rivers, without receiving any. 3. Such as receive rivers, without emitting any. And, 4. Such as both receive and send forth rivers. Of the first kind, some are temporary and others perennial. Most of those that are temporary owe their origin to the rain, and the cavity or depression of the place in which they are lodged: thus in India there are several such lakes made

VOL. XI. Part II.

by the industry of the natives, of which some are a mile, and some two, in circuit; these are surrounded with a stone wall, and being filled in the rainy months, supply the inhabitants in dry seasons, who live at a great distance from springs or rivers. There are also several of this kind formed by the inundations of the Nile and the Niger; and in Muscovy, Finland, and Lapland, there are many lakes formed, partly by the rains, and partly by the melting of the ice and snow: but most of the perennial lakes, which neither receive nor emit rivers, probably owe their rise to springs at the bottom, by which they are constantly supplied. The second kind of lakes, which emit without receiving rivers, is very numerous. Many rivers flow from these as out of cisterns; where their springs being situated low within a hollow place, first fill the cavity and make it a lake, which not being capacious enough to hold all the water, it overflows and forms a river: of this kind is the Wolga, at the head of the river Wolga; the lake Odium, at the head of the Tanais; the Adac, from whence one branch of the river Tigris flows; the Ozero, or White lake, in Muscovy, which is the source of the river Shakhna; the great lake Chaamay, which emits four very large rivers, which water the countries of Siam, Pegu, &c. viz. the Menan, the Ava, the Caipoumuo, and the Laquia, &c. The third species of lakes, which receive rivers but emit none, apparently owe their origin to those rivers which, in their progress from their source, falling into some extensive cavity, are collected together, and form a lake of such dimensions as may lose as much by exhalation as it continually receives from these sources: of this kind is that great lake improperly called the *Caspian sea*; the lake Asphaltites, also called the *Dead sea*; the lake of Geneva, and several others. Of the fourth species, which both receive and emit rivers, we reckon three kinds, as the quantity they emit is greater, equal, or less, than they receive. If it be greater, it is plain that they must be supplied by springs at the bottom; if less, the surplus of the water is probably spent in exhalations; and if it be equal, their springs just supply what is evaporated by the sun.

Lakes are also divided into those of fresh water and those of salt. Dr Halley is of opinion, that all great perennial lakes are saline, either in a greater or less degree; and that this saltness increases with time: and on this foundation he proposes a method for determining the age of the world.

Large lakes answer the most valuable purposes in the northern regions, the warm vapours that arise from them moderating the pinching cold of those climates; and what is still a greater advantage, when they are placed in warmer climates at a great distance from the sea, the exhalations raised from them by the sun cause the countries that border upon them to be refreshed with frequent showers, and consequently prevent their being barren deserts.

LAKE, or *Lacque*, a preparation of different substances into a kind of magistery for the use of painters. One of the finest and first invented of which was that of *gum lacca* or *lacque*; from which all the rest, as made by the same process, are called by the common name *lacques*. See LACCA.

The method of preparing these, in general, may be known

Lake.

Lake. known by the example of that of the turmeric root of the shops, called *turmeric root*; the process for the making of which is this: Take a pound of turmeric root in fine powder, three pints of water, and an ounce of salt of tartar; put all into a glazed earthen vessel, and let them boil together over a clear gentle fire, till the water appears highly impregnated with the root, and will stain a paper to a beautiful yellow. Filter this liquor, and gradually add to it a strong solution of rock alum in water, till the yellow matter is all curdled together and precipitated; after this pour the whole into a filtre of paper, and the water will run off and leave the yellow matter behind. It is to be washed many times with fresh water, till the water comes off insipid, and then is obtained the beautiful yellow called *lacque of turmeric*, and used in painting.

In this manner may a lake be made of any of the tinging substances that are of a somewhat strong texture, as madder, logwood, &c. but it will not succeed in the more tender species, as the flowers of roses, violets, &c. as it destroys the nice arrangement of parts in those subjects on which the colour depends.

A yellow lake for painting is to be made from broom flowers in the following manner: Make a ley of pot ashes and lime reasonably strong; in this boil, at a gentle fire, fresh broom flowers till they are white, the ley having extracted all their colour; then take out the flowers, and put the ley to boil in earthen vessels over the fire; add as much alum as the liquor will dissolve; then empty this ley into a vessel of clean water, and it will give a yellow colour at the bottom. Let all settle, and decant off the clear liquor. Wash this powder, which is found at the bottom, with more water, till all the salts of the ley are washed off; then separate the yellow matter, and dry it in the shade. It proves a very valuable yellow.

*Handmaid
to the Arts,
vol. i. p. 61.*

Lake is at present seldom prepared from any other substance than scarlet rags, cochineal, and Brasil wood. The best of what is commonly sold is made from the colour extracted from scarlet rags, and deposited on the cuttle-bone; and this may be prepared in the following manner: Dissolve a pound of the best pearl ashes in two quarts of water, and filtre the liquor through paper; add to this solution two more quarts of water and a pound of clean scarlet shreds, and boil them in a pewter boiler till the shreds have lost their scarlet colour; take out the shreds and press them, and put the coloured water yielded by them to the other: in the same solution boil another pound of the shreds, proceeding in the same manner; and likewise a third and fourth pound. Whilst this is doing, dissolve a pound and a half of cuttle-fish bone in a pound of strong aquafortis in a glass receiver; adding more of the bone if it appear to produce any ebullition in the aquafortis; and pour this strained solution gradually into the other; but if any ebullition be occasioned, more of the cuttle-fish bone must be dissolved as before, and added till no ebullition appears in the mixture. The crimson sediment deposited by the liquor thus prepared is the lake: pour off the water; and stir the lake in two gallons of hard spring water, and mix the sediment in two gallons of fresh water; let this method be repeated four or five times. If no hard water can be procured, or the lake appears too purple, half an ounce of alum

should be added to each quantity of water before it be used. Having thus sufficiently freed the lake from the salts, drain off the water through a filtre, covered with a worn linen cloth. When it has been drained to a proper dryness, let it be dropped through a proper funnel on clean boards, and the drops will become small cones or pyramids, in which form the lake must be suffered to dry, and the preparation is completed.

Lake may be prepared from cochineal, by gently boiling two ounces of cochineal in a quart of water; filtering the solution through paper, and adding two ounces of pearl-ashes dissolved in half a pint of warm water, and filtered through paper. Make a solution of cuttle-bone as in the former process; and to a pint of it add two ounces of alum dissolved in half a pint of water. Put this mixture gradually to that of the cochineal and pearl-ashes, as long as any ebullition appears to arise, and proceed as above. A beautiful lake may be prepared from Brasil wood, by boiling three pounds of it for an hour in a solution of three pounds of common salt in three gallons of water, and filtering the hot fluid through paper; add to this a solution of five pounds of alum in three gallons of water. Dissolve three pounds of the best pearl-ashes in a gallon and a half of water, and purify it by filtering; put this gradually to the other, till the whole of the colour appear to be precipitated, and the fluid be left clear and colourless. But if any appearance of purple be seen, add a fresh quantity of the solution of alum by degrees, till a scarlet hue be produced. Then pursue the directions given in the first process with regard to the sediment. If half a pound of seed lac be added to the solution of pearl-ashes, and dissolved in it before its purification by the filtre, and two pounds of the wood, and a proportional quantity of the common salt and water be used in the coloured solution, a lake will be produced that will stand well in oil or water, but is not so transparent in oil as without the seed lac. The lake with Brasil wood may be also made by adding half an ounce of anotto to each pound of the wood; but the anotto must be dissolved in the solution of pearl-ashes. There is a kind of beautiful lake brought from China; but as it does not mix well with either water or oil, though it dissolves entirely in spirit of wine, it is not of any use in our kinds of painting. This has been erroneously called *safflower*.

Orange LAKE, is the tinging part of anotto precipitated together with the earth of alum. This pigment, which is of a bright orange colour, and fit for varnish painting, where there is no fear of flying, and also for putting under crystal to imitate the vinegar garnet, may be prepared by boiling four ounces of the best anotto and one pound of pearl ashes half an hour in a gallon of water; and straining the solution through paper. Mix gradually with this a solution of a pound and a half of alum in another gallon of water; desisting when no ebullition attends the conixture. Treat the sediment in the manner already directed for other kinds of lake, and dry it in square bits or round lozenges.

LAMA, a synonyme of the camelus pacos. See CAMELUS, MAMMALIA *Index*.

LAMA, the sovereign pontiff, or rather god, of the Asiatic Tartars, inhabiting the country of Barantola. The

*Lake,
Lama.*

Lama.

The lama is not only adored by the inhabitants of the country, but also by the kings of Tartary, who send him rich presents, and go in pilgrimage to pay him adoration, calling him *lama congiu*, i. e. "god, the everlasting father of heaven." He is never to be seen but in a secret place of his palace, amidst a great number of lamps, sitting cross-legged upon a cushion, and adorned all over with gold and precious stones; where at a distance they prostrate themselves before him, it not being lawful for any to kiss even his feet. He is called the *great lama*, or *lama of lamas*; that is, "priest of priests." The orthodox opinion is, that when the grand lama seems to die either of old age or infirmity, his soul in fact only quits a crazy habitation to look for another younger or better; and it is discovered again in the body of some child, by certain tokens known only to the lamas or priests, in which order he always appears.

The following account of the ceremonies attending the inauguration of the infant lama in Thibet is extracted from the first volume of the Asiatic Researches.

The emperor of China appears on this occasion to have assumed a very conspicuous part in giving testimony of his respect and zeal for the great religious father of his faith. Early in the year 1784, he dismissed ambassadors from the court of Pekin to Teeshoo Loomboo, to represent their sovereign in supporting the dignity of the high priest, and do honour to the occasion of the assumption of his office. Dalai Lama and the viceroy of Lassa, accompanied by all the court, one of the Chinese generals stationed at Lassa with a part of the troops under his command, two of the four magistrates of the city, the heads of every monastery throughout Thibet, and the emperor's ambassadors, appeared at Teeshoo Loomboo, to celebrate this epocha in their theological institutions. The 28th day of the seventh moon, corresponding nearly, as their year commences with the vernal equinox, to the middle of October 1784, was chosen as the most auspicious for the ceremony of inauguration: a few days previous to which the lama was conducted from Terpaling, the monastery in which he had passed his infancy, with every mark of pomp and homage that could be paid by an enthusiastic people. So great a concourse as assembled either from curiosity or devotion was never seen before, for not a person of any condition in Thibet was absent who could join the suite. The procession was hence necessarily constrained to move so slow, that though Terpaling is situated at the distance of 20 miles only from Teeshoo Loomboo, three days expired in the performance of this short march. The first halt was made at Tsodue; the second at Summaar, about six miles off, whence the most splendid parade was reserved for the lama's entry on the third day, the account of which is given by a person who was present in the procession. The road, he says, was previously prepared by being whitened with a wash, and having piles of stones heaped up with small intervals between on either side. The retinue passed between a double row of priests, who formed a street extending all the way from Summaar to the gates of the palace. Some of the priests held lighted rods of a perfumed composition that burn like decayed wood, and emit an aromatic smoke; the rest were furnished with the different mu-

tical instruments they use at their devotions, such as the gong, the cymbal, hautboy, trumpets, drums, and sea shells, which were all sounded in union with the hymn they chanted. The crowd of spectators was kept without the street, and none admitted on the high road but such as properly belonged to or had a prescribed place in the procession, which was arranged in the following order.

The van was led by three military commandants or governors of districts at the head of 6000 or 7000 horsemen armed with quivers, bows, and matchlocks. In their rear followed the ambassador with his suite, carrying his diploma, as is the custom of China, made up in the form of a large tube, and fastened on his back. Next the Chinese general advanced with the troops under his command, mounted, and accoutred after their way with fire arms and sabres; then came a very numerous group bearing the various standards and insignia of state; next to them moved a full band of wind and other sonorous instruments; after which were led two horses richly caparisoned, each carrying two large circular stoves disposed like panniers across the horse's back and filled with burning aromatic woods. These were followed by a senior priest, called a *lama*, who bore a box containing books of their form of prayer and some favourite idols. Next nine sumpter horses were led loaded with the lama's apparel; after which came the priests immediately attached to the lama's person for the performance of daily offices in the temple, amounting to about 700; following them were two men each carrying on his shoulder a large cylindrical gold insignium embossed with emblematical figures (a gift from the emperor of China). The Dhunniers and Sopoos, who were employed in communicating addresses and distributing alms, immediately preceded the lama's bier, which was covered with a gaudy canopy, and borne by eight of the 16 Chinese appointed for this service. On one side of the bier attended the regent, on the other the lama's father. It was followed by the heads of the different monasteries, and as the procession advanced, the priests who formed the street fell into the rear and brought up the suite, which moved at an extremely slow pace, and about noon was received within the confines of the monastery, amidst an amazing display of colours, the acclamations of the crowd, solemn music, and the chanting of their priests.

The lama being safely lodged in the palace, the regent and Sopoos Choomboo went out, as is a customary compliment paid to visitors of high rank on their near approach, to meet and conduct Dalai Lama and the viceroy of Lassa who were on the way to Teeshoo Loomboo. Their retinues encountered the following morning at the foot of Painom castle, and the next day together entered the monastery of Teeshoo Loomboo, in which both Dalai Lama and the viceroy were accommodated during their stay.

The following morning, which was the third after Teeshoo Lama's arrival, he was carried to the great temple, and about noon seated upon the throne of his progenitors; at which time the emperor's ambassador delivered his diploma, and placed the presents with which he had been charged at the lama's feet.

The three next ensuing days, Dalai Lama met Teeshoo Lama in the temple, where they were affited by

Lama.

Lama,
Lamanon.

all the priests in the invocation and public worship of their gods. The rites then performed completed, as we understand, the business of inauguration. During this interval all who were at the capital were entertained at the public expence, and alms were distributed without reserve. In conformity likewise to previous notice circulated everywher for the same space of time, universal rejoicings prevailed throughout Thibet. Banners were unfurled on all their fortresses, the peasantry filled up the day with music and festivity, and the night was celebrated by general illuminations. A long period was afterwards employed in making presents and public entertainments to the newly inducted lama, who at the time of his accession to the musnud, or, if we may use the term, pontificate of Teeshoo Loomboo, was not three years of age. The ceremony was begun by Dalai Lama, whose offerings are said to have amounted to a greater value, and his public entertainments to have been more splendid than the rest. The second day was dedicated to the viceroy of Lassa. The third to the Chinese general. Then followed the *cullong* or magistrates of Lassa, and the rest of the principal persons who had accompanied Dalai Lama. After which the regent of Teeshoo Loomboo, and all that were dependent on that government, were severally admitted, according to pre-eminence of rank, to pay their tributes of obeisance and respect. As soon as the acknowledgements of all those were received who were admisible to the privilege, Teeshoo Lama made in the same order suitable returns to each, and the consummation lasted 40 days.

Many importunities were used with Dalai Lama to prolong his stay at Teeshoo Loomboo; but he excused himself from encumbering the capital any longer with so numerous a concourse of people as attended on his movements, and deeming it expedient to make his absence as short as possible from the seat of his authority, at the expiration of 40 days he withdrew with all his suite to Lassa, and the emperor's ambassador received his dismissal to return to China, and thus terminated this famous festival.

LAMANON, ROBERT PAUL, a celebrated naturalist, was born at Salon in Provence, in the year 1752, of a respectable family. He was destined for the church, and sent to Paris to study divinity; but the acquaintance of philosophers soon made him relinquish his theological pursuits, and he turned his attention to chemistry and mineralogy. Yet he afterwards became a canon in the church; but the death of his father and elder brother caused him to resign an office to which he was never attached, and he now possessed the power of directing his own future exertions. One amiable trait in the character of Lamanon is highly worthy of notice, and that is, that he refused to accept of his paternal inheritance, but as an equal sharer with his brothers and sisters. When offered a considerable sum to resign his office of canon in favour of a certain individual, he replied, "the chapter of Arles did not sell me my benefice; I shall therefore restore it in the same manner that I received it," which was a conduct undoubtedly meritorious. Anxious to remove the veil which conceals the secrets of nature from mortal eyes, he travelled through Provence and Dauphiné, and scaled the Alps and Pyrenees. He reached the summit of rocks, and explored the abyfs of caverns, weighed the air, analyf-

ed specimens, and in short considered himself qualified to form a new system of this world.

After some time he returned to Paris, and from thence went over to England; and although he was in imminent danger of being overwhelmed by the ungovernable fury of the waves, he ordered himself to be tied to the main-mast, that he might be enabled to contemplate more at leisure this grand and terrific spectacle. Instead of being dismayed, he was transported with the tremendous roar of thunder, the vivid flashes of lightning, the glancing spray with which he was almost incessantly covered; and in his own estimation this was the most exquisite day which he ever enjoyed.

During the time which Lamanon afterwards spent at Paris, he became one of the founders of the museum. Again resolving to revisit Switzerland and Italy, he went first to Turin, where he joined himself to the learned of that country. From Piedmont he went to Italy, returning by the way of Switzerland, where he explored the Alps, and ascended to the top of Mont Blanc; and on his return to Provence with the spoils of the countries which he had visited, he properly arranged the interesting fruits of his journey. While Lamanon was preparing for the press his interesting work on the Theory of the Earth, the French government conceived the design of completing the discoveries of Captain Cook, and the academy of sciences was charged with the selection of men qualified to rectify our notions of the southern hemisphere. Condorcet therefore made choice of Lamanon for advancing the progress of natural history connected with this great enterprise, and he received the invitation of that philosopher with the most eager transports. He set out for Paris, refused the salary offered him, took leave of his friends, and went directly for Brest. The armament under the command of the justly celebrated but unfortunate La Perouse, set sail on the 1st of August 1785; and having reached the island of Maoua, Lamanon went ashore with the crew of two boats, where he fell a sacrifice to the fury of the savages, bravely fighting in self defence.

In the estimation of his eulogist M. Ponce, Lamanon seemed destined to effect some great revolution in science. His ideas were profound, his character energetic, his mind sagacious, and he possessed that lively curiosity which can draw instruction out of any thing, and which might have led him in time to the most interesting discoveries. His person was tall, his countenance highly expressive, his strength and activity almost incredible. His style as a writer is nervous, and he was eminently endowed with the precision of logical reasoning, which cannot fail to command attention and enforce persuasion.

LAMB, in Zoology, the young of the sheep kind. See OVIS, MAMMALIA Index.

Scythian LAMB, a kind of moss, which grows about the roots of fern in some of the northern parts of Europe and Asia, and sometimes assumes the form of a quadruped; so called from a supposed resemblance in shape to that animal. It has something like four feet, and its body is covered with a kind of down. Travellers report that it will suffer no vegetable to grow within a certain distance of its seat. Sir Hans Sloane read a memoir upon this plant before the Society; for which those who think it worth while may consult their Transactions,

Lamanon,
Lamb.

Lambecius, actions, N° 245, p. 461. Mr Bell, in his "Account of a Journey from St Peterburgh to Ifpahan," informs us that he searched in vain for this plant in the neighbourhood of Astracan, when at the same time the more sensible and experienced amongst the Tartars treated the whole history as fabulous.

LAMBECIUS, PETER, born at Hamburgh in 1628, was one of the most learned men of his time. He went very young to study in foreign countries, at the expence of his uncle the learned Holstenius. He was chosen professor of history at Hamburgh in 1652, and rector of the college of that city in 1660. He had taken his degree of doctor of law in France before. He suffered a thousand vexations in his own country; because his enemies charged him with atheism, and censured his writings bitterly. He married a rich lady, but who was so very covetous that he left her in disgust within a fortnight. He went to Vienna, and from thence to Rome, where he publicly professed the Catholic religion. He returned to Vienna in 1662, where he was kindly received by the emperor, who appointed him his sublibrarian, and afterwards his principal librarian, with the title of *counsellor and historiographer*; in which employment he continued till his death, and gained a great reputation by the works he published, viz. 1. An Essay on Aulus Gellius. 2. The Antiquities of Hamburgh. 3. Remarks on Codinus's Antiquities of Constantinople, &c.

LAMBERT of Aschaffenburg, a Benedictine monk, in the 11th century, wrote several works; among which is a history of Germany, from the year 1050 to 1077.

LAMBERT, John, general of the parliament's forces in the civil wars of the last century, was of a good family, and for some time studied the law in one of the inns of court; but upon the breaking out of the rebellion, went into the parliament army, where he soon rose to the rank of colonel, and by his conduct and valour performed many eminent services. But when Cromwell seemed inclined to assume the title of king, Lambert opposed it with great vigour, and even refused to take the oath required by the assembly and council to be faithful to the government; on which Cromwell deprived him of his commission, but granted him a pension of 2000*l.* a-year. This was an act of prudence rather than of generosity; as he well knew, that such genius as Lambert's, rendered desperate by poverty, was capable of attempting any thing.

Lambert being now divested of all employment, retired to Wimbleton house; where turning florist, he had the finest tulips and gilliflowers that could be got for love or money. Yet amidst these amusements he still nourished his ambition; for when Richard Cromwell succeeded his father, he acted so effectually with Fleetwood, Desborough, Vane, Berry, and others, that the new protector was obliged to surrender his authority; and the members of the long parliament, who had continued sitting till the 20th of April 1653, when Oliver dismissed them, were restored to their seats, and Lambert was immediately appointed one of the council of state, and colonel of a regiment of horse and another of foot. For this service the parliament presented him 1000*l.* to buy a jewel; but he distributed it among his officers. This being soon known to the parliament, they concluded that he intended to secure a party in the

army. They therefore courteously invited him to come to London; but resolved, as soon as he should arrive, to secure him from doing any further harm. Lambert, apprehensive of this, delayed his return, and even refused to resign his commission when it was demanded of him and of eight of the other leading officers; and, marching up to London with his army, dislodged the parliament by force in October 1659. He was then appointed, by a council of the officers, major general of the army, and one of the new council for the management of public affairs, and sent to command the forces in the north. But General Monk marching from Scotland into England to support the parliament, against which Lambert had acted with such violence, the latter, being deserted by his army, was obliged to submit to the parliament, and by their order was committed prisoner to the tower; whence escaping, he soon appeared in arms with four troops under his command, but was defeated and taken prisoner by Colonel Ingolfsby.

At the Restoration he was particularly excepted out of the act of indemnity. Being brought to his trial on the 4th of June 1662, for levying war against the king, this daring general behaved with more submission than the meanest of his fellow prisoners, and was by his majesty's favour reprieved at the bar, and sentenced to be confined during life in the island of Guernsey.

LAMBERT, *Anna Theresia de Marguenat de Courcelles, marchioness of*, an elegant moral writer, was the only daughter of Stephen Marguenat lord of Courcelles. In 1666 she married Henry de Lambert, who at his death was lieutenant-general of the army; and she afterwards remained a widow with a son and a daughter, whom she educated with great care. Her house was a kind of academy, to which persons of distinguished abilities regularly resorted. She died at Paris in 1733, aged 86. Her works, which are written with much taste, judgment, and delicacy, are printed in 2 vols. The advice of a mother to her son and daughter are particularly esteemed.

LAMBIN, DENNIS, an eminent classical commentator, was born at Montreuil-sur-Mer, in Picardy, and acquired great skill in polite literature. He lived for a long time at Rome; and at his return to Paris was made royal professor of the Greek language. He died in 1572, aged 56, of pure grief at the death of his friend Ramus, who was murdered at the massacre on St Bartholomew's day. He wrote commentaries on Plautus, Lucretius, Cicero, and Horace, and other works. His commentary on Horace is more particularly esteemed.

LAMECH, of the race of Cain, was the son of Methusael, and father of Jabal, Jubal, Tubal-cain, and Naamah, Gen. iv. 18, 19, 20, &c. Lamech is celebrated in Scripture for his polygamy, whereof he is thought to be the first author in the world. He married Adah and Zillah. Adah was the mother of Jabal and Jubal; and Zillah of Tubal-cain, and Naamah his sister. One day Lamech said to his wives, "Hear me, ye wives of Lamech; I have slain a man to my wounding, and a young man to my hurt. If Cain shall be avenged seven fold, truly Lamech seventy and seven fold." These words are an unintelligible riddle. The reader may consult the commentators. There is a tradition among the Hebrews, that Lamech growing blind,

Lambecius,
Lambert.

Lambert
||
Lamech.



Lamech
||
Lamiacum
Bellum.

blind, ignorantly killed Cain, believing him to be some wild beast; and that afterwards he slew his own son Tubal-cain, who had been the cause of this murder, because he had directed him to shoot at a certain place in the thickets where he had seen something stir. See CAIN.

Several other suppositions are produced in order to explain this passage concerning Lamech, and all almost equally uncertain and absurd.

LAMECH, the son of Methuselah, and father of Noah. He lived a hundred fourscore and two years before the birth of Noah, (Gen. v. 25, 31.); and after that, he lived five hundred and ninety-five years longer: thus the whole time of his life was seven hundred seventy-seven years, being born in the year of the world 874, and dying in the year of the world 1651.

LAMELLÆ, in *Natural History*, denotes very thin plates, such as the scales of fishes are composed of.

LAMENTATIONS, a canonical book of the Old Testament, written by the prophet Jeremiah, according to Archbishop Usher and some other learned men, who follow the opinion of Josephus and St Jerome, on occasion of Josiah's death. But this opinion does not seem to agree with the subject of the book, the lamentation composed by Jeremiah on that occasion being probably lost. The fifty-second chapter of the book of Jeremiah was probably added by Ezra, as a preface or introduction to the Lamentations: the two first chapters are employed in describing the calamities of the siege of Jerusalem: in the third the author deplores the persecutions he himself had suffered: the fourth treats of the desolation of the city and temple, and the misfortunes of Zedekiah: the fifth chapter is a prayer for the Jews in their dispersion and captivity: and at the close of all he speaks of the cruelty of the Edomites, who had insulted Jerusalem in her misery. All the chapters of this book, except the last, are in metre, and digested in the order of the alphabet; with this difference, that in the first, second, and fourth chapters, the first letter of every verse follows the order of the alphabet; but in the third the same initial letter is continued for three verses together. This order was probably adopted, that the book might be more easily learnt and retained. The subject of this book is of the most moving kind; and the style throughout lively, pathetic, and affecting. In this kind of writing the prophet Jeremiah was a great master, according to the character which Grotius gives of him, *Mirus in affectibus concitandis*.

LAMIA, in *Ancient Geography*, a town of the Phthiotis, a district of Thessaly. Famous for giving name to the *Bellum Lamiacum*, waged by the Greeks, on the Macedonians after Alexander's death.

LAMIACUM BELLUM happened after the death of Alexander, when the Greeks, and particularly the Athenians, incited by their orators, resolved to free Greece from the garrisons of the Macedonians. Leosthenes was appointed commander of a numerous force, and marched against Antipater, who then presided over Macedonia. Antipater entered Thessaly at the head of 13,000 foot and 600 horse, and was beaten by the superior force of the Athenians and of their Greek confederates. Antipater after this blow fled to Lamia, where he resolved, with all the courage and sagacity

of a careful general, to maintain a siege with about 8000 or 9000 men that had escaped from the field of battle. Leosthenes, unable to take the city by storm, began to make a regular siege. His operations were delayed by the frequent sallies of Antipater: and Leosthenes being killed by the blow of a stone which he received, Antipater made his escape out of Lamia, and soon after, with the assistance of the army of Craterus brought from Asia, he gave the Athenians battle near Cranon; and though only 500 of their men were slain, yet they became so dispirited, that they sued for peace from the conqueror. Antipater at last with difficulty consented, provided they raised taxes in the usual manner, received a Macedonian garrison, defrayed the expences of the war, and, lastly, delivered into his hands Demosthenes and Hyperides, the two orators whose prevailing eloquence had excited their countrymen against him. These disadvantageous terms were accepted by the Athenians, yet Demosthenes had time to escape and poison himself. Hyperides was carried before Antipater, by whose orders, his tongue being previously cut out, he was put to death.

LAMIÆ, a sort of demons who had their existence in the imaginations of the heathens, and were supposed to devour children. Their form was human, resembling beautiful women. Horace makes mention of them in his Art of Poetry. The name, according to some, is derived from *lanio*, "to tear;" or according to others, is a corruption of a Hebrew word signifying to devour. They are also called *Larvæ* or *Lemures*.

LAMINÆ, in *Physiology*, thin plates, or tables, whereof any thing consists; particularly the human skull, which are two, the one laid over the other.

LAMINIUM, in *Ancient Geography*, a town of the Carpatani in the Hither Spain; at the distance of seven miles from the head of the Anas or Guadiana: Now *Montiel*, a citadel of New Castile; and the territory called *Ager Laminitanus*, is now *el Campo de Montiel*, (Clusius).

LAMIUM, DEAD-NETTLE, a genus of plants belonging to the didynamia class; and in the natural method ranking under the 42d order, *Verticillatæ*. See BOTANY Index.

LAMMAS-DAY, the first of August; so called, as some will have it, because lambs then grow out of seasons, as being too big. Others derive it from a Saxon word, signifying "loaf-mass," because on that day our forefathers made an offering of bread made with new wheat.

On this day the tenants who formerly held lands of the cathedral church in York, were bound by their tenure to bring a lamb alive into the church at high mass.

LAMOIGNON, CHRETIEN FRANCIS DE, marquis of Baviile, and president of the parliament of Paris, was born in 1644. His father would not trust the education of his son to another, but took it upon himself, and entered into the minutest particulars of his first studies: the love of letters and a solid taste were the fruits the scholar reaped from this valuable education. He learned rhetoric in the Jesuits college, made the tour of England and Holland, and returned home the admiration of those meetings regularly held by persons of the first merit at his father's house. The several

Lamiæ
||
Lamoignon.

Lamp. veral branches of literature were however only his amusement: the law was his real employ; and the eloquence of the bar at Paris owes its reformation from bombast and affected erudition to the plain and noble pleadings of M. Lamoignon. He was appointed the king's advocate general in 1673; which he discharged until 1698, when the presidentship of the parliament was conferred on him. This post he held nine years, when he was allowed to resign in favour of his eldest son: he was chosen president of the Royal Academy of Inscriptions in 1705. The only work he suffered to see the light was his *Pleader*, which is a monument of his eloquence and inclination to polite letters. He died in 1709.

LAMP, a vessel containing oil, with a lighted wick.

Lamps were in general use amongst the Jews, Greeks, and Romans. The candlestick with seven branches, placed in the sanctuary by Moses, and those which Solomon afterwards prepared for the temple, were crystal lamps filled with oil, and fixed upon the branches. The lamps or candlesticks made use of by the Jews in their own houses were generally put into a very high stand on the ground. The lamps supposed to be used by the foolish virgins, &c. in the gospel, were of a different kind.—According to critics and antiquaries, they were a sort of torches, made of iron or potters earth, wrapped about with old linen, and moistened from time to time with oil. Matth. xxv. 1, 2. The lamps of Gideon's soldiers were of the same kind. The use of wax was not unknown to the Romans, but they generally burnt lamps; hence the proverb *Tempus et oleum perdidit*, "I have lost my labour." Lamps were sometimes burnt in honour of the dead, both by Greeks and Romans.

Dr St Clair, in the *Philos. Transf.* N° 245, gives the description of an improvement on the common lamp. He proposes that it should be made two or three inches deep, with a pipe coming from the bottom almost as high as the top of the vessel. Let it be filled so high with water that it may cover the whole of the pipe at the bottom, that the oil may not get in at the pipe and so be lost. Then let the oil be poured in so as to fill the vessel almost brim full; and to the vessel must be adapted a cover having as many holes as there are to be wicks. When the vessel is filled and the wicks lighted, if water falls in by drops at the pipe, it will always keep the oil at the same height or very near it; the weight of the water being to that of the oil as 20 $\frac{8}{11}$ to 19, which in two or three inches makes no great difference. If the water runs faster than the oil wastes, it will only run over at the top of the pipe, and what does not run over will come under the oil, and keep it at the same height.

From experiments made in order to ascertain the expence of burning chamber oil in lamps, it appears, that a taper lamp, with eight threads of cotton in the wick, consumes in one hour $\frac{3}{100}$ oz. of spermaceti oil, at 2s. 6d. per gallon; so that the expence of burning 12 hours is 4.57 farthings. This lamp gives as good a light as the candles of eight and ten in the pound; it seldom wants snuffing, and casts a strong and steady light. A taper, chamber, or watch lamp, with four ordinary threads of cotton in the wick, consumes 0.1664 oz. of spermaceti oil in one hour; the oil at 2s.

6d. per gallon, makes the expence of burning 12 hours only 2.34 farthings. Lamp.

Perpetual LAMPS. The testimony of Pliny, St Austin, and others, have led many to believe that the ancients had the invention of perpetual lamps; and some moderns have attempted to find out the secret, but hitherto in vain. Indeed it seems no easy matter to find out either a perpetual wick or perpetual oil. The curious may read Dr Plot's conjectures on the subject in the *Philos. Transf.* N° 166; or in Lowthorp's *Abridgment*, vol. iii. p. 636. But few, we believe, will give themselves the trouble of searching for the secret, when they consider that the credulity of Pliny and of St Austin was such, that their testimony does not seem a sufficient inducement to us to believe a lamp was ever formed to burn 1500 or 1000 years: much less is it credible that the ancients had the secret of making one burn for ever.

Rolling LAMPS: A machine AB, with two moveable circles DE, FG, within it; whose common centre of motion and gravity is at K, where their axes of motion cross one another. If the lamp KC, made pretty heavy and moveable about its axis HI, and whose centre of gravity is at C, be fitted within the inner circle, the common centre of gravity of the whole machine will fall between K and C; and by reason of the pivots A, B, D, E, H, I, will be always at liberty to descend: hence, though the whole machine be rolled along the ground, or moved in any manner, the flame will always be uppermost, and the oil cannot spill. Plate CCLXXXIX.

It is in this manner they hang the compass at sea; and thus should all the moon lanterns be made, that are carried before coaches, chaises, and the like.

Argana's LAMP. This is a very ingenious contrivance, and the greatest improvement in lamps that has yet been made. It is the invention of a citizen of Geneva; and the principle on which the superiority of the lamp depends, is the admission of a larger quantity of air to the flame than can be done in the common way. This is accomplished by making the wick of a circular form; by which means a current of air rushes through the cylinder on which it is placed with great force; and, along with that which has access to the outside, excites the flame to such a degree that the smoke is entirely consumed. Thus both the light and heat are prodigiously increased, at the same time that there is very considerable saving in the expence of oil, the combustion being exceedingly augmented by the quantity of air admitted to the flame; and that what in common lamps is dissipated in smoke is here converted into a brilliant flame.

This lamp is now very much in use; and is applied not only to the ordinary purposes of illumination, but also to that of a lamp furnace for chemical operations, in which it is found to exceed every other contrivance yet invented. It consists of two parts, viz. a reservoir for the oil, and the lamp itself. The reservoir is usually in the form of a vase, and has the lamp proceeding from its side. The latter consists of an upright metallic tube about one inch and six-tenths in diameter, three inches in length, and open at both ends. Within this is another tube about an inch in diameter, and nearly of an equal length; the space betwixt the two being left clear for the passage of the air. The inter-

Lamp.

nal tube is closed at the bottom, and contains another similar tube about half an inch in diameter, which is soldered to the bottom of the second. It is perforated throughout, so as to admit a current of air to pass through it; and the oil is contained in the space between the tube and that which surrounds it. A particular kind of cotton cloth is used for the wick, the longitudinal threads of which are much thicker than the others, and which nearly fills the space into which the oil flows; and the mechanism of the lamp is such, that the wick may be raised or depressed at pleasure. When the lamp is lighted, the flame is in the form of a hollow cylinder; and by reason of the strong influx of air through the heated metallic tube, becomes extremely bright, the smoke being entirely consumed for the reasons already mentioned. The heat and light are still farther increased, by putting over the whole a glass cylinder nearly of the size of the exterior tube. By diminishing the central aperture, the heat and light are proportionably diminished, and the lamp begins to smoke. The access of air both to the external and internal surfaces of the flame is indeed so very necessary, that a sensible difference is perceived when the hand is held even at the distance of an inch below the lower aperture of the cylinder; and there is also a certain length of wick at which the effect of the lamp is strongest. If the wick be very short, the flame, though white and brilliant, emits a disagreeable and pale kind of light; and if very long, the upper part becomes brown, and smoke is emitted.

The saving of expence in the use of this instrument for common purposes is very considerable. By some experiments it appears that the lamp will continue to burn three hours for the value of one penny: and the following was the result of the comparison between the light emitted by it and that of a candle. The latter having been suffered to burn so long without snuffing, that large lumps of coaly matter were formed upon the wick, gave a light at 24 inches distance equal to the lamp at 129 inches: whence it appeared that the light of the lamp was equal to 28 candles in this state. On snuffing the candle, however, its light was so much augmented, that it became necessary to remove it to the distance of 67 inches before its light became equal to that of the lamp at 129 inches; whence it was concluded that the light of the lamp was somewhat less than that of four candles fresh snuffed. At another trial, in which the lamp was placed at the distance of $131\frac{1}{2}$ inches, and a candle at the distance of 55 inches, the lights were equal. In these experiments the candles made use of were $10\frac{3}{4}$ inches long, and $2\frac{6}{10}$ inches in diameter. When the candle was newly snuffed, it appeared to have the advantage; but the lamp soon got the superiority; and on the whole it was concluded, that the lamp is at least equivalent to half a dozen of tallow candles of six in the pound; the expence of the one being only twopence halfpenny, and the other eightpence, in seven hours.

The best method of comparing the two lights together seems to be the following: Place the greater light at a considerable distance from a white paper, the smaller one being brought nearer or removed farther off as occasion requires. If an angular body be held before the paper, it will project two shadows: these two shadows can coincide only in part; and their an-

gular extremities will, in all positions but one, be at some distance from each other; and being made to coincide in a certain part of their bulk, they will be bordered by a lighter shadow, occasioned by the exclusion of the light from each of the two luminous bodies respectively. These lighter shadows, in fact, are spaces of the white paper illuminated by the different luminous bodies, and may easily be compared together, because at a certain point they actually touch one another. If the space illuminated by the smaller light appear brightest, the light must be removed farther off, but the contrary if it appear more obscure.

On cutting open one of Argand's wicks longitudinally, and thus reducing the circular flame to a straight-lined one, the lights appeared quite equal in power; but the circular one had by far the greatest effect in dazzling the eyes; though when the long flame was made to shine on the paper, not by the broadside, but in the direction of its length, it appeared more dazzling than the other. On placing this long flame at right angles to the ray of Argand's lamp, it projected no shadow: but when its length was placed in the direction of the ray, it gave a shadow bordered with two broad, well defined, and bright lines.

The broad-wicked lamp seems to have the advantage of the other, as requiring less apparatus; and indeed by this contrivance we may at the most trifling expence have a lamp capable of giving any degree of light we please. The only disadvantage attending either the one or the other is, that they cannot easily be carried from one place to another; and in this respect it does not seem possible by any means to bring lamps to an equality with candles.

The most economical method of lighting up large apartments by means of different lamps and candles, as it is of great importance, has occupied the attention of many ingenious men, particularly of Count Rumford and M. Hassenfratz. The following is the simple and accurate method proposed by the count, for measuring the relative quantities of light emitted by lamps differently constructed.

Let the two lamps, or other burning bodies to be compared, be denominated A and B; and let them be placed at equal heights upon two light tables, or moveable stands, in a darkened room; let a sheet of clean white paper be equally spread out, and fastened upon the wainscot, or side of the room, at the same height from the floor as the lights; and let the lights be placed opposite to this sheet of paper, at the distance of six and eight feet from it, and the same from each other, in such a manner, that a line drawn from the centre of the paper, perpendicular to its surface, shall bisect the angle formed by lines drawn from the lights to that centre; in which case, considering the paper as a plane speculum, the one light will be precisely in the line of reflection of the other.

If the one light be weaker than the other, and the weaker being placed at the distance of four feet from the centre of the paper, it should be found necessary, in order that the shadows may be of the same density, to remove the stronger light to the distance of eight feet from that centre; in that case, the real intensity of the stronger light will be to that of the weaker as 8^2 to 4^2 , or as 4 to 1.

When the shadows are of equal density at any given point,

Lamp
||
Lampidi-
us.

point, the intensity of the rays at that point are also equal. The greatest care must be taken in every case that the lights compared be properly trimmed, else the results of the experiments will be inconclusive.

Count Rumford found, from a variety of experiments conducted with his usual caution, that if oil is burnt in the lamp called Argand's lamp instead of one of the common construction, the consumer has a clear saving of 15 per cent. an object of attention surely to those whose finances are circumscribed. The principal difference between these two lamps is, that in the common lamp much of the oil is volatilized, without undergoing that process of combustion from which originates the disagreeable smell produced by it; whereas in Argand's lamp the heat is so intense at the top of the wick, that the oil is decomposed in its passage through it, the wick being so disposed as to admit free access to the air, for the purpose of aiding combustion.

The count having made experiments with different inflammable substances, in order to ascertain which is the cheapest or most economical, obtained the following results.

<i>Bees-wax</i> .—A good wax candle, kept well snuffed, and burning with a clear bright flame,	Equal part in weight.	100
<i>Tallow</i> .—A good tallow candle, kept well snuffed, and burning with a bright flame,		101
The same burning dim for want of snuffing,		229
<i>Olive-oil</i> .—Burnt in an Argand's lamp, with a clear bright flame, without smoke,		129
<i>Rape-oil</i> .—Burnt in the same manner,		125
<i>Linseed-oil</i> .—Likewise burnt in the same manner,		120

This table, together with the current prices of the articles mentioned in it, will enable any person to ascertain the relative prices of light produced by these materials. It is worthy of observation, that 100 of Argand's lamps burning with fish oil, are equal to 218 common lamps, 28 spermaceti candles, 333 tallow ditto, or 546 wax candles, from which it evidently appears, that an Argand's lamp is vastly superior, in point of economy, to any other burning body commonly made use of in families or in shops.

LAMP-Black, among colourmen. See *COLOUR-Making*, N° 18, 19.—Substances painted with lamp-black and oil, are found to resist the effects of electricity to a surprising degree; so that in many cases even lightning itself seems to have been repelled by them.

LAMPADARY, an officer in the ancient church of Constantinople, so called from his employment, which was to take care of the lamps, and to carry a taper before the emperor or patriarch when they went to church or in procession.

LAMPAS, in *Farriery*. See *FARRIERY Index*.

LAMPREY. See *PETROMYZON, ICHTHYOLOGY Index*.

LAMPRIDIVS, ÆLIUS, a Latin historian, who lived under the emperors Dioclesian and Constantine the Great. Of his writing there are extant the lives of four emperors, Antoninus, Commodus, Diadumenus, and Heliogabalus. Some attribute the life of Alexander Severus to him; but the MS. in the Palatine library ascribes it to Spartian.

VOL. XI. Part II.

Lampridius
||
Lancashire.

LAMPRIDIVS, Benediſt, of Cremona, a celebrated Latin poet of the 16th century. He taught Greek and Latin at Rome and at Padua, until he was invited to Mantua by Frederic Gonzaga to undertake the tuition of his son. We have epigrams and lyric verses of this writer, both in Greek and Latin, which were printed separately, as well as among the *Delicie* of the Italian poets.

LAMPSACUS, or *LAMPSACUM*, in *Ancient Geography*, a considerable city of Mysia; more anciently called *Pityea*, (Homer), because abounding in pine trees, a circumstance confirmed by Pliny; situated at the north end or entrance of the Hellespont into the Propontis, with a commodious harbour, opposite to Callipolis in the Thracian Chersonesus. It was assigned by Artaxerxes to Themistocles, for furnishing his table with wine, in which the country abounded. It was saved from the ruin threatened by Alexander because in the interest of Persia, by the address of Anaximenes the historian, sent by his fellow-citizens to avert the king's displeasure; who hearing of it, solemnly declared he would do the very reverse of Anaximenes's request, who therefore begged the king utterly to destroy it, which he could not do because of his oath. *Lampfacius* the epithet, denoting *lascivus*, the character of the people: still called *Lampfacus*. E. Long. 28°. N. Lat. 40. 12.

LAMPYRIS, the *FIRE-FLY*, a genus of insects belonging to the coleoptera order. See *ENTOMOLOGY Index*.

LANCARIM SPRING, the name of a mineral water of Glamorganthire. It has its name from a town near which it rises; and has been long famous for the cure of the king's evil. The spring is very clear, and rises out of a pure white marl. The cures that have been performed there, are proofs of a real power in the water. The persons who come for relief not only drink of the spring, but also bathe the part affected afterwards in the water.

LANCASHIRE, a large maritime province of England, washed by the Irish sea on the west; bordering on the north with part of Cumberland and Westmorland; bounded on the east by the west riding of Yorkshire, and on the south by Cheshire; extending 73 miles in length and 41 in breadth, comprehending 6 hundreds, 63 parishes, 27 market towns, 894 villages, above 114,000 houses, and more than 672,000 inhabitants in the year 1801.

The eastern parts of the province are rocky, and in the northern districts we see many single mountains remarkably high, such as Ingleborough hill, Cloughbo-hill, Pendle hill, and Longridge hill. Nor is there any want of wood in this county, either for timber or fuel; witness Wierisdale forest and Bowland forest to the northward, and Simon's wood in the southern part of Lancashire.

This country is well watered with rivers and lakes. Among the lakes or meres of Lancashire, we reckon the Winander mere, and the Kiningston mere, which, though neither so large nor so well stored with fish, yet affords plenty of excellent char. There was on the south side of the Ribble another lake called *Marion*, several miles in circumference, which is now drained, and converted into pasture ground. In this operation, the workmen found a great quantity of fish, together with eight canoes, resembling those of America, sup-

Lancashire. posed to have been used by the ancient British fishermen. Besides these meres or lakes, this county abounds with morasses and mosses, from which the inhabitants dig excellent peat or turf for fuel, as well as marl for manuring the ground, and trunks of old fir trees, supposed to have lain there since the general deluge. Some of these are so impregnated with turpentine, that when divided into splinters, they burn like candles, and are used for that purpose by the common people. There is a great variety of mineral waters in this county, some periodical springs, and one instance of a violent eruption of water at Kirky in Fourness. The most remarkable chalybeate spaws are those of Latham, Wigan, Stockport, Burnly, Bolton, Plumpton, Middleton, Strangeways, Lancaster, Larbrick, and Chorly. At Ancliff, in the neighbourhood of Wigan, is a fountain called the *Burning Well*, from whence a bituminous vapour exhales, which being set on fire by a candle burns like brandy, so as to produce a heat that will boil eggs to a hard consistence, while the water itself retains its original coldness †. There is at Barton a fountain of salt water, so strongly impregnated with the mineral, as to yield six times as much as can be extracted from the same quantity of sea water. At Rogham, in Fourness, there is a purging saline fountain; and in the neighbourhood of Rassa, where the ground is frequently overflowed by the sea, a stream descends from Hagbur hills, which in the space of seven years is said to convert the marl into a hard freestone fit for building. The air of Lancashire is pure, healthy, and agreeable, an observation equally applicable even to the fens and the sea shore, according to the experience of those who have dwelt on that coast for many years. The soil is various in different parts of the county, poor and rocky on the hills, fat and fertile in the valleys and champaign country. The colour of the peat is white, gray, or black, according to the nature of the composition and the degree of putrefaction which the ingredients have undergone. There is a bituminous earth about Ormskirk, that smells like the oil of amber, and indeed yields an oil of the same nature, both in its scent and medicinal effects, which moreover reduces raw flesh to the consistence of mummy; this earth burns like a torch, and is used as such by the country people. The metals and minerals of this county consist of lead, iron, copper, antimony, black lead, lapis calaminaris, spar, green vitriol, alum, sulphur, pyrites, freestone, and pit and cannel coal.

† See *Burning well*.

The level country produces plenty of wheat and barley, and the skirts of the hills yield good harvests of excellent oats: very good hemp is raised in divers parts of the province; and the pasture which grows in the valley is so peculiarly rich, that the cattle which feed upon it are much larger and fatter than in any other part of England. There is not any part of the world better supplied than Lancashire with provisions of all kinds at a very reasonable rate; such as beef, veal, mutton, lamb, pork, poultry, and game of all sorts, caught upon the moors, heaths, and commons, in the hilly part of the shire. Besides the sea fowl common to the shores of England, such as duck, eastlings, teal, and plover, many uncommon birds are observed on the coast of Lancashire, the sea crow, variegated with blue and black, the puffin, the cormorant, the curlew, the razor-bill, the copped wren,

the redhanks, the swan, the tropic bird, the king's fisher, &c.

The chief manufactures of this county are woollen and cotton cloths of various kinds, tickings, and cotton velvets, for which Manchester is particularly famous. The principal rivers are the Mersey, which parts Cheshire and this county; and the Ribble, which rises in Yorkshire, and enters this county at Clithero, running south-west by Preston into the Irish sea. Besides these there are many lesser streams. The navigation made by his grace the duke of Bridgewater in this county is highly worthy of notice. This was begun so lately as about 20 years ago; it bears vessels of 60 tons burden, and is carried over two rivers, the Mersey and the Irwell. The fough or adit, which was necessary to be made, in order to drain the water from the coal mines, is rendered navigable for boats of six or seven tons burden, and forms a kind of subterraneous river, which runs about a mile and a half under ground, and communicates with the canal. This river leads to the head of the mines, is arched over with brick, and is just wide enough for the passage of the boats: at the mouth of it are two folding doors, which are closed as soon as you enter, and you then proceed by candle light, which casts a livid gloom, serving only to make darkness visible. But this dismal gloom is rendered still more awful by the solemn echo of this subterraneous water, which returns various and discordant sounds. One while you are struck with the grating noise of engines, which by a curious contrivance let down the coals into the boats; then again you hear the shock of an explosion, occasioned by the blowing up the hard rock, which will not yield to any other force than that of gunpowder; the next minute your ears are saluted by the songs of merriment from either sex, who thus beguile their labours in the mine. You have no sooner reached the head of the works, than a new scene opens to your view. There you behold men and women almost in the primitive state of nature, toiling in different capacities, by the glimmering of a dim taper, some digging coal out of the bowels of the earth; some again loading it in little waggons made for the purpose; others drawing those waggons to the boats. To perfect this canal, without impeding the public roads, bridges are built over it, and where the earth has been raised to preserve the level, arches are formed under it; but what principally strikes every beholder, is a work raised near Barton bridge, to convey the canal over the river Mersey. This is done by means of three stone arches, so spacious and lofty as to admit vessels sailing through them; and indeed nothing can be more singular and pleasing, than to observe large vessels in full sail under the aqueduct, and at the same time the duke of Bridgewater's vessels sailing over all, near 50 feet above the navigable river. By this inland navigation communication has been made, with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles in the counties of Lincoln, Nottingham, York, Lancaster, Westmorland, Chester, Stafford, Warwick, Leicestershire, Oxford, Worcester, &c.

Lancashire was erected into a county palatine by Edward III. who conferred it as an appendage on his son John of Gaunt; thence called *duke of Lancaster*: but

the

Lancaster, Lance. the duchy contained lands that are not in Lancashire, and among other demesnes, the palace of the Savoy, and all that district in London, which indeed belong to it at this day. The revenues of this duchy are administered by a court which sits at Westminster, and a chancery court at Preston, which has a seal distinct from that of the county palatine. The title of *Lancaster* distinguished the posterity of John of Gaunt from those of his brother, who succeeded to the duchy of York, in their long and bloody contest for the crown of England. Lancashire sends two members to parliament for the county; and 12 for the six boroughs of Lancaster, Preston, Newton, Wigan, Clithero, and Liverpool.

LANCASTER, the capital of the county of Lancashire in England, is pleasantly situated on the south side of the river Lun, over which there is a handsome stone bridge. It is an ancient town, and is supposed to have been the *Longovicum* of the Romans. King John confirmed to those of Bristol; and Edward III. granted that pleas and sessions should be held there, and nowhere else in the county. It is governed by a mayor, recorder, 7 aldermen, 2 bailiffs, 12 capital burgesses, 12 common burgesses, a town clerk, and 2 serjeants at mace. The assizes are held in the castle, where is also the county gaol. It carries on a very considerable trade with Jamaica and the other islands in the West Indies, as also with Portugal, Hamburgh, &c. There is a market on Wednesday by grant, and another on Saturday by prescription, besides one every other Wednesday throughout the year for cattle; and three fairs, in May, July, and October. The castle is not large, but neat and strong. Not very long ago, in digging a cellar, there were found several Roman utensils and vessels for sacrifices, as also the coins of Roman emperors; so that it is supposed there was here a Roman fortress. On the top of the castle is a square tower, called *John of Gaunt's chair*, whence there is a charming prospect of the adjacent country, and especially towards the sea, where is an extensive view even to the Isle of Man. There is but one church, a fine Gothic building. It is placed on the same elevation, and from some points of view forms one group with the castle, which gives the mind a most magnificent idea of this important place. The late considerable additional new streets and a new chapel, with other improvements, give an air of elegance and prosperity to the town, and the new bridge of 5 equal elliptic arches, in all 549 feet in length, adds not a little to the embellishment and conveniency of the place. Adjoining to the castle, the new gaol is erected on an improved plan. On the side of the hill below it, hangs a piece of a Roman wall, called *Wery-Wall*. Here is a customhouse. By means of inland navigation, Lancaster has communication with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. although such extensive communication, when it was first suggested, was considered by many to be altogether impracticable. For its peculiar government, see *Duchy-Court*.

LANCE, **LANCEA**, a spear; an offensive weapon worn by the ancient cavaliers, in form of a half pike. The lance consisted of three parts, the shaft or handle, the wings, and the dart. Pliny attributes the invention of lances to the *Ætolians*. But Varro and Aulus

Gellius say, the word lance is Spanish; whence others conclude the use of this weapon was borrowed by the people of Italy from the Spaniards. Diodorus Siculus derives it from the Gaulish, and Festus from the Greek λογχη, which signifies the same.

LANCE, or *sandeel*. See **AMMODYTES**, **ICHTHYOLOGY Index**.

LANCEOLATED LEAF. See **BOTANY Index**.

LANCET, a chirurgical instrument, sharp-pointed and two edged, chiefly used for opening veins in the operation of phlebotomy or bleeding; also for laying open abscesses, tumours, &c.

LANCH, a peculiar sort of long boat, used by the French, Spanish, and Italian shipping, and in general by those of other European nations when employed in voyaging in the Mediterranean sea.

A lanch is proportionably longer, lower, and more flat bottomed than the long boat; it is by consequence less fit for sailing, but better calculated for rowing and approaching a flat shore. Its principal superiority to the long boat, however, consists in being by its construction much fitter to under-run the cable; which is a very necessary employment in the harbours of the Levant sea, where the cables of different ships are fastened across each other, and frequently render this exercise extremely necessary.

LANCH, is also the movement by which the ship or boat descends from the shore, either when she is at first built, or at any time afterwards.

To facilitate the operation of lanching, and prevent any interruption therein, the ship is supported by two strong platforms, laid with a gradual inclination to the water, on the opposite side of her keel, to which they are parallel. Upon the surface of this declivity are placed two corresponding ranks of planks, which compose the base of a frame, called the *cradle*, whose upper part envelopes the ship's bottom, whereto it is securely attached. Thus the lower surface of the cradle, conforming exactly to that of the frame below, lies flat upon it lengthwise, under the opposite sides of the ship's bottom; and as the former is intended to slide downwards upon the latter, carrying the ship along with it, the planes or faces of both are well daubed with soap and tallow.

The necessary preparations for the lanch being made, all the blocks and wedges, by which the ship was formerly supported are driven out from under her keel, till her whole weight gradually subsides upon the platforms above described, which are accordingly called the *ways*. The shores and stanchions, by which she is retained upon the stocks till the period approaches for lanching, are at length cut away, and the screws applied to move her if necessary. The motion usually begins on the instant when the shores are cut, and the ship slides downward along the ways, which are generally prolonged under the surface of the water, to a sufficient depth to float her as soon as she arrives at the farthest end thereof.

When a ship is to be lanch'd, the ensign, jack, and pendant, are always hoisted, the last being displayed from a staff erected in the middle of the ship.

Ships of the first rate are commonly constructed in dry docks, and afterwards floated out, by throwing open the flood gates, and suffering the tide to enter as soon as they are finished.

Lancerota
||
Land.

LANCEROTA, one of the Canary islands, subject to Spain, and situated in W. Long. 13. 5. N. Lat. 28. 40. It is about 32 miles in length and 22 in breadth. The ancient inhabitants were negroes, very strong, active, and swift of foot. There is a ridge of hills runs quite through it, on which are fed a good number of sheep and goats. They have but few black cattle, still fewer camels, and a very few small horses. The valleys are dry and sandy, yet they produce a small quantity of wheat and barley. This island was first discovered in 1417. In 1596 it was taken by the English under the command of the earl of Cumberland; after which it was better fortified than before. There is in this island a city called also *Lancerota*, which, at the time the earl of Cumberland was there, consisted only of about 100 houses, all poor buildings, generally of one story, and covered with reeds or straw laid upon a few rafters, and over all a coat of dirt hardened by the sun. There was also a church which had no windows in it, and was supplied with light only by the door.

LANCIANO, a considerable town of Italy, in the kingdom of Naples, and in the Hither Abruzzo, with an archbishop's see; famous for its fairs, which are held in July and August. It is seated on the river Feltrino near that of Sangor. E. Long. 15. 5. N. Lat. 42. 12.

LANCISI, JOHN MARCA, an eminent Italian physician, was born at Rome in 1654. From his earliest years he had a turn to natural history; and studied botany, chemistry, anatomy, and medicine, with great vigour. In 1688 Pope Innocent XI. appointed him his physician and private chamberlain, notwithstanding his youth; and Cardinal Altieri Camerlinga made him his vicar for the installation of doctors in physic, which Pope Clement XI. gave him as long as he lived, as well as continued to him the appointments conferred on him by his predecessor. He died in 1710, after giving his fine library of more than 20,000 volumes to the hospital of the Holy Ghost for the use of the public. This noble benefaction was opened in 1716, in the presence of the pope and most of the cardinals. He wrote many works which are esteemed, the principal of which were collected together, and printed at Geneva in 1718, in two volumes quarto.

LAND, in a general sense, denotes *terra firma*, as distinguished from *sea*.

LAND, in a limited sense, denotes arable ground. See AGRICULTURE.

LAND, in the sea language, makes part of several compound terms; thus, *land-laid*, or, *to lay the land*, is just to lose sight of it. *Land-locked*, is when land lies all round the ship, so that no point of the compass is open to the sea. If she is at anchor in such a place, she is said to ride *land-locked*, and is therefore concluded to ride safe from the violence of the winds and tides. *Land-mark*, any mountain, rock, steeple, tree, &c. that may serve to make the land known at sea. *Land is shut in*, a term used to signify that another point of land hinders the sight of that from which the ship came. *Land so*, or the ship *lies land-so*; that is, she is so far from shore, than it can only just be discerned. *Land-turn* is a wind that in almost all hot countries blows at certain times from the shore

in the night. *To set the land*; that is, to see by the compass how it bears.

LAND TAX, one of the annual taxes raised upon the subject. See TAX.

The land tax, in its modern shape has superseded all the former methods of rating either property or persons in respect of their property, whether by tenths or fifteenths, subsidies on land, hydages, scutages, or talliages: a short explication of which will, however, greatly assist us in understanding our ancient laws and history.

Tenths and fifteenths were temporary aids issuing out of personal property, and granted to the king by parliament. They were formerly the real tenth or fifteenth part of all the moveables belonging to the subject; when such moveables, or personal estates, were a very different and a much less considerable thing than what they usually are at this day. Tenths are said to have been first granted under Henry II. who took advantage of this fashionable zeal for croisades to introduce this new taxation, in order to defray the expence of a pious expedition to Palestine, which he really or seemingly had projected against Saladin emperor of the Saracens, whence it was originally denominated the *Saladine tenth*. But afterwards fifteenths were more usually granted than tenths. Originally the amount of these taxes was uncertain, being levied by assessments new made at every fresh grant of the commons, a commission for which is preserved by Matthew Paris: but it was at length reduced to a certainty in the eighth year of Edward III. when, by virtue of the king's commission, new taxations were made of every township, borough, and city in the kingdom, and recorded in the exchequer; which rate was, at that time, the fifteenth part of the value of every township, the whole amounting to about 29,000l. and therefore it still kept up the name of a *fifteenth*, when, by the alteration of the value of money and the increase of personal property, things came to be in a very different situation. So that when, of later years, the commons granted the king a fifteenth, every parish in England immediately knew their proportion of it; that is, the same identical sum that was assessed by the same aid in the eighth of Edward III.; and then raised it by a rate among themselves, and returned it into the royal exchequer.

The other ancient levies were in the nature of a modern land tax: for we may trace up the original of that charge as high as to the introduction of our military tenures; when every tenant of a knight's fee was bound, if called upon, to attend the king in his army for 40 days in every year. But this personal attendance growing troublesome in many respects, the tenants found means of compounding for it, by first sending others in their stead, and in process of time by making a pecuniary satisfaction to the crown in lieu of it. This pecuniary satisfaction at last came to be levied by assessments, at so much for every knight's fee, under the name of scutages; which appear to have been levied for the first time in the fifth year of Henry II. on account of his expedition to Toulouse, and were then (Sir Wm. Blackstone apprehends) mere arbitrary compositions, as the king and the subject could agree. But this precedent being afterwards abused into a means of

Land.

Land- of oppression (by levying scutages on the landholders by the king's authority only, whenever our kings went to war, in order to hire mercenary troops and pay their contingent expences), it became thereupon a matter of national complaint; and King John was obliged to promise, in his *magna charta*, that no scutage should be imposed without the consent of the common council of the realm.

Of the same nature with scutages upon knights fees were the assessments of hydage upon all other lands, and of talliage upon cities and boroughs. But they all gradually fell into disuse, upon the introduction of subsidies, about the time of King Richard II. and King Henry IV. These were a tax, not immediately imposed upon property, but upon persons in respect of their reputed estates, after the nominal rate of 4s. in the pound for lands, and 2s. 6d. for goods; and for those of aliens in a double proportion. But this assessment was also made according to an ancient valuation wherein the computation was so very moderate, and the rental of the kingdom was supposed to be so exceeding low, that one subsidy of this sort did not, according to Sir Edward Coke, amount to more than 70,000l. whereas a moderate land tax at the same rate produces two millions. It was anciently the rule never to grant more than one subsidy and two fifteenths at a time: but this rule was broke through for the first time on a very pressing occasion, the Spanish invasion in 1588; when the parliament gave Queen Elizabeth two subsidies and four-fifteenths. Afterwards, as money sunk in value, more subsidies were given; and we have an instance, in the first parliament of 1640, of the king's desiring 12 subsidies of the commons, to be levied in three years; which was looked upon as a startling proposal; though Lord Clarendon tells us, that the speaker, Serjeant Glanville, made it manifest to the house, how very inconsiderable a sum 12 subsidies amounted to, by telling them he had computed what he was to pay for them: and when he named the sum, he being known to be possessed of a great estate, it seemed not worth any farther deliberation. And, indeed, upon calculation, we shall find, that the total amount of these 12 subsidies, to be raised in three years, is less than what is now raised in one year by a land tax of 2s. in the pound.

The grant of scutages, talliages, or subsidies by the commons, did not extend to spiritual preferments; those being usually taxed at the same time by the clergy themselves in convocation: which grants of the clergy were confirmed in parliament; otherwise they were illegal, and not binding; as the same noble writer observes of the subsidies granted by the convocation, which continued sitting after the dissolution of the first parliament in 1640. A subsidy granted by the clergy was after the rate of 4s. in the pound, according to the valuation of their livings in the king's books; and amounted, Sir Edward Coke tells us, to about 20,000l. While this custom continued, convocations were wont to sit as frequently as parliaments; but the last subsidies, thus given by the clergy, were those confirmed by statute 15 Car. II. c. 10. since which another method of taxation has generally prevailed, which takes in the clergy as well as the laity: in recompense for which, the beneficed clergy have from that period been allowed to vote at the election

Land- of knights of the shire; and thenceforward also the practice of giving ecclesiastical subsidies hath fallen into total disuse.

The lay subsidy was usually raised by commissioners appointed by the crown, or the great officers of state: and therefore in the beginning of the civil wars between Charles I. and his parliament, the latter having no other sufficient revenue to support themselves and their measures, introduced the practice of laying weekly and monthly assessments of a specific sum upon the several counties of the kingdom; to be levied by a pound rate on lands and personal estates: which were occasionally continued during the whole usurpation, sometimes at the rate of 120,000l. a month, sometimes at inferior rates. After the Restoration, the ancient method of granting subsidies, instead of such monthly assessments, was twice, and twice only, renewed; viz. in 1663, when four subsidies were granted by the temporality and four by the clergy; and in 1670, when 800,000l. was raised by way of subsidy, which was the last time of raising supplies in that manner. For the monthly assessments being now established by custom, being raised by commissioners named by parliament, and producing a more certain revenue; from that time forwards we hear no more of subsidies, but occasional assessments were granted as the national emergencies required. These periodical assessments, the subsidies which preceded them, and the more ancient scutage, hydage, and talliage, were to all intents and purposes a land tax: and the assessments were sometimes expressly called so. Yet a popular opinion has prevailed, that the land tax was first introduced in the reign of King William III.; because in the year 1692 a new assessment or valuation of estates was made throughout the kingdom: which, though by no means a perfect one, had this effect, that a supply of 500,000l. was equal to 1s. in the pound of the value of estates given in. And, according to this enhanced valuation, from the year 1693 to the present, a period of near a century, the land tax has continued an annual charge upon the subject; about half the time at 4s. in the pound, sometimes at 3s. sometimes at 2s. twice at 1s. but without any total intermission. The medium has been 3s. 3d. in the pound; being equivalent to 23 ancient subsidies, and amounting annually to more than a million and a half of money. The method of raising it is by charging a particular sum upon each county, according to the valuation given in, A. D. 1692; and this sum is assessed and raised upon individuals (their personal estate, as well as real, being liable thereto) by commissioners appointed in the act, being the principal landholders in the county and their officers.

An act passes annually for the raising in general, 2,037,627l. 9s. 10½d. by the above said tax at 4s. in the pound; whereof there shall be raised in the several counties in England, according to the proportions expressed in the act, 1,989,673l. 7s. 10½d.; and in Scotland, 47,954l. 1s. 2d. by an eight months cess of 5994l. 5s. 1¾d. *per mensem*, to be raised out of the land rent, and to be paid at four terms, as specified in the act, by two months amount each time.

LAND WALTER, an officer of the customhouse, whose duty is, upon landing any merchandize, to examine, taste, weigh, measure them, &c. and to take an account thereof.

Landaff thereof. In some ports they also execute the office of a coast waiter. They are likewise occasionally styled *searchers*, and are to attend and join with the patent searcher in the execution of all cockets for the shipping of goods to be exported to foreign parts; and in cases where drawbacks on bounties are to be paid to the merchant on the exportation of any goods, they, as well as the patent searchers, are to certify the shipping thereof on the debentures.

LANDAFF, a town or village of Glamorganshire in South Wales, with a bishop's see, and on that account has the title of a *city*. It is seated upon an ascent on the river Taff, or Tave, near Cardiff; but the cathedral stands on a low ground, and is a large stately building. The original structure was built about the beginning of the 12th century. The building now used as the cathedral includes part of the body of the ancient one; but is in other respects as modern as the present century, about the middle of which the old church underwent such reparation as was almost equivalent to rebuilding. The ruins are at the west end of the modern church, and consist of the original western door-way, and part of the north and south sides. The arch over the door is circular, and has a well carved episcopal statue immediately over it. On the upper part of the front under which this door stands is a whole length figure of the Virgin Mary, with a cross on the apex of the building. In this front are two rows of neat pointed arches for windows; and on the north and south sides above mentioned are two circular door-cases half sunk in the earth. These ruins exhibit an aspect very different from the present cathedral, the new part of which the architect formed principally on the Roman model, without considering how incongruous this style of architecture is with the plan pursued in the ancient part.—Landaff is a place of but small extent, and has no market. It is a port town, however, and carries on a good trade, as it has a very tolerable harbour that opens into the river Severn about four miles distant. The ruins of the bishop's palace show it to have been castellated. It was built in 1120, and was destroyed by Henry IV. W. Long. 3. 20. N. Lat. 51° 33'.

LANDAU, an ancient, handsome, and very strong town of France, in Lower Alsace. It was formerly imperial, and belonged to Germany, till the treaty of Munster, when it was given up to France. It is seated on the river Zurich, in a pleasant fertile country. It was severely bombarded by the allies in 1793, but they were obliged to raise the siege. E. Long. 8. 12. N. Lat. 49. 12.

LANDEN, a town of the Austrian Netherlands, in Brabant, famous for a battle gained over the French by the allies, in July 1693, when 20,000 men were killed. It is seated on the river Beck, in E. Long. 5. 5. N. Lat. 52. 45.

LANDEN, *John*, F. R. S. an eminent mathematician, was born at Peakirk, near Peterborough in Northamptonshire, in January 1719. He became very early a proficient in the mathematics, for we find him a very respectable contributor to the Ladies Diary in 1744; and he was soon among the foremost of those who then contributed to the support of that small but valuable publication, in which almost every English ma-

thematician, who has arrived at any degree of eminence for the last half century, has contended for fame at one time of his life or other. Mr Landen continued his contributions to it at times, and under one signature or other, till within a few years of his death.

It has been frequently observed, that the histories of literary men consist chiefly of a history of their writings, and the observation was never more fully verified than it will be in this article concerning Mr Landen.

In the 48th volume of the Philosophical Transactions for the year 1754, Mr Landen gave "An investigation of some theorems which suggest several very remarkable properties of the circle, and are at the same time of considerable use in resolving fractions, the denominators of which are certain multinomials, into more simple ones, and by that means facilitate the computation of fluents." This ingenious paper was handed to the Society by that eminent mathematician the late Thomas Simpson of Woolwich; a circumstance which will convey to those who are not themselves judges of it some idea of its merit. In the year 1755, he published a volume of about 160 pages, entitled "Mathematical Lucubrations." The title to this publication was made choice of as a means of informing the world, that the study of the mathematics was at that time rather the pursuit of his leisure hours than his principal employment; and indeed it continued to be so the greatest part of his life, for about the year 1762 he was appointed agent to the right honourable the earl Fitzwilliam, and resigned that employment only two years before his death. Had it been otherwise, it seems highly probable he would have extended his researches in the mathematics, to which he was most enthusiastically devoted, much farther than any other person has done. His lucubrations contain a variety of tracts relative to the rectification of curve lines, the summation of series, the finding of fluents, and many other points in the higher parts of the mathematics. About the latter end of the year 1757, or the beginning of 1758, he published proposals for printing by subscription "The Residual Analysis, a new branch of the Algebraic art:" and in 1758 he published a small tract in quarto, entitled "A Discourse on the Residual Analysis," in which he resolved a variety of problems, to which the method of fluxions had been usually applied by a mode of reasoning entirely new; compared those solutions with solutions of the same problems, investigated by the fluxionary method; and showed that the solutions by his new method were, in general, more natural and elegant than the fluxionary ones.

In the 51st volume of the Philosophical Transactions for the year 1760, he gave "A new method of computing the sums of a great number of infinite series." This paper was also presented to the society by his ingenious friend the late Mr Thomas Simpson. In 1774, he published the first book of "The Residual Analysis," in a 4to volume of 218 pages, with several copperplates. In this treatise, besides explaining the principles which his new analysis was founded on, he applied it to drawing tangents and finding the properties of curve lines; to describing their involutes and evolutes, finding the radius of curvature, their greatest and least ordinates, and points of contrary flexure; to the determination of their cusps, and the drawing

Landen. drawing of asymptotes: and he proposed in a second book to extend the application of this new analysis to a great variety of mechanical and physical subjects. The papers which were to have formed this book lay long by him; but he never found leisure to put them in order for the press.

On the 16th of January 1766, Mr Landen was elected a fellow of the Royal Society, and admitted on the 24th of April following. In the 58th volume of the Philosophical Transactions for the year 1768, he gave a "Specimen of a new method of comparing curvilinear areas; by means of which many areas are compared, that did not appear to be comparable by any other method;" a circumstance of no small importance in that part of natural philosophy which relates to the doctrine of motion. In the 60th volume of the same work for the year 1770, he gave "Some new theorems for computing the whole areas of curve lines, where the ordinates are expressed by fractions of a certain form," in a more concise and elegant manner than had been done by Cotes, De Moivre, and others who had considered the subject before him. In the 61st volume for 1771, he has investigated several new and useful theorems for computing certain fluents, which are assignable by arcs of the conic sections. This subject had been considered before both by Mr Maclaurin and M. d'Alembert; but some of the theorems which were given by these celebrated mathematicians, being in part expressed by the difference between an arc of a hyperbola and its tangent, and that difference being not directly attainable when the arc and its tangent both become infinite, as they will do when the whole fluent is wanted, although such fluent be finite; these theorems therefore fail in those cases, and the computation becomes impracticable without farther help. This defect Mr Landen has removed by assigning the *limit* of the difference between the hyperbolic arc and its tangent, while the point of contact is supposed to be removed to an infinite distance from the vertex of the curve. And he concludes the paper with a curious and remarkable property relating to pendulous bodies, which is deducible from those theorems. In the same year he published, "Animadversions on Dr Stewart's computation of the sun's distance from the earth."

In the 65th volume of the Philosophical Transactions for 1775, he gave the investigation of a general theorem, which he had promised in 1771, for finding the length of any arc of a conic hyperbola by means of two elliptic arcs; and observes, that by the theorems there investigated, both the elastic curve and the curve of equable recess from a given point, may be constructed in those cases where Mr Maclaurin's elegant method fails. In the 67th volume for 1777, he gave "A new theory of the motion of bodies revolving about an axis in free space, when that motion is disturbed by some extraneous force, either percussive or accelerative." At this time he did not know that the subject had been handled by any person before him; and he considered only the motion of a sphere's spheroid and cylinder. The publication of this paper, however, was the cause of his being told, that the doctrine of rotatory motion had been considered by M. d'Alembert; and purchasing that author's *Opuscules Mathematiques*, he there learned that M. d'Alembert

was not the only one who had considered the matter before him; for M. d'Alembert there speaks of some mathematician, though he does not mention his name, who, after reading what had been written on the subject, doubted whether there be any solid whatever, besides the sphere, in which any line, passing through its centre of gravity, will be a permanent axis of rotation. In consequence of this, Mr Landen took up the subject again; and though he did not the give a solution to the general problem, viz. "To determine the motions of a body of any form whatever, revolving without restraint about any axis passing through its centre of gravity," he fully removed every doubt of the kind which had been started by the person alluded to by M. d'Alembert, and pointed out several bodies, which, under certain dimensions, have that remarkable property. This paper is given, among many others equally curious, in a volume of *Memoirs* which he published in the year 1780. But what renders that volume yet more valuable, is a very extensive appendix, containing "Theorems for the calculation of fluents." The tables which contain these theorems are more complete and extensive than any which are to be found in any other author, and are chiefly of his own investigating; being such as had occurred to him in the course of a long and curious application to mathematical studies in almost every branch of those sciences. In 1781, 1782, and 1783, he published three little tracts on the summation of converging series, in which he explained and showed the extent of some theorems which had been given for that purpose by M. de Moivre, Mr Sterling, and his old friend Thomas Simpson, in answer to some things which he thought had been written to the disparagement of those excellent mathematicians. It was the opinion of some, that Mr Landen did not show less mathematical skill in explaining and illustrating these theorems, than he has done in his writings on original subjects; and that the authors of them were as little aware of the extent of their own theorems as the rest of the world were before Mr Landen's ingenuity made it obvious to all.

About the beginning of the year 1782, Mr Landen had made such improvements in his theory of rotatory motion, as enabled him, he thought, to give a solution of the general problem specified above; but finding the result of it to differ very materially from the result of the solution which had been given of it by M. d'Alembert, and being not able to see clearly where that gentleman had erred, he did not venture to make his own solution public. In the course of that year, having procured the *Memoirs* of the Berlin Academy for 1757, which contain M. Euler's solution of the problem, he found that this gentleman's solution gave the same result as had been deduced by M. d'Alembert; but the perspicuity of M. Euler's manner of writing enabled him to discover where he had erred, which the obscurity of the other did not do. The agreement, however, of two writers of such established reputation as M. Euler and M. d'Alembert made him long dubious of the truth of his own solution, and induced him to revise the process again and again with the utmost circumspection; and being every time more convinced that his own solution was right and theirs wrong, he at length gave it to the public in the 75th volume of the *Philosophical Transactions* for 1785.

The

Lander-
neau,
Landgrave.

The extreme difficulty of the subject, joined to the concise manner in which Mr Landen had been obliged to give his solution in order to confine it within proper limits for the Transactions, rendered it too difficult, or at least too laborious, a piece of business for most mathematicians to read it; and this circumstance, joined to the established reputation of Euler, induced many to think that his solution was right and Mr Landen's wrong; and there did not want attempts to prove it. But notwithstanding these attempts were manifestly wrong, and that every one who perused them saw it, they convinced Mr Landen that there was a necessity for giving his solution at greater length, in order to render it more generally understood. About this time also he met by chance with the late P. Frisi's *Cosmographie Physicæ et Mathematicæ*; in the second part of which there is a solution of this problem, agreeing in the result with those of M. Euler and D'Alembert, which is not surprising, as P. Frisi employs the same principle that they did. Here Mr Landen learned that M. Euler had revised the solution which he had given formerly in the Berlin Memoirs, and given it another form and a greater length in a volume published at Gryphiswell in 1765, entitled *Theoria Motus corporum solidorum seu rigidorum*. Having therefore procured this book, Mr Landen found the same principles employed in it, and of course the same conclusion resulting from them that he had found in Mr Euler's former solution of the problems: but as the reasoning was given at greater length, he was enabled to see more distinctly how M. Euler had been led into the mistake, and to set that mistake in a stronger point of view. As he has been convinced of the necessity of explaining his ideas on the subject more fully, so he now found it necessary to lose no time in setting about it. He had for several years been severely afflicted with the stone in the bladder, and toward the latter part of his life to such a degree as to be confined to his bed for more than a month at a time: yet even this dreadful disorder did not abate his ardour for mathematical studies; for the second volume of his Memoirs, just now published, was written and revised during the intervals of his disorder. This volume, besides a solution of the general problem concerning rotatory motion, contains the resolution of the problem concerning the motion of a top; an investigation of the motion of the equinoxes, in which Mr Landen has first of any one pointed out the cause of Sir Isaac Newton's mistake in his solution of this celebrated problem; and some other papers of considerable importance. He just lived to see this work finished, and received a copy of it the day before his death, which happened on the 15th of January 1790, at Milton, near Peterborough, in the 71st year of his age.

LANDERNEAU, a town of France, in Lower Bretagne, now the department of Finisterre, seated on the river Elhorn, 20 miles east of Brest. In an inn here is a well which ebbs and flows like the sea, but at contrary times. E. Long. 4. 13. N. Lat. 48. 25.

LANDGRAVE, (formed of the German *land*, "earth," and *graff*, or *grave*, "judge" or "count"); a name formerly given to those who executed justice in behalf of the emperors, with regard to the internal policy of the country. The title does not seem to

have been used before the 11th century. These judges were first appointed within a certain district of Germany: in process of time the title became hereditary, and these judges assumed the sovereignty of the several districts or counties over which they presided. Landgrave is now applied by way of eminence to those sovereign princes of the empire who possess by inheritance certain estates called *landgravates*, and of which they receive the investiture of the emperor. There are four princes who have this title, viz. those of Thuringia, Hesse, Alsace, and Leuchtemberg. There are also other landgraves, who are not princes but counts of the empire. See **COUNT**.

LANDGRAVIATE, or **LANDGRAVATE**, the office, authority, jurisdiction, or territory of a landgrave

LANDGUARD FORT seems to belong to Suffolk, but is in the limits of Essex, and has a fine prospect of the coasts of both counties. It was erected, and is maintained, for the defence of the port of Harwich over against it; for it commands the entry of it from the sea up the Maningtree water, and will reach any ship that goes in or out. It is placed on a point of land so surrounded with the sea at high water, that it looks like a little island at least one mile from the shore. The making its foundation solid enough for so good a fortification cost many years labour and a prodigious expence. It was built in the reign of King James I. when it was a much more considerable fortification than now, having four bastions mounted with 60 very large guns, particularly those on the royal bastion, which would throw a 28 pound ball over Harwich. Here is a small garrison, with a governor, and a platform of guns. This fort is refitted and greatly enlarged for the conveniency of the officers of ordnance, engineers, and matrosses; and a barrack built for the soldiers.

LANDISFARN, or **LINDESFARN**. See *HOLR-Island*.

LANDRECY, a town of the French Netherlands, in Hainault, ceded to France by the treaty of the Pyrenees, and is now very well fortified. It was besieged by Prince Eugene in 1712, but to no purpose. It was taken by the allies in April 1794, but retaken in July following. It is seated in a plain on the river Sambre, in E. Long. 3. 47. N. Lat. 50. 7.

LANDSCAPE, in painting, the view or prospect of a country extended as far as the eye will reach. See **PAINTING** and **DRAWING**.

LANDSCROON, a sea port town of Sweden, in South Gothland, and territory of Schonen, seated on the Baltic sea, within the Sound, 22 miles north of Copenhagen. E. Long. 14. 20. N. Lat. 55. 42.

LANDSDOWNE, a town in Somersetshire, near Bath, where there is a fair in October for cattle and cheese.

LANDSHUT, a strong town of Germany in Lower Bavaria, with a strong castle on an adjacent hill. It is seated on the river Iser, E. Long. 12. 10. N. Lat. 48. 23. There is another small town of the same name in Silesia, and in the duchy of Schweidnitz, seated on the river Zeider, which falls into the Bauber; and there is also another in Moravia, seated on the river Morave, on the confines of Hungary and Austria.

LANDSKIP.

Langravi-
ate
||
Landshut.

Landskip,
Lanerk-
shire.

LANDSKIP. See LANESCAPE.

LANERKSHIRE, or LANARKSHIRE, a county of Scotland, called also *Clydesdale*, from the river Clyde by which it is watered. It is bounded on the north by the county of Dumbarton; on the east by Stirling, Linlithgow, Edinburgh, and Peebles, shires; on the south by Dumfries; and on the west by Ayr and Renfrew shires. Its extent from north to south is about 40 miles, from east to west 36.—The river Clyde, descending from the southern part of this county, divides it into two almost equal parts; and after a course of about 50 miles, meets the tide a little below Glasgow; (see GLASGOW). Proceeding up the river from Glasgow, the country is rich and well cultivated. Bothwell castle, now in ruins, stands on an eminence which overlooks the Clyde. Some of its walls are still remaining, which measure 15 feet in thickness and 60 feet in height. Between this castle and the priory of Blantyre on the opposite side of the Clyde, there is said to have been in ancient times a subterraneous passage under the river. A little above Bothwell bridge, noted for the defeat of the Covenanters by the duke of Monmouth in 1679.—East from Bothwell castle, in an elevated situation, stands the Kirk of Shotts, amid a wild and barren country. This dreary waste is covered with heath; and though a high situation, is flat, and very marshy in many places. It is chiefly employed as sheep walks; and notwithstanding the vicinity of coal and lime, seems scarce capable of cultivation. This want is, however, compensated by the abundance of iron stone and coal, which are here brought together by the hand of nature. Nor is this advantage confined to the barren tract in the north-east corner of the shire. The whole county abounds with these valuable minerals; and two iron works are erected on the banks of the Clyde, one a little above Glasgow, and another at Cleland near Hamilton. But the most considerable work of this kind in the county is that of Cleugh, a few miles south-east from the Kirk of Shotts. A village is here built for the accommodation of the workmen. It is called *Wilfontown* from the name of the proprietors. There are beside these, two other iron works in this county, one on the banks of the Cadder near Airdrie, and the other at Shotts.—The small borough of Lanerk is situated on the brow of a hill, on the north-east side of the Clyde, commanding a fine prospect over the river. In this neighbourhood are some of the greatest cotton manufactories in Scotland. The Clyde near this place runs for several miles between high rocks covered with woods; and in its course exhibits many astonishing cataraets: (see the article CLYDE).—From Lanerk, passing the village of Carstairs, a few miles to the east we meet the small town of Carnwath. In this neighbourhood, and along the Clyde to the south-east, there is much cultivation and rich pasture.—To the south of Carnwath is the town of Biggar; where is seen the ruin of a collegiate church founded in 1545.—The lands about the villages of Coulter and Lammington are fertile; but farther up the Clyde we meet with nothing but sheep walks and pasture grounds in tracing it to its source.

In the southern part of the shire, generally called *Clydesdale*, the country is not less wild. Among the mountains here, or rather in a hollow near their sum-

mit, we meet with the village of Leadhills, by some said to be the highest human habitation in the island of Great Britain. Here, however, reside many hundreds of miners with their families. These miners, though in a great measure excluded from society by their situation, yet not only find means to procure a comfortable subsistence, but also pay more attention to the cultivation of the mind than many of their countrymen situated seemingly in more favourable circumstances for the attainment of knowledge. As an evidence of this, they are very intelligent, and have provided a circulating library for the instruction and amusement of the little community belonging to the village.—Amid these mountains particles of gold have sometimes been found washed down by the rains and streams of water; but this desert tract is chiefly valuable for producing metals of inferior worth. “Nothing (says Mr Pennant) can equal the gloomy appearance of the country round. Neither tree, nor shrub, nor verdure, nor picturesque rock, appear to amuse the eye. The spectator must plunge into the bowels of these mountains for entertainment.” The veins of lead lie mostly north and south; and their thickness varies from a few inches to 20 inches and two feet. At one place the Sufannah vein (the richest ever discovered at Leadhills) swelled out to the extraordinary thickness of 14 feet. Some have been found filled with ore within two fathoms of the surface; others sink to the depth of 90 fathoms. The earl of Hopeton, the proprietor, has in his possession a solid mass of lead ore from these mines weighing five tons. His lordship has also, it is said, a piece of native gold that weighs two ounces, which was found here. The lead smelted at this place is all sent to Leith, where it has the privilege of being exported free of duty. The scanty pasture afforded by this barren region feeds some sheep and cattle; but those in the neighbourhood of the mines sometimes perish by drinking of the water in which the lead ore has been washed: for the lead ore communicates a deleterious quality to the water, though that liquid acquires no hurtful taint from remaining in leaden pipes or cisterns. North from this mountainous region lies Crawford muir.

About nine miles north of Leadhills, on the east side of the small river Douglas, which falls into the Clyde a few miles below, stands Douglas castle, for many ages the residence of the second family in Scotland. A modern building has been erected on the same site, in imitation of the ancient castle. Near it stands the town of Douglas. A few miles to the north-east is Tinto, a remarkable conic mountain, round the base of which the Clyde makes a noble sweep. Westward, beyond Douglas, the river Nethan descends into the Clyde through the populous parish of Lesmahago.—Hamilton house, the seat of the duke of Hamilton, stands in a plain between the rivers Clyde and Avon. It is a magnificent structure, surrounded by many venerable oaks. In the vicinity is the town of Hamilton, which contains many handsome houses: (see HAMILTON). Here are seen the ruins of a collegiate church, founded in 1451. At a little distance from Hamilton house is an elegant appendage to it, called *Chatelherault*, the name of the ancient possessions held by the family in France. This building is seated on the river Avon, and is surrounded by woods and

Lanerk-
shire.

Lanerk-
shire,
Lancsbo-
rough.

deep dells, and every rural beauty that can produce a pleasing effect on the imagination.—On the west of Hamilton is the little town of Kilbride; and to the south that of Strathaven, surrounded by the fertile tract from which it derives its name. In our way from Hamilton to Glasgow we meet with the ancient borough of Rutherglen, inhabited chiefly by weavers and other manufacturers: and the village of Govan stands on the same side of the river on the road from Glasgow to Renfrew.

The population of this county in 1801 amounted to 147,796; but as it is stated in the Statistical History, according to its parishes, it is the following:

Parishes.	Population in 1755.	Population in 1790—1793.
1 Avendale	3551	3343
Biggar	1098	937
Blantyre	496	1040
Bothwell	1561	2707
3 Cadder	2396	1767
Cambuslang	934	1288
Cambusnethan	1419	1684
Carluke	1459	1730
Carmichael	899	781
10 Carmunnock	471	570
Carnwath	2390	3000
Carstairs	845	924
Covington	521	484
Crawford	2009	1490
15 Crawford John	765	590
Culter	422	326
Dalserf	765	1100
Dalziel	351	478
Dolphington	302	200
20 Douglas	2009	1715
Dunfyre	359	360
Glasford	559	788
Glasgow	27,451	58,401
Do. Barony }		
25 Gorbals }	4389	9066
Govan }		
Hamilton	3815	5017
Kilbride	2029	2359
Lamington	599	417
30 Lanark	2294	4751
Lefmahago	3996	2810
Libberton	738	750
Monkland, New	2713	3560
Monkland, Old	1813	4000
35 Pettimain	330	386
Robertoun	1102	740
Rutherglen	988	1860
Shotts	2322	2041
Stonehouse	823	1060
40 Symington	264	307
41 Walfon	478	427
	81,726	125,254
		81,726
	Increase	43,528

LANESBOROUGH, a borough town of Ireland, in the county of Longford and province of Leinster, situated on the river Shannon, 62 miles from Dublin.

This town gave title of *viscount* to the family of Lane, and now gives title of *earl* to that of Butler. There is a bridge over the Shannon at Lanesborough into the county of Roscommon. N. Lat. 53.40. W. Long. 8.6.

LANFRANC, an Italian, born at Pavia, became archbishop of Canterbury in 1070. He disputed against Berengarius in the council held at Rome in 1059, and wrote against him concerning the real presence in the eucharist. He had other disputes, &c. and died in 1089.

LANFRANC, *John*, an eminent Italian history painter, born at Parma in 1581. He was first the disciple of Augustin Caracci; and, after his death, of Hannibal, whose taste in design and colouring he so happily attained, that he was intrusted to execute some of his designs in the Farnesian palace at Rome. These he finished in so masterly a manner, that the difference is imperceptible to this day between his work and that of his master. His genius directed him to grand compositions, which he had a peculiar facility in designing and in painting either in fresco or in oil; he did indeed aspire to the grace of Correggio, but could never arrive at his excellence; his greatest power being manifested in composition and fore shortening. He was deficient in correctness and expression; and his colouring, though sometimes admirable, was frequently too dark. By order of Pope Urban VIII. he painted in St Peter's church at Rome the representation of that saint walking on the water, which afforded the pope so much satisfaction that he knighted him. He died in 1647.

LANGBAINE, GERARD, D. D. a learned English writer, was born in 1608. He was educated at Queen's college, Oxford; and became keeper of the archives of that university, and provost of his college. He was highly esteemed by Archbishop Uther, Selden, and other learned men; he died in 1657. He published, 1. An edition of Longinus, in Greek and Latin, with notes; and other works.

LANGBAINE, *Gerard*, an eminent writer, the son of the former, was born in 1656. He was put apprentice to Mr Symonds, bookseller in St Paul's churchyard: but was soon after called from thence by his mother upon the death of his eldest brother, and by her entered a gentleman commoner of University college, Oxford, in 1672. Here he run out a good part of his estate; but afterwards corrected his manner of living, and for some years lived in retirement near Oxford. During this time he improved his taste for dramatic poetry; and at first wrote some small pieces without his name, but afterwards published several works which he publicly owned. In 1690 he was elected inferior beadle of arts in the university of Oxford; and, in January following, was chosen superior beadle of law, but died soon after in 1692. He wrote, 1. The hunter, a discourse on horsemanship. 2. A new catalogue of English plays with their best editions, and divers remarks on the originals of most plays, and on the plagiarists of several authors. 3. An account of the English dramatic poets.

LANGELAND, ROBERT, an old English poet of the 14th century, and one of the first disciples of Wickliffe the reformer. He is said to have been born in Shropshire. He wrote The visions of Pierce Plowman; a piece which abounds with imagination and humour, though dressed to great disadvantage in very uncouth verification

Lanfranc
ii
Langeland.

Langeland verification and obsolete language. It is written without rhyme, an ornament which the poet has endeavoured to supply by making every verse begin with the same letter. Dr Hicke observes, that this kind of alliterative verification was adopted by Langeland from the practice of the Saxon poets, and that these visions abound with Saxonisms: he styles him *celeberrimus ille fatiographus, morum vindex acerrimus, &c.* Chaucer and Spenser have attempted imitations of his visions, and the learned Selden mentions him with honour.

LANGELAND, an island of Denmark in the Baltic sea, in the strait called *the great belt*, and between Zealand, Seland, and Fyonia. It produces plenty of corn, and the principal town is Rutcooping. E. Long. 11. 10. N. Lat. 55. 0.

LANGETZ, a town of France, in Touraine, noted for its excellent melons. It is seated on the river Loire, in E. Long. 0. 23. N. Lat. 42. 20.

LANGHORNE, JOHN, D.D. was born at Kirkby-Stephen in Westmorland. His father was the reverend John Langhorne of Winston, who died when his son was young. After entering into holy orders, he became tutor to the sons of Mr Cracroft, a Lincolnshire gentleman, whose daughter he married. The lady in a short time died: and the loss of her was very pathetically lamented by her husband in a monody; and by another gentleman, Mr Cartwright, in a poem entitled "Conitantia." Dr Langhorne held the living of Blagden in Somersetshire at the time of his death, which happened April 1. 1779. He was the author of several literary productions; amongst others, of Poems in two vols 1766; Sermons in 2 vols 1773; Effusions of Fancy, 2 vols; Theodosius and Constantia, 2 vols; Solyman and Almena; Frederic and Pharamond, or the Consolations of Human Life, 1769; a Dissertation on the Eloquence of the Pulpit, and another on Religious Retirement; and he was editor of the Works of St Evremond, of the Poems of Collins, and some other articles.

LANGIONA, a large, rich, and strong town of Asia, capital of the kingdom of Laos, with a large and magnificent palace where the king resides. E. Long. 96. 45. N. Lat. 22. 38.

LANGOBARDI, a people of Germany situated between the Elbe and the Oder, in the Marche of Brandenburg, whom their paucity ennobled; in regard that, being encompassed by many and powerful nations, they preserved themselves, not so much by submission, as by dint of arms and encountering dangers, (Tacitus).

LANGPORT, a town in Somersetshire, 132 miles from London, is a well frequented town on the Parrot, between Bridgewater and Crewkern. Here are lighters which are constantly employed in carrying coals, &c. from Bridgewater. Eels are taken in vast plenty out of the holes of the banks of the river in frosty weather.

LANGREL SHOT, at sea; that consisting of two bars of iron joined by a chain or shackle, and having half a ball of iron fixed on each end; by means of which apparatus it does great execution among the enemy's rigging.

LANGRES, an ancient and considerable town of France, in Champagne, with a bishop's see. The cutlery wares made here are in high esteem. It is seated on a mountain near the river Marne, in E. Long. 4. 24. N. Lat. 47. 52.

LANGTON, STEPHEN, was born in England, but educated at Paris, and was greatly esteemed for his learning by the king and nobility of France. He was chancellor of Paris, a cardinal of Rome, and in the reign of King John was made archbishop of Canterbury by Pope Innocent III. in opposition both to the monks of Canterbury and to the king. Langton was one of the most illustrious men of his age for learning; and continued archbishop 22 years, dying in 1228. A catalogue of his books is given by Bale and Tanner.

LANGUAGE, in the proper sense of the word, signifies the expression of our ideas and their various relations by certain articulate sounds, which are used as the signs of those ideas and relations. By articulate sounds are meant those modulations of simple voice, or of sound emitted from the thorax, which are formed by means of the mouth and its several organs,—the teeth, the tongue, the lips and the palate. In a more general sense of the word, *language* is sometimes used to denote all sounds by which animals of any kind express their particular feelings and impulses in a manner that is intelligible to their own species.

Nature has endowed every animal with powers sufficient to make known all those of its sensations and desires, with which it is necessary, for the preservation of the individual or the continuance of the kind, that others of the same species should be acquainted. For this purpose, the organs of all vocal animals are so formed, as, upon any particular impulse, to utter sounds, of which those of the same species instinctively know the meaning. The humons of the hen is instantly obeyed by the whole brood of chickens; and in many others of the irrational tribes a similar mode of communication may be observed between the parents and the offspring, and between one animal and its customary associate. But it is not among animals of the same species only that these instinctive sounds are mutually understood. It is as necessary for animals to know the voices of their enemies as the voice of their friends; and the roaring of the lion is a sound, of which, previous to all experience, every beast of the forest is naturally afraid. Between these animal voices and the language of men there is however very little analogy. Human language is capable of expressing ideas and notions, which there is every reason to believe that the brutal mind cannot conceive. "Speech (says Aristotle) is made to indicate what is expedient and what inexpedient, and in consequence of this what is just and unjust. It is therefore given to men; because it is peculiar to them, that of good and evil, just and unjust, they only (with respect to other animals) possess a sense or feeling." The voices of brutes seem intended by nature to express, not distinct ideas or moral modes, but only such feelings as it is for the good of the species that they should have the power of making known; and in this, as in all other respects, these voices are analogous; not to our speaking, but to our weeping, laughing, singing, groaning, screaming, and other natural and audible expressions of appetite and passion.—Another difference between the language of men and the voices of brute animals consists in articulation, by which the former may be resolved into distinct elementary sounds or syllables; whereas the latter, being for the most part unarticulated, are not capable of such a resolution. Hence Homer and Hesiod characterise man by the epithet

Langton, Language.

Definition.

Language in what respects different from the instinctive cries of animals.

Language. thet *pegon*, or "voice-dividing," as denoting a power peculiar to the human species; for though there are a few birds † which utter sounds that may be divided into syllables, yet each of these birds utters but one such sound, which seems to be employed rather as notes of natural music than for the purpose of giving information to others; for when the bird is agitated, it utters cries which are very different, and have no articulation.

† The parrot, cuckoo, and East India bird called *coccatoo*, &c.

3
Not from nature or instinct, but

—A third difference between the language of men and the significant cries of brute animals, is, that the former is from art and the latter from nature. Every human language is learned by imitation, and is intelligible only to those who either inhabit the country where it is vernacular, or have been taught it by a master or by books: but the voices in question are not learned by imitation; and being wholly instinctive, they are intelligible to all the animals of that species by which they are uttered, though brought together from the most distant countries on earth. That a dog, which had never heard another bark, would notwithstanding bark himself, and that the barkings or yelps of a Lapland dog would be instinctively understood by the dogs of Spain, Calabria, or any other country, are facts which admit not of doubt: but there is no reason to imagine that a man who had never heard any language spoken would himself speak; and it is well known that the language spoken in one country, is unintelligible to the natives of another country where a different language is spoken. Herodotus indeed records a fact which, could it be depended upon, would tend to overturn this reasoning, as it infers a natural relation between ideas and certain articulate sounds. He tells us, that Psammetichus king of Egypt, in order to discover which was the oldest language, caused two children, newly born of poor parents, to be brought up by a shepherd among his cattle, with a strict injunction that they should never hear a human voice; and that at the end of two years the children pronounced at the same time the word *βεικος*, which in the Phrygian language signified *bread*. Either this is one of the many fables which that credulous historian collected among the Egyptians, or the conduct and reasoning of Psammetichus were very absurd; for it is added, that from this circumstance he inferred that the Phrygians were the most ancient people, and that they spoke the primitive language. The only rational purpose for which such an experiment could be instituted, would be to discover, not which is the oldest or the latest language, but whether there be such a thing as a language of nature or instinct: but in such a language it is obvious that there could be no word to denote *bread*, because in what is called the state of nature bread is unknown. The experiment of Psammetichus was probably never made; but in the woods of different countries solitary savages have at different times been caught, who, though they apparently possessed all the sagacity which is natural to man, and though their organs both of hearing and of speech were perfect, never used articulate sounds as signs of sensations or ideas. They uttered indeed the inarticulate cries which are instinctively expressive of pleasure and pain, of joy and sorrow, more distinctly and forcibly than men civilized; but with respect to the very rudiments of language, they were what Horace represents all mankind to have been originally,—*mutum et surpe pecus*. Indeed it seems to be obvious,

that were there any instinctive language, the first words uttered by all children would be the same; and that every child, whether born in the desert or in society, would understand the language of every other child, however educated or however neglected. Nay more, we may venture to affirm, that such a language, though its general use might, in society, be superseded by the prevailing dialect of art, could never be wholly lost; and that no man of one country would find it difficult, far less impossible, to communicate the knowledge of his natural and most pressing wants to the men of any other country, whether barbarous or civilized. The exercise of cultivated reason, and the arts of civil life, have indeed eradicated many of our original instincts, but they have not eradicated them all: (see INSTINCT). There are external indications of the internal feelings and desires, which appear in the most polished society, and which are confessedly instinctive. The passions, emotions, sensations, and appetites, are naturally expressed in the countenance by characters which the savage and the courtier can read with equal readiness. The look serene, the smoothed brow, the dimpled smile, and the glistening eye, denote equanimity and good will in terms which no man mistakes. The contracted brow, the glaring eye, the fullen gloom, and the threatening air, denote rage, indignation, and defiance, as plainly and forcibly as revilings or imprecations. To teach men to disguise these instinctive indications of their temper, and

"To carry smiles and sunshine in their face,
"When discontent fits heavy at their heart,"

constitutes a great part of modern and refined education. Yet in spite of every effort of the utmost skill, and of every motive resulting from interest, the most consummate hypocrite, or the most hackneyed politician, is not always able to prevent his real disposition from becoming apparent in his countenance. He may indeed, by long practice, have acquired a very great command both over his temper and over the instinctive signs of it; but at times nature will predominate over art, and a sudden and violent passion will flash in his face, so as to be visible to the eye of every beholder. If these observations be just, and we flatter ourselves with the belief that no man will call them in question, it seems to follow, that, if mankind were prompted by instinct to use articulate sounds as indications of their passions, affections, sensations, and ideas, the language of nature could never be wholly forgotten, and that it would sometimes predominate over the language of art. Groans, sighs, and some inarticulate lively sounds, are naturally expressive of pain and pleasure, and equally intelligible to all mankind. The occasional use of these no art can wholly banish; and if there were articulate sounds naturally expressive of the same feelings, it is not conceivable that art or education could banish the use of them, merely because by the organs of the mouth they are broken into parts and resolvable into syllables.

It being thus evident that there is no instinctive articulated language, it has become an inquiry of some importance, how mankind were first induced to fabricate articulate sounds, and to employ them for the purpose of communicating their thoughts. Children learn to speak by insensible imitation; and when advanced

Language.

Language. vanced some years in life, they study foreign languages under proper instructors: but the first men had no speakers to imitate, and no formed language to study; by what means then did they learn to speak? On this question only two opinions can possibly be formed. Either language must have been originally revealed from heaven, or it must be the fruit of human industry. The greater part of Jews and Christians, and even some of the wisest Pagans, have embraced the former opinion; which seems to be supported by the authority of Moses, who represents the Supreme Being as teaching our first parents the *names* of animals. The latter opinion is held by Diodorus Siculus, Lucretius, Horace, and many other Greek and Roman writers, who consider language as one of the arts invented by man. The first men, say they, lived for some time in woods and caves after the manner of beasts, uttering only confused and indistinct noises; till, associating for mutual assistance, they came by degrees to use articulate sounds mutually agreed upon for the arbitrary signs or marks of those ideas in the mind of the speaker which he wanted to communicate to the hearer. This opinion sprung from the atomic cosmogony which was framed by Moschus the Phenician, and afterwards improved by Democritus and Epicurus; and though it is part of a system in which the first men are represented as having grown out of the earth like trees and other vegetables, it has been adopted by several modern writers (A) of high rank in the republic of letters, and is certainly in itself worthy of examination.

4
Either revealed from heaven, or an art invented by men.

5
Arguments for its being of human invention.

The most learned, and on every account the most respectable author who now supports this opinion, candidly acknowledges, that if language was invented, it was of very difficult invention, and far beyond the reach of the grossest savages. Accordingly he holds, that though men were originally solitary animals, and had no natural propensity to the social life; yet before language could be invented they must have been associated for ages, and have carried on of concert some common work. Nay, he is decidedly of opinion, that before the invention of an art so difficult as language, men must not only have herded together, but have also formed some kind of civil polity, have existed in that political state a very long time, and have acquired such powers of abstraction as to be able to form general ideas. (See LOGIC and METAPHYSICS.) But it is obvious, that men could not have instituted civil polity, or have carried on of concert any common work, without communicating their designs to each other: and there are four ways by which the author thinks that this could have been done before the invention of speech; viz. 1st, *Inarticulate cries*, expressive of sentiments and passions: 2d, *Gestures and the expression of countenance*: 3d, *Imitative sounds* expressive of audible things; and, 4th, *Painting*, by which visible objects may be represented. Of these four ways of communication it is plain that only two have any connection with language, viz. inarticulate cries and imitative sounds; and of these the author abandons the latter as having contributed nothing to the invention of articulation, though he

Language. thinks it may have helped to advance its progress. "I am disposed (says he) to believe, that the framing of words with an analogy to the sound of the things expressed by them belongs rather to languages of art than to the first languages spoken by rude and barbarous nations." It is therefore inarticulate cries only that must have given rise to the formation of language. Such cries are used by all animals who have any use of voice to express their wants; and the fact is, that all barbarous nations have cries expressing different things, such as joy, grief, terror, surprise, and the like. These, together with gestures and expression of the countenance, were undoubtedly the methods of communication first used by men: and we have but to suppose (says our author) a great number of our species carrying on some common business, and conversing together by signs and cries; and we have men just in a state proper for the invention of language. For if we suppose their numbers to increase, their wants would increase also; and then these two methods of communication would become too confined for that larger sphere of life which their wants would make necessary. The only thing then that remained to be done was to give a greater variety to the instinctive cries; and as the natural progress is from what is easy to what is more difficult, the first variation would be merely by tones from low to high, and from grave to acute. But this variety could not answer all the purposes of speech in society; and being advanced so far, it was natural that an animal so sagacious as man should go on farther, and come at last to the only other variation remaining, namely, articulation. The first articulation would be very simple, the voice being broken and distinguished only by a few vowels and consonants. And as all natural cries are from the throat and larynx, with little or no operation of the organs of the mouth, it is natural to suppose, that the first languages were for the greater part spoken from the throat; that what consonants were used to vary the cries, were mostly guttural; and that the organs of the mouth would at first be very little employed. From this account of the origin of language it appears, that the first sounds articulated were the natural cries by which men signified their wants and desires to one another, such as calling one another for certain purposes, and other such things as were most necessary for carrying on any joint work: then in process of time other cries would be articulated, to signify, that such and such actions had been performed or were performing, or that such and such events had happened relative to the common business. The names would be invented of such objects as they were conversant with; but as we cannot suppose savages to be deep in abstraction or skilful in the art of arranging things according to their *genera* and *species*, all things however similar, except perhaps the individuals of the lowest species, would be expressed by different words not related to each other either by derivation or composition. Thus would language grow by degrees; and as it grew, it would be more and more broken and articulated by consonants; but still the words would retain a great deal of their original nature.

(A) Father Simon, Voltaire, L'Abbé Condillac, Dr Smith, and the author of *the Origin and Progress of Language*.

Language ture of animal cries. And thus things would go on, words unrelated still multiplying, till at last the language would become too cumbersome for use; and then art would be obliged to interpose, and form a language upon a few radical words, according to the rules and method of etymology.

7
Arguments
for its di-
vine origin.

Those (B) who think that language was originally revealed from heaven, consider this account of its human invention as a series of mere suppositions hanging loosely together, and the whole suspended from no fixed principle. The opinions of Diodorus, Vitruvius, Horace, Lucretius, and Cicero, which are frequently quoted in its support, are in their estimation of no greater authority than the opinions of other men; for as language was formed and brought to a great degree of perfection long before the era of any historian with whom we are acquainted, the antiquity of the Greek and Roman writers, who are comparatively of yesterday, gives them no advantage in this inquiry over the philosophers of France and England. Aristotle has defined man to be ζῷον μιλῶντιον: and the definition is certainly so far just, that man is much more remarkable for imitation than invention; and therefore, say the reasoners on this side of the question, had the human race been originally *mutum et turpe pecus*, they would have continued so to the end of time, unless they had been taught to speak by some superior intelligence. That the first men sprung from the earth like vegetables, no modern philosopher has ventured to assert; nor does there anywhere appear sufficient evidence that men were originally in the state of savages. The oldest book extant contains the only rational cosmogony known to the ancient nations; and that book represents the first human inhabitants of this earth, not only as reasoning and speaking animals, but also as in a state of high perfection and happiness, of which they were deprived for disobedience to their Creator. Moses, setting aside his claim to inspiration, deserves, from the confidence of his narrative, at least as much credit as Moschus, or Democritus, or Epicurus; and from his prior antiquity, if antiquity could on this subject have any weight, he would deserve more, as having lived nearer to the period of which they all write. But the question respecting the origin of language may be decided without resting in authority of any kind, merely by considering the nature of speech and the mental and corporeal powers of man. Those who maintain it to be of human invention, suppose men at first to have been solitary animals, afterwards to have herded together without government or subordination, then to have formed political societies, and by their own exertions to have advanced from the grossest ignorance to the refinements of science. But, say the reasoners whose cause we are now pleading, this is a supposition contrary to all history, and all experience. There is not upon record a single instance well authenticated of a people emerging by their own efforts from barbarism to civilization. There have indeed been many nations raised from the state of savages; but it is known that they were polished, not by their own repeated exertions, but by the influence of individuals or colonies

from nations more enlightened than themselves. The original savages of Greece were tamed by the Pelasgi, a foreign tribe; and were afterwards further polished by Orpheus, Cecrops, Cadmus, &c. who derived their knowledge from Egypt and the East. The ancient Romans, a ferocious and motley crew, received the blessings of law and religion from a succession of foreign kings; and the conquests of Rome at a latter period contributed to civilize the rest of Europe. In America, the only two nations which at the invasion of the Spaniards could be said to have advanced a single step from barbarism, were indebted for their superiority over the other tribes, not to the gradual and unassisted progress of the human mind, but to the wise institutions of foreign legislators.

This is not the proper place for tracing the progress of man from the savage state to that of political society (see *SAVAGE STATE*); but experience teaches us that in every art it is much easier to improve than to invent. The human mind, when put into the proper track, is indeed capable of making great advances in arts and sciences; but if any credit be due to the records of history, it has not, in a people sunk in ignorance and barbarity, sufficient vigour to discover that track, or to conceive a state different from the present. If the rudest inhabitants of America and other countries have continued, as there is every reason to believe they have continued, for ages in the same unvaried state of barbarism; how is it imaginable that people so much ruder than they, as to be ignorant of all language, should think of inventing an art so difficult as that of speech, or even to frame a conception of the thing? In building, fishing, hunting, navigating, &c. they might imitate the instinctive arts of other animals, but there is no other animal that expresses its sensations and affections by arbitrary articulate sounds.—It is said that before language could be invented, mankind must have existed for ages in large political societies, and have carried on in concert some common work; but if inarticulate cries, and the natural visible signs of the passions and affections, were modes of communication sufficiently accurate to keep a large society together for ages, and to direct its members in the execution of some common work, what could be their inducement to the invention of an art so useful and difficult as that of language? Let us however suppose, say the advocates for the cause which we are now supporting, that different nations of savages set about inventing an art of communicating their thoughts, which experience had taught them was not absolutely necessary; how came they all, without exception, to think of the one art of articulating the voice for this purpose? Inarticulate cries, out of which language is fabricated, have indeed an instinctive connexion with our passions and affections; but there are gestures and expressions of countenance with which our passions and affections are in the same manner connected. If the natural cries of passion could be so modified and enlarged as to be capable of communicating to the hearer every idea in the mind of the speaker, it is certain that the natural gestures could be so modified as to answer the
very

Language very same purpose (see PANTOMIME); and it is strange that among the several nations who invented languages, not one should have stumbled upon fabricating visible signs of their ideas, but that all should have agreed to denote them by articulated sounds. Every nation whose language is narrow and rude supplies its defects by a violent gesticulation; and therefore, as much less genius is exerted in the improvement of any art than was requisite for its first invention, it is natural to suppose, that, had men been left to devise for themselves a method of communicating their thoughts, they would not have attempted any other than that by which they now improve the language transmitted by their fathers. It is vain to urge that articulate sounds are fitter for the purpose of communicating thought than visible gesticulation; for though this may be true, it is a truth which could hardly occur to savages, who had never experienced the fitness of either; and if, to counterbalance the superior fitness of articulation, its extreme difficulty be taken into view, it must appear little less than miraculous that every savage tribe should think of it rather than the easier method of artificial gesticulation. Savages, it is well known, are remarkable for their indolence, and for always preferring ease to utility; but their modes of life give such pliancy to their bodies, that they could with very little trouble bend their limbs and members into any positions agreed upon as the signs of ideas. This is so far from being the case with respect to the organs of articulation, that it is with extreme difficulty, if at all, that a man advanced in life can be taught to articulate any sound which he has not been accustomed to hear. No foreigner who comes to England after the age of thirty ever pronounces the language tolerably well; an Englishman of that age can hardly be taught to utter the guttural sound which a Scotchman gives to the Greek α , or even the French sound of the vowel u ; and of the solitary savages who have been caught in different forests, we know not that there has been one who, after the age of manhood, learned to articulate any language so as to make himself readily understood. The present age has indeed furnished many instances of deaf persons being taught to speak intelligibly by skilful masters moulding the organs of the mouth into the positions proper for articulating the voice; but who was to perform this task among the inventors of language, when all mankind were equally ignorant of the means by which articulation is effected? In a word, daily experience informs us, that men who have not learned to articulate in their childhood, never afterwards acquire the faculty of speech but by such helps as savages cannot obtain; and therefore, if speech was invented at all, it must have been either by children who were incapable of invention, or by men who were incapable of speech. A thousand, nay a million, of children could not think of inventing a language. While the organs are pliable, there is not understanding enough to frame the conception of a language; and by the time that there is understanding, the organs are become too stiff for the task, and therefore, say the advocates for the divine origin of language, reason as well as history intimates, that mankind in all ages must have been speaking animals; the young having constantly acquired this art by imitating those who were

elder; and we may warrantably conclude, that our first parents received it by immediate inspiration. Language.

To this account of the origin of language an objection readily offers itself. If the first language was communicated by inspiration, it must have been perfect, and held in reverence by those who spake it, i. e. by all mankind. But a vast variety of languages have prevailed in the world; and some of these which remain are known to be very imperfect, whilst there is reason to believe that many others are lost. If different languages were originally invented by different nations, all this would naturally follow from the mixture of these nations; but what could induce men possessed of one perfect language of divine original, to forsake it for barbarous jargons of their own invention, and in every respect inferior to that with which their forefathers or themselves had been inspired?

In answer to this objection, it is said, that nothing was given by inspiration but the faculty of speech and the elements of language; for when once men had language, it is easy to conceive how they might have modified it by their natural powers, as thousands can improve what they could not invent. The first language, if given by inspiration, must in its principles have had all the perfection of which language is susceptible; but from the nature of things it could not possibly be very copious. The words of language are either proper names or the signs of ideas and relations; but it cannot be supposed that the All-wise Instructor would load the memories of men with words to denote things then unknown, or with the signs of ideas which they had not then acquired. It was sufficient that a foundation was laid of, such a nature as would support the largest superstructure which they might ever after have occasion to raise upon it, and that they were taught the method of building by composition and derivation. This would long preserve the language radically the same, though it could not prevent the introduction of different dialects in the different countries over which men spread themselves. In whatever region we suppose the human race to have been originally placed, the increase of their numbers would in process of time either disperse them into different nations, or extend the one nation to a vast distance on all sides from what we may call the seat of government. In either case they would everywhere meet with new objects, which would occasion the invention of new names; and as the difference of climate and other natural causes would compel those who removed eastward or northward to adopt modes of life in many respects different from the modes of those who travelled towards the west or the south, a vast number of words would in one country be fabricated to denote complex conceptions, which must necessarily be unintelligible to the body of the people inhabiting countries where those conceptions had never been formed. Thus would various dialects be unavoidably introduced into the original language, even whilst all mankind remained in one society and under one government. But after separate and independent societies were formed, these variations would become more numerous, and the several dialects would deviate farther and farther from each other, as well as from the idiom and genius of the parent tongue, in proportion to the distance of

In what circumstances the most perfect and copious language must become narrow and rude.

Language. the tribes by whom they were spoken. If we suppose a few people either to have been banished together from the society of their brethren, or to have wandered of their own accord to a distance, from which through trackless forests they could not return (and such emigrations have often taken place), it is easy to see how the most copious language must in their mouths have soon become narrow, and how the offspring of inspiration must have in time become so deformed as hardly to retain a feature of the ancestor whence it originally sprung. Men do not long retain a practical skill in those arts which they never exercise; and there are abundance of facts to prove, that a single man cast upon a desert island, and having to provide the necessaries of life by his own ingenuity, would soon lose the art of speaking with fluency his mother tongue. A small number of men cast away together, would indeed retain that art somewhat longer; but in a space of time not very long, it would in a great measure be lost by them or their posterity. In this state of banishment, as their time would be almost wholly occupied in hunting, fishing, and other means within their reach to support a wretched existence, they would have very little leisure, and perhaps less desire, to preserve by conversation the remembrance of that ease and those comforts of which they now found themselves for ever deprived; and they would of course soon forget all the words which in their native language had been used to denote the accommodations and elegancies of polished life. This at least seems to be certain, that they would not attempt to teach their children a part of language which in their circumstances could be of no use to them, and of which it would be impossible to make them comprehend the meaning; for where there are no ideas, the signs of ideas cannot be made intelligible. From such colonies as this dispersed over the earth, it is probable that all those nations of savages have arisen, which have induced so many philosophers to imagine that the state of the savage was the original state of man; and if so, we see that from the language of inspiration must have unavoidably sprung a number of different dialects all extremely rude and narrow, and retaining nothing of the parent tongue, except perhaps the names of the most conspicuous objects of nature, and of those wants and enjoyments which are inseparable from humanity. The savage state has no artificial wants, and furnishes few ideas that require terms to express them. The habits of solitude and silence in-

cline a savage rarely to speak; and when he speaks, he uses the same terms to denote different ideas. Speech therefore, in this rude condition of men, must be extremely narrow and extremely various. Every new region, and every new climate, suggests different ideas and creates different wants, which must be expressed either by terms entirely new or by old terms used with a new signification. Hence must originate great diversity, even in the first elements of speech, among all savage nations, the words retained of the original language being used in various senses, and pronounced, as we may believe, with various accents. When any of those savage tribes emerged from their barbarism, whether by their own efforts or by the aid of people more enlightened than themselves, it is obvious that the improvement and copiousness of their language would keep pace with their own progress in knowledge and in the arts of civil life; but in the infinite multitude of words which civilization and refinement add to language, it would be little less than miraculous were any two nations to agree upon the same sounds to represent the same ideas. Superior refinement, indeed, may induce imitation, conquests may impose a language, and extension of empires may melt down different nations and different dialects into one mass; but independent tribes naturally give rise to diversity of tongues, nor does it seem possible that they should retain more of the original language than the words expressive of those objects with which all men are at all times equally concerned.

The variety of tongues, therefore, the copiousness of some, and the narrowness of others, furnish no good objection to the divine origin of language in general; for whether language was at first revealed from heaven, or in a course of ages invented by men, a multitude of dialects would inevitably arise as soon as the human race was separated into a number of distinct and independent nations.—We pretend not to decide for our readers in a question of this nature: we have given the best arguments on both sides which we could either devise or find in the writings of others: and if it be seen, as we doubt not it will, that our own judgement leans to the side of revelation, let it not be hastily condemned by those whose knowledge of languages extends no farther than to Greece and Rome, and France and England; for if they will carry their philological inquiries to the east, they may perhaps be able to trace the remains of one original language through a great part of the globe at this day (c).

Language,

(c) Numberless instances of this might be given, but our limits will permit us to produce only a very few.—In the *Shanscrit*, or ancient language of the *Gentoos*, OUR signifies a *day*: (See *Halhed's preface to the code of Gentoos laws*). In other eastern languages, the same word was used to denote both *light* and *fire*. Thus in the *Chaldee*, UR is *fire*; in the *Egyptian*, OR is the *sun* or *light*, (*Plut. de Osir. et Isid.*): In the *Hebrew*, AUR is *light*: in the *Greek*, *aur* is the *air*, often *light*: in *Latin*, AURA is the *air*, from the *Æolic Greek*; and in *Irish* it is *AEAR*. From the very same original we have the *Greek* word *πυρ*, and the *English* *fire*.—In *Hebrew*, OR signifies to *raise*, *lift up one's self*, or *be raised*: hence plainly are derived the *Greek* *ορα*, to *raise*, *excite*, and the *Latin* *ORIOR* to *arise*; whence *ORIENS* the *east*, and *Eng. orient, oriental*; also *Lat. origo*, and *Eng. origin, originate*, &c.—The word *KHUNT* in the *Shanscrit* dialect, signifies a *small territory*, which is retained in *Kυθηρας, Kent, Canton, Cantabria*. The word *KHAN, KIN, CEAN, GAN, GEN, GIN*, is of the same kind, and pervades *Asia* and *Europe* from the *Ganges* to the *Garonne*. The word *LIGHT* *English, LUCHT* *Flemish, LUX* *Roman, and λυχος* *Greek*, has been traced to *Egypt*. *ARETZ, AREK, ERECH, HERTHA, EARTH, and ERDE*, are all one word from *Palestine* and *Chaldea* to *Britain* and *Germany*.—The *Chaldeans* turned the

Hebrew

Language. Language, whatever was its origin, must be subject to perpetual changes from its very nature, as well as from that variety of incidents which affect all sublunary things; and those changes must always correspond with the change of circumstances in the people by whom the language is spoken. When any particular set of ideas becomes prevalent among any society of men, words must be adopted to express them; and from these the language must assume its character.—Hence the language of a brave and martial people is bold and nervous, although perhaps rude and uncultivated; while the languages of those nations in which luxury and effeminacy prevail, are flowing and harmonious, but devoid of force and energy of expression.

9
The language of any people an index to their minds.
10
Some exceptions to the preceding rule.

But although it may be considered as a general rule, that the language of any people is a very exact index of the state of their minds, yet it admits of some particular exceptions. For as man is naturally an imitative animal, and in matters of this kind never has recourse to invention but through necessity, colonies planted by any nation, at whatever distance from the mother country, always retain the same general sounds and *idiom* of language with those from whom they are separated. In process of time, however, the colonists and the people of the mother country, by living under different climates, by being engaged in different occupations, and by adopting, of course, different modes of life, may lose all knowledge of one another, assume different national characters, and form each a distinct language to themselves, totally different in genius and style, though agreeing with one another in the fundamental sounds and general idiom. If, therefore, this particular idiom, formed before their separation, happen to be more peculiarly adapted to the genius of the mother country than of the colonies, these will labour under an inconvenience on this account, which they may never be wholly able to overcome; and this inconvenience must prevent their language from ever attaining to that degree of perfection to which, by the genius of the people, it might otherwise have been carried. Thus various languages may have been formed out of one parent tongue; and thus that happy concurrence of circumstances which has raised some languages to a high degree of perfection, may be easily accounted for, while many ineffectual efforts have been made to raise other languages to the same degree of excellence.

VOL. XI. Part II.

As the knowledge of languages constitutes a great part of erudition, as their beauty and deformities furnish employment to taste, and as these depend much upon the idioms of the different tongues, we shall proceed to make a few remarks upon the advantages and defects of some of those idioms of language with which we are best acquainted.—As the words **IDIOM** and **GENIUS** of a language are often confounded, it will be necessary to inform the reader, that by **IDIOM** we would here be understood to mean *that general mode of arranging words into sentences which prevails in any particular language*; and by the **GENIUS** of a language, we mean to express *the particular set of ideas which the words of any language, either from their formation or multiplicity, are most naturally apt to excite in the mind of any one who hears it properly uttered*. Thus, although the *English, French, Italian, and Spanish* languages nearly agree in the same general **IDIOM**, yet the particular **GENIUS** of each is remarkably different: The *English* is naturally bold, nervous, and strongly articulated; the *French* is weaker, and more flowing; the *Italian* more soothing and harmonious; and the *Spanish* more grave, sonorous, and stately. Now, when we examine the several languages which have been most esteemed in Europe, we find that there are only two **IDIOMS** among them which are essentially distinguished from one another; and all those languages are divided between these two idioms, following sometimes the one and sometimes the other, either wholly or in part. The languages which may be said to adhere to the first **IDIOM**, are those which in their construction follow the order of nature; that is, express their ideas in the natural order in which they occur to the mind; the subject which occasions the action appearing first; then the action accompanied with its several modifications; and, last of all, the object to which it has reference.—These may properly be called **ANALOGOUS** languages; and of this kind are the *English, French, and most of the modern languages in Europe*.—The languages which may be referred to the other **IDIOM**, are those which follow no other order in their construction than what the taste or fancy of the composer may suggest; sometimes making the object, sometimes the action, and sometimes the modification of the action, to precede or follow the other parts. The confusion which this might occasion, is avoided by the particular manner of *inflecting* their words, by which

11
What is meant by the *idiom*, and what by the *genius*, of a language.

12
Two idioms among the languages esteemed in Europe.

13
The analogous and

3 U they

Hebrew word **SHUR** or **SHOR**, which signifies an *ox*, into **THOR**, as likewise did the Phenicians (See *Plut. Vit. Syll.*); hence the Greek *ταυρος*, the Latin *taurus*, the French *taureau*, and the Italian and Spanish *toro*. The Hebrew word **BIT** or **BEITH**, which signifies *cavity, capacity, the concave or inside* of any place, has spread itself far and wide, still retaining nearly the original signification; in the Persian language it is **BAD**, **BED**, **BHAD**, and signifies a *house* or *abode*. In all the dialects of the Gothic tongue, **BODE** signifies the same thing; hence the English *abide, abode, booth, boat*, and the French *batteau*. In all these instances there is a striking resemblance in sound as well as in sense between the derived and the primitive words; but this is not always the case, even when of the legitimacy of the derivation no doubt can be entertained. It has been shown (see *Boswell's Life of Johnson*), that the French **JOUR**, a *day*, is derived from the Latin **DIES**; but it may be certainly traced from a higher source. In many of the oriental dialects, **DI**, *bright*, is a name of the *sun*; hence the Greek $\Delta\iota\varsigma$, *Jupiter*, and the Latin **DIES**, a *day*. From **DIES** comes **DIURNUS**; in the pronunciation of which, either by the inaccuracy of the speaker or of the hearer, *diu* is readily confounded with *giu*; then of the ablative of this adjective, corruptly pronounced *giurno*, the Italians make a substantive **GIORNO**, which by the French is readily contracted into **GIOUR** or **JOUR**. From the same root **DI**, comes $\Delta\iota\omega\varsigma$, *a, ev*, the Eolic $\Delta\iota\omega\varsigma$, the Latin **DIVUS**, and the Celtic **DHIA**, *God*.

Language. they are made to refer to the others with which they ought to be connected, in whatever part of the sentence they occur, the mind being left at liberty to connect the several parts with one another after the whole sentence is concluded. And as the words may be here transposed at pleasure, those languages may be called TRANSPOSITIVE languages. To this class we must, in an especial manner, refer the *Latin* and *Greek* languages.—As each of these IDIOMS has several advantages and defects peculiar to itself, we shall endeavour to point out the most considerable of them, in order to ascertain with greater precision the particular character and excellence of some of those languages now principally spoken or studied in Europe.

14
the trans-
positive lan-
guages
compared
with re-
spect to

The partiality which our forefathers, at the revival of letters in Europe, naturally entertained for the Greek and Roman languages, made them look upon every distinguishing peculiarity belonging to them as one of the many causes of the amazing superiority which those languages evidently enjoyed above every other at that time spoken in Europe.—This blind deference still continues to be paid to them, as our minds are early prepossessed with these ideas, and as we are taught in our earliest infancy to believe, that to entertain the least idea of our own language being equal to the Greek or Latin in any particular whatever, would be a certain mark of ignorance or want of taste.—Their rights, therefore, like those of the church in former ages, remain still to be examined; and we, without exerting our reason to discover truth from falsehood, tamely sit down satisfied with the idea of their undoubted pre-eminence in every respect. But if we look around us for a moment, and observe the many excellent productions which are to be met with in almost every language of Europe, we must be satisfied, that *even these* are now possessed of *some* powers which might afford at least a presumption, that, if they were cultivated with a proper degree of attention, they might, in *some respects*, be made to rival, if not to excel, those beautiful and justly admired remains of antiquity. Without endeavouring to derogate from their merit, let us, with the cool eye of philosophic reasoning, endeavour to bring before the sacred tribunal of Truth some of those opinions which have been most generally received upon this subject, and rest the determination of the cause on her impartial decision.

The learned reader well knows, that the several changes which take place in the arrangement of the words in every TRANSPOSITIVE language, could not be admitted without occasioning great confusion, unless certain classes of words were endowed with particular variations, by means of which they might be made to refer to the other words with which they ought naturally to be connected. From this cause proceeds the necessity of several variations of *verbs*, *nouns*, and *adjectives*; which are not in the least essential or necessary in the ANALOGOUS languages, as we have pretty fully explained under the article GRAMMAR, to which we refer for satisfaction on this head. We shall in this place consider, whether these variations are an advantage or a disadvantage to language.

As it is generally supposed, that every language whose verbs admit of *inflection*, is on that account much more perfect than one where they are varied by *auxiliaries*; we shall in the first place, examine this with

some degree of attention; and that what is said on this head may be the more intelligible, we shall give examples from the Latin and English languages. We make choice of these languages, because the Latin is more purely *transpositive* than the Greek, and the English admits of less *inflection* than any other language that we are acquainted with.

Language.

If any preference be due to a language from the one or the other method of *conjugating* verbs, it must in a great measure be owing to one or more of these three causes:—Either it must admit of a greater variety of sounds, and consequently more room for harmonious diversity of tones in the language:—or a greater freedom of expression is allowed in uttering any simple idea, by the one admitting of a greater variety in the arrangement of the words which are necessary to express that idea than the other does:—or, lastly, a greater precision and accuracy in fixing the meaning of the person who uses the language, arise from the use of one of these forms, than from the use of the other: for, as every other circumstance which may serve to give a diversity to language, such as the general and most prevalent sounds, the frequent repetition of any one particular letter, and a variety of other circumstances of that nature, which may serve to debase a particular language, are not influenced in the least by the different methods of varying the verbs, they cannot be here considered. We shall therefore proceed to make a comparison of the advantages or disadvantages which may accrue to a language by inflecting its verbs with regard to each of these particulars,—variety of sound, variety of arrangement, and accuracy of meaning.

15
Diversity of
sounds, va-
riety of ex-
pressions,
and preci-
sion of
meaning.

The *first* particular that we have to examine is, Whether the one method of expressing the variations of a verb admits of a greater variety of sounds? In this respect the *Latin* seems, at first view, to have a great advantage over the *English*: for the words *amo*, *amabam*, *amaveram*, *amavero*, *amem*, &c. seem to be more different from one another than the English translations of these, *I love*, *I did love*, *I had loved*, *I shall have loved*, *I may love*, &c.; for although the syllable AM is repeated in every one of the first, yet as the last syllable usually strikes the ear with greater force and leaves a greater impression than the first, it is very probable that many will think the frequent repetition of the word LOVE in the last instance, more striking to the ear than the repetition of *am* in the former. We will therefore allow this its full weight, and grant that there is as great, or even a greater difference between the sounds of the different *tenses* of a Latin verb, than there is between the words that are equivalent to them in English. But as we here consider the variety of sounds of the language in general, before any just conclusion can be drawn, we must not only compare the different parts of the same verb, but also compare the different verbs with one another in each of these languages. And here, at first view, we perceive a most striking distinction in favour of the *analogous* language over the *inflected*: for as it would be impossible to form a particular set of inflections different from one another for each particular verb, all those languages which have adopted this method have been obliged to reduce their verbs into a small number of classes; all the words of each of which classes com-
monly

16
Diversity of
sounds.

Language. rmonly called *conjugations*, have the several variations of the *modes, tenses, and persons*, expressed exactly in the same manner, which must of necessity introduce a similarity of sounds into the language in general, much greater than where every particular verb always retains its own distinguishing sound. To be convinced of this, we need only repeat any number of verbs in Latin and English, and observe on which side the preference with respect to variety of sounds must fall.

Pono,	<i>I put.</i>	Moveo,	<i>I move.</i>
Dono,	<i>I give.</i>	Doleo,	<i>I ail.</i>
Cano,	<i>I sing.</i>	Lugeo,	<i>I mourn.</i>
Sono,	<i>I sound.</i>	Obeo,	<i>I die.</i>
Orno,	<i>I adorn.</i>	Gaudeo,	<i>I rejoice.</i>
Pugno,	<i>I fight.</i>	Incipio,	<i>I begin.</i>
Lego,	<i>I read.</i>	Facio,	<i>I make.</i>
Scribo,	<i>I write.</i>	Fodio,	<i>I dig.</i>
Puto,	<i>I think.</i>	Rideo,	<i>I laugh.</i>
Vivo,	<i>I live.</i>	Impleo,	<i>I fill.</i>
Ambulo	<i>I walk.</i>	Abstineo,	<i>I forbear.</i>

The similarity of sounds is here so obvious in the Latin, as to be perceived at the first glance; nor can we be surpris'd to find it so, when we consider that all their regular verbs, amounting to 4000 or upwards, must be reduced to four conjugations, and even these differing but little from one another, which must of necessity produce the sameness of sounds which we here perceive; whereas, every language that follow the natural order, like the English, instead of this small number of uniform terminations have almost as many distinct sounds as original verbs in their language.

But if instead of the present of the indicative mood, we should take almost any other tense of the Latin verb, the similarity of sounds would be still more perceptible, as many of these tenses have the same termination in all the four conjugations, particularly in the imperfect of the indicative, as below.

Pone-bam ;	<i>I did put,</i>	<i>I put.</i>
Dona-bam ;	<i>I did give,</i>	<i>I gave.</i>
Cane-bam ;	<i>I did sing,</i>	<i>I sung.</i>
Sona-bam ;	<i>I did sound,</i>	<i>I sounded.</i>
Orna-bam ;	<i>I did adorn,</i>	<i>I adorn'd.</i>
Pugna-bam ;	<i>I did fight,</i>	<i>I fought.</i>
Lege-bam ;	<i>I did read,</i>	<i>I read.</i>
Scribe-bam ;	<i>I did write,</i>	<i>I wrote.</i>
Put-a-bam ;	<i>I did think,</i>	<i>I thought.</i>
Vive-bam ;	<i>I did live,</i>	<i>I lived.</i>

Ambula-bam ;	<i>I did walk,</i>	<i>I walked.</i>
Move-bam ;	<i>I did move,</i>	<i>I moved.</i>
Dole-bam ;	<i>I did ail,</i>	<i>I ailed.</i>
Luge-bam ;	<i>I did mourn,</i>	<i>I mourned.</i>
Obi-bam ;	<i>I did die,</i>	<i>I died.</i>
Gaude-bam ;	<i>I did rejoice,</i>	<i>I rejoiced.</i>
Incipie-bam	<i>I did begin,</i>	<i>I began.</i>
Facie-bam ;	<i>I did make,</i>	<i>I made.</i>
Fodie-bam ;	<i>I did dig,</i>	<i>I dug.</i>
Ride-bam ;	<i>I did laugh,</i>	<i>I laughed.</i>
Imple-bam ;	<i>I did fill,</i>	<i>I filled.</i>
Abstine-bam ;	<i>I did forbear,</i>	<i>I forbore.</i>

Language.

It is unnecessary to make any remarks on the Latin words in this example: but in the English translation we have carefully marked in the first column the words without any inflection; and in the second, have put down the same meaning by an inflection of our verb; which we have been enabled to do, from a peculiar excellency in our own language unknown to any other either ancient or modern. Were it necessary to pursue this subject farther, we might observe, that the *perfect* tense in all the conjugations ends universally in *I*, the *pluperfect* in *ERAM*, and the *future*, in *AM* or *BO*; in the subjunctive mood, the *imperfect* universally in *REM*, the *perfect* in *ERIM*, the *pluperfect* in *ISSEM*, and the *future* in *ERO*: and as a still greater sameness is observable in the different variations for the persons in these tenses, seeing the first person plural in all tenses ends in *MUS*, and the second person in *TIS*, with little variation in the other persons; it is evident that, in respect to diversity of sounds, this method of conjugating verbs by *inflection*, is greatly inferior to the more natural method of expressing the various connexions and relations of the verbal attributive by different words, usually called *auxiliaries*.

The second particular, by which the different methods of marking the relation of the verbal attributive can affect language, arises from the variety of expressions which either of these may admit of in uttering the same sentiment. In this respect, likewise, the method of conjugation by inflection seems to be deficient. Thus the present of the indicative mood in Latin can at most be expressed only in two ways, viz. *SCRIBO* and *EGO SCRIBO*; which ought perhaps in strictness to be admitted only as one: whereas, in English, we can vary it in four different ways, viz. 1st, *I WRITE*; 2^{dly}, *I DO WRITE*; 3^{dly}, *WRITE I DO*; 4^{thly}, *WRITE DO I (D)*. And if we consider the further variation which these receive in power as well as in sound, by having

17
Variety of
expressions.

3 U 2

the

(D) We are sufficiently aware, that the last variation cannot in strictness be considered as good language; although many examples of this manner of using it in serious composition, both in poetry and prose, might be easily produced from the best authors in the English language.—But however unjustifiable it may be to use it in serious composition; yet, when judiciously employed in works of humour, this and other forced expressions of the like nature produce a fine effect, by giving a burlesque air to the language, and beautifully contrasting it to the purer diction of solid reasoning. The sagacious Shakespeare, has, on many occasions, showed how successfully these may be employed in composition, particularly in drawing the character of *ancient Pistol* in Henry V. Without this liberty, Butler would have found greater difficulty in drawing the inimitable character of *Hudibras*.—Let this apology suffice for having inserted this and other variations of the same kind; which, although they may be often improper for serious composition, have still their use in language.

Language. the emphasis placed on the different words; instead of four, we will find eleven different variations: thus, *1st*, I write, with the emphasis upon the *I*;—*2dly*, I WRITE, with the emphasis upon the word WRITE. Let any one pronounce these with the different emphasis necessary, and he will be immediately satisfied that they are not only distinct from each other with respect to meaning, but also with regard to sound; and the same must be understood of all the other parts of this example.

- | | |
|----------------|-----------------|
| 3. I do write. | 8. Write I do. |
| 4. I DO write. | 9. WRITE do I. |
| 5. I do WRITE. | 10. Write DO I. |
| 6. WRITE I do. | 11. Write do I. |
| 7. Write I do. | |

None of the Latin tenses admit of more variations than the two above mentioned: nor do almost any of the English admit of fewer than in the above example; and several of these phrases, which must be considered as exact translations of some of the tenses of the Latin verb, admit of many more. Thus the imperfect of the subjunctive mood, which in Latin admits of the above two variations, admits in English of the following:

- | | |
|--------------------------|--------------------------|
| 1. I might have written. | 4. Written might have I. |
| 2. Written I might have. | 5. I written might have. |
| 3. Have written I might. | 6. Have written might I. |

And if we likewise consider the variations which may be produced by a variation of the emphasis, they will be as under:

- | | |
|---------------------------|---------------------------|
| 1. I might have written. | 13. WRITTEN might have I. |
| 2. I MIGHT have written. | 14. Written MIGHT have I. |
| 3. I might HAVE written. | 15. Written might HAVE I. |
| 4. I might have WRITTEN. | 16. Written might have I. |
| 5. WRITTEN I might have. | 17. I written might have. |
| 6. Written I might have. | 18. I WRITTEN might have. |
| 7. Written I MIGHT have. | 19. I written MIGHT have. |
| 8. Written I might HAVE. | 20. I written might HAVE. |
| 9. HAVE written I might. | 21. HAVE written might I. |
| 10. Have WRITTEN I might. | 22. Have WRITTEN might I. |
| 11. Have written I might. | 23. Have written MIGHT I. |
| 12. Have written I MIGHT. | 24. Have written might I. |

In all 24 variations, instead of two.—If we likewise consider, that the Latins were obliged to employ the same word, not only to express “I might have written, but also, “I could, I would, or I should have written;” each of which would admit of the same variations as the word *might*; we have in all *ninety-six* different expressions in English for the same phrase which in Latin admits only of two, unless they have recourse to other forced turns of expression, which the defects of their verbs in this particular has compelled them to invent.

But if it should be objected, that the last circumstance we have taken notice of as a defect, can only be considered as a defect of the Latin language, and is not to be attributed to the *inflection* of their verbs, seeing they might have had a particular tense for each of these different words *might*, *could*, *would*, and *should*; we answer, that, even admitting this excuse as valid; the superiority of the analogous language, as such,

still remains in this respect as 12 to 1.—Yet even this Language. concession is greater than ought to have been made: For as the difficulty of forming a sufficient variety of words for all the different modifications which a verb may be made to undergo is too great for any rude people to overcome; we find, that every nation which has adopted this mode of inflection, not excepting the Greeks themselves, has been obliged to remain satisfied with fewer words than would have been necessary even to effect this purpose, and make the same word serve a double, treble, or even quadruple office, as in the Latin tense which gave rise to these observations; So that, however in physical necessity, this may not be chargeable upon the particular mode of construction, yet in moral certainty it must always be the case; and therefore we may safely conclude, that the mode of varying verbs by *inflection* affords less variety in the arrangement of the words of the particular phrases, than the method of varying them by the help of auxiliaries.

But if there should still remain any shadow of doubt in the mind of the reader, whether the method of varying the verbs by *inflection* is inferior to that by *auxiliaries*, with regard to diversity of sounds, or variety of expression; there cannot be the least doubt, but that with respect to precision, distinctness, and accuracy, in expressing any idea, the latter enjoys a superiority beyond all comparison.—Thus the Latin verb *Amo*, may be Englished either by the words, *I love*, or *I do love*, and the emphasis placed upon any of the words that the circumstances may require; by means of which, the meaning is pointed out with a force and energy which it is altogether impossible to produce by the use of any single word. The following line from Shakespeare's *Othello* may serve as an example:

—————Excellent wretch!
Perdition catch my soul, but I DO love thee:

In which the strong emphasis upon the word DO, gives it a force and energy which conveys, in an irresistible manner, a most perfect knowledge of the situation of the mind of the speaker at the time.—That the whole energy of the expression depends upon this seemingly insignificant word, we may be at once satisfied of, by keeping it away in this manner:

—————Excellent wretch!
Perdition catch my soul, but I love thee.

How poor—how tame—how insignificant is this, when compared with the other! Here nothing remains but a tame assertion, ushered in with a pompous exclamation which could not here be introduced with any degree of propriety. Whereas, in the way that Shakespeare has left it to us, it has an energy which nothing can surpass; for, overpowered with the irresistible force of Desdemona's charms, this strong exclamation is extorted from the soul of Othello in spite of himself. Surprised at this tender emotion, which brings to his mind all those amiable qualities for which he had so much esteemed her, and at the same time fully impressed with the firm persuasion of her guilt, he bursts out into that seemingly inconsistent exclamation, *Excellent wretch!* and then he adds in the warmth of his surprise,—thinking it a thing most astonishing, that any warmth of affection should still remain in his breast,

Language. breast, he even confirms it with an oath,—*Perdition catch my soul, but I DO love thee.*—“In spite of all the falsehoods with which I know thou hast deceived me—in spite of all the crimes of which I know thee guilty—in spite of all those reasons for which I ought to hate thee—in spite of myself,—still I find that I love—yes, I DO love thee.” We look upon it as a thing altogether impossible to transfuse the energy of this expression into any language whose verbs are regularly inflected.

In the same manner we might go through all the other tenses, and show that the same superiority is to be found in each. Thus, in the *perfect tense* of the Latins, instead of the simple *AMAVI*, we say, *I HAVE LOVED*; and by the liberty we have of putting the emphasis upon any of the words which compose this phrase, we can in the most accurate manner fix the precise idea which we mean to excite; for if we say, *I have loved*, with the emphasis upon the word *I*, it at once points out the person as the principal object in that phrase, and makes us naturally look for a contrast in some other person, and the other parts of the phrase become subordinate to it;—“*HE has loved* thee much, but *I have loved* thee infinitely more.” The Latins too, as they were not prohibited from joining the pronoun with their verb, were also acquainted with this excellence, which Virgil has beautifully used in this verse:

—————*Nos patriam fugimus;*
Tu, *Tityre, lentus in umbra, &c.*

But we are not only enabled thus to distinguish the person in as powerful a manner as the Latins, but can also with the same facility point out any of the other circumstances as principals; for if we say, with the emphasis upon the word *have*, “*I HAVE loved*,” it as naturally points out the time as the principal object, and makes us to look for a contrast in that peculiarity, *I HAVE*: “*I have loved* indeed;—my imagination *has* been led astray—my reason *has* been perverted;—but, *now* that time has opened my eyes, I can smile at those imaginary distresses which once perplexed me.”—In the same manner we can put the emphasis upon the other word of the phrase *loved*,—*I have LOVED*.”—Here the passion is exhibited as the principal circumstance; and as this can never be excited without some object, we naturally wish to know the object of that passion—“Who! what have you *loved*?” are the natural questions we would put in this case. “*I have LOVED—Eliza.*”—In this manner we are, on all occasions, enabled to express, with the utmost precision, that particular idea which we would wish to excite, so as to give an energy and perspicuity to the language, which can never be attained by those languages whose verbs are conjugated by inflection: and if to this we add the inconvenience which all inflected languages are subject to, by having too small a number of tenses, so as to be compelled to make one word on many occasions supply the place of two, three, or even four, the balance is turned still more in our favour.—Thus, in Latin, the same word *AMABO* stands for *shall* or *will* love, so that the reader is left to guess from the context which of the two meanings it was most likely the writer had in view.—In the same manner, *may* or *can* love are expressed by the same

word *AMEM*; as are also *might, could, would, or should* Language. love, by the single word *AMAREM*, as we have already observed; so that the reader is left to guess which of these four meanings the writer intended to express: which occasions a perplexity very different from that clear precision which our language allows of, by not only pointing out the different words, but also by allowing us to put the emphasis upon any of them we please, which superadds energy and force to the precision it would have had without that assistance.

Upon the whole, therefore, after the most candid examination, we must conclude, that the method of conjugating verbs by *inflection* is inferior to that which is performed by the help of *auxiliaries*;—because it does not afford such a diversity of sounds, nor allow such variety in the arrangement of expression for the same thought,—nor give so great distinction and precision in the meaning.—It is, however, attended with one considerable advantage above other method: for as the words of which it is formed are necessarily of greater length, and more sonorous, than in the analogous languages, it admits of a more flowing harmony of expression; for the number of monosyllables in this last greatly checks that pompous dignity which naturally results from longer words. Whether this single advantage is sufficient to counterbalance all the other defects with which it is attended, is left to the judgement of the reader to determine:—but we may remark, before we quit the subject, that even this excellence is attended with some peculiar inconveniences, which shall be more particularly pointed out in the sequel.

But perhaps it might still be objected, that although the comparisons we have made above may be fair, and the conclusion just, with regard to the Latin and English languages; yet it does not appear clear, that on that account the method of conjugating verbs by *inflection* is inferior to that by *auxiliaries*; for although it be allowed that the Latin language is defective in point of tenses; yet if a language were formed which had a sufficient number of inflected tenses to answer every purpose; if it had, for instance, a word properly formed for every variation of each tense: one for *I love*, another for *I do love*; one for *I shall*, another for *I will love*; one for *I might*, another for *I could*, and *would*, and *should love*; and so on through all the other tenses; that this language would not be liable to the objections we have brought against the inflection of verbs; and that of course the objections we have brought are only valid against those languages which have followed that mode and executed it imperfectly.—We answer, that although this would in some measure remedy the evil, yet it would not remove it entirely. For, in the first place, unless every verb, or every small number of verbs, were conjugated in one way, having the sound of the words in each tense, and division of tenses, as we may say, different from all the other conjugations,—it would always occasion a sameness of sound, which would in some measure prevent that variety of sounds so proper for a language. And even if this could be effected, it would not give such a latitude to the expression as auxiliaries allow; for although there should be two words, one for *I might*, and another for *I could* love; yet as these are single words, they cannot be varied; whereas, by auxiliaries, either

19
The method of conjugating verbs by inflection inferior to that which is performed by auxiliaries.

Language. of these can be varied 24 different ways, as has been shown above. In the last place, no single word can ever express all that variety of meaning which we can do by the help of our auxiliaries and the emphasis. *I have loved*, if expressed by any one word, could only denote at all times one distinct meaning; so that to give it the power of ours, three distinct words at least would be necessary. However, if all this were done; that is, if there were a distinct conjugation formed for every 40 or 50 verbs;—if each of the tenses were properly formed, and all of them different from every other tense as well as every other verb; and these all carried through each of the different persons, so as to be all different from one another;—and if likewise there were a distinct word to mark each of the separate meanings which the same tense could be made to assume by means of the emphasis; and if all this infinite variety of words could be formed in a distinct manner, different from each other, and harmonious; this language would have powers greater than any that could be formed by auxiliaries, if it were possible for the human powers to acquire such a degree of knowledge as to be able to employ it with facility. But how could this be attained, since upwards of ten thousand words would be necessary to form the variations of any one verb, and a hundred times that number would not include the knowledge of the verbs alone of such a language (E)?—How much, therefore, ought we to admire the simple periphrasis of our language, which enables us, by the proper application of ten or twelve seemingly trifling words, the meaning and use of which can be attained with the utmost ease, to express all that could be expressed by this unwieldy apparatus? What can equal the simplicity or the power of the one method, but the well known powers of the 24 letters, the knowledge of which can be obtained with so much ease—and their powers know no limits?—or, what can be compared to the fancied perfection of the other, but the transcript of it which the Chinese seem to have formed in their unintelligible language?

Having thus considered pretty fully the advantages and defects of each of these two methods of varying verbs, we cannot help feeling a secret wish arise in our mind, that there had been a people sagacious enough to have united the powers of the one method with those of the other; nor can we help being surprised, that among the changes which took place in the several languages of Europe after the downfall of the Roman monarchy, some of them did not accidentally stumble on the method of doing it. From many concurring circumstances, it seems probable that the greatest part, if not all the Gothic nations that overran Italy at that time, had their verbs varied by the help of auxiliaries; and many of the modern European languages which have sprung from them, have so far borrowed from the Latin, as to have some of the tenses

of their verbs inflected: yet the English alone have in any instance combined the joint powers of the two: which could only be done by forming inflections for the different tenses in the same manner as the Latins, and at the same time retaining the original method of varying them by auxiliaries; by which means either the one or the other method could have been employed as occasion required. We have luckily two tenses formed in that way; the *present* of the indicative, and the aorist of the *past*. In almost all our verbs these can be declined either with or without auxiliaries. Thus the present, without an auxiliary, is, *I love, I write, I speak*: with an auxiliary, *I do write, I do love, I do speak*. In the same manner, the past tense, by inflection, is, *I loved, I wrote, I spoke*; by auxiliaries, *I did love, I did speak, I did write*. Every author, who knows any thing of the power of the English language, knows the use which may be made of this distinction. What a pity is it that we should have stopt short so soon! how blind was it in many other nations to imitate the defects without making a proper use of that beautiful language which is now numbered among the dead!

After the verbs, the next most considerable variation we find between the *analogous* and *transpositive* languages is in the nouns; the latter varying the different cases of these by *inflection*; whereas the former expresses all the different variations of them by the help of other words prefixed, called *prepositions*. Now, if we consider the advantages or disadvantages of either of these methods under the same heads as we have done the verbs, we shall find, that with regard to the first particular, viz. variety of sounds, almost the same remarks may be made as upon the verbs; for if we compare any particular noun by itself, the variety of sound appears much greater between the different cases in the *transpositive*, than between the translation of these in the *analogous* language. Thus REX, REGIS, REGI, REGEM, &c. are more distinct from one another, in point of sound, than the translation of these, *a king, of a king, to a king, a king, &c.* But if we proceed one step further, and consider the variety which is produced in the language *in general* by the one or the other of these methods, the case is entirely reversed. For as it would have been impossible to form distinct variations, different from one another, for each case of every noun, they have been obliged to reduce all their nouns into a few general classes, called *declensions*, and to give to all those included under each class the same termination in every case; which produces a like similarity of sound with what we already observed was occasioned to the verbs from the same cause; whereas in the analogous languages, as there is no necessity for any constraint, there is almost as great a variety of sounds as there are of nouns. The Latins have only five different declensions; so that all the great number of words of this general order must be reduced to the very small diversity of sounds which these few classes admit

(E) This assertion may perhaps appear to many very much exaggerated: but if any should think so, we only beg the favour that he will set himself to mark all the variations of tenses, mode, person, and number, which an English verb can be made to assume, varying each of these in every way that it will admit, both as to the diversity of expression and the emphasis; he will soon be convinced that we have here said nothing more than enough.

Language admit of; and even the sounds of these few classes are not so much diversified as they might have been, as many of the different *cases* in the different *declensions* have exactly the same sounds, as we shall have occasion to remark more fully hereafter. We might here produce examples to show the great *similarity* of sounds between different nouns in the Latin language, and *variety* in the English, in the same way as we did of the verbs: but as every reader in the least acquainted with these two languages can satisfy himself in this particular, without any further trouble than by marking down any number of Latin nouns, with their translations into English, we think it unnecessary to dwell longer on this particular.

22
Inferior
with re-
gard to the
arrange-
ment of
words in a
sentence;
but

But if the inflection of nouns is a disadvantage to a language in point of diversity of sounds, it is very much the reverse with regard to the variety it allows in the arranging the words of the phrase. Here, indeed, the transpositive language shines forth in all its glory, and the analogous must yield the palm without the smallest dispute. For as the *nominative case* (or that noun which is the cause of the energy expressed by the verb) is different from the *accusative* (or that noun upon which the energy expressed by the verb is exerted), these may be placed in any situation that the writer shall think proper, without occasioning the smallest confusion: whereas in the analogous languages, as these two different states of the noun are expressed by the same word, they cannot be distinguished but by their position alone: so that the noun which is the efficient cause must always precede the verb, and that which is the passive subject must follow; which greatly cramps the harmonious flow of composition.—Thus the Latins, without the smallest perplexity in the meaning, could say either *Brutum amavit Cassius*, or *Cassius amavit Brutum*, or *Brutum Cassius amavit*, or *Cassius Brutum amavit*. As the termination of the word *Cassius* always points out that it is in the *nominative case*, and therefore that he is the person from whom the energy proceeds; and in the same manner, as the termination of the word *Brutum* points out that it is in the *accusative case*, and consequently that he is the object upon whom the energy is exerted; the meaning continues still distinct and clear, notwithstanding of all these several variations: whereas in the English language, we could only say, *Cassius loved Brutus*, or, by a more forced phraseology, *Cassius Brutus loved*: Were we to reverse the case, as in the Latin, the meaning also would be reversed; for if we say *Brutus loved Cassius*, it is evident, that instead of being the person beloved, as before, *Brutus* now becomes the person from whom the energy proceeds, and *Cassius* becomes the object beloved.—In this respect, therefore, the analogous languages are greatly inferior to the transpositive; and indeed it is from this single circumstance alone that they derive their chief excellence.

But although it thus appears evident, that any language, which has a particular variation of its nouns to distinguish the *accusative* from the *nominative case*, has an advantage over those languages which have none; yet it does not appear that any other of their *cases* adds to the variety, but rather the reverse; for, in Latin, we can only say *Amor Dei*; in English the same phrase may be rendered, either,—*the love of God*—*of God the love*,—or, by a more forced arrangement,

Language *God the love of*. And as these oblique cases, as the Latins called them except the accusative, are clearly distinguished from one another, and from the nominative, by the preposition which accompanies them, we are not confined to any particular arrangement with regard to these as with the accusative, but may place them in what order we please, as in Milton's elegant invocation at the beginning of *Paradise Lost*:

Of man's first disobedience, and the fruit
Of that forbidden tree, whose mortal taste
Brought death into the world, and all our woe,
With loss of Eden, till one greater Man
Restore us, and regain the blissful seat,
Sing, heavenly Muse.

In this sentence the transposition is almost as great as the Latin language would admit of, and the meaning as distinct as if Milton had begun with the plain language of prose, thus,—*Heavenly muse, sing of man's first disobedience,*" &c.

Before we leave this head, we may remark, that the little attention which seems to have been paid to this peculiar advantage derived from the use of an accusative case different from the nominative, is somewhat surprising. The Latins, who had more occasion to attend to this with care than any other nation, and even the Greeks themselves, have in many cases overlooked it, as is evident from the various instances we meet with in their languages where this is not distinguished. For all nouns of the neuter gender both in Greek and Latin have in every declension their nominative and accusative singular alike. Nor in the plural of such nouns is there any distinction between these two cases; and in Latin all nouns whatever of the third, fourth, and fifth declensions, of which the number is very considerable, have their nominative and accusative plural alike. So that their language reaps no advantage in this respect from almost one half of their nouns. Nor have any of the modern languages in Europe, however much they may have borrowed from the ancient languages in other respects, attempted to copy from them in this particular; from which perhaps more advantage would have been gained, than from copying all the other supposed excellencies of their language.—But to return to our subject.

23
Greatly su-
rior as
to precision
of mean-
ing.
It remains that we consider, whether the inflection of nouns gives any advantage over the method of distinguishing them by prepositions, in point of distinctness and precision of meaning? But in this respect, too, the analogous languages must come off victorious. Indeed this is the particular in which their greatest excellence consists; nor was it, we believe, ever disputed, but that, in point of accuracy and precision, this method must excel all others, however it may be defective in other respects. We observed under this head, when speaking of verbs, that it might perhaps be possible to form a language by inflection which should be capable of as great accuracy as in the more simple order of auxiliaries: but this would have been such an infinite labour, that it was not to be expected that ever human powers would have been able to accomplish it. More easy would it have been to have formed the several inflections of the nouns so different from one another, as to have rendered it impossible ever to mistake the meaning. Yet even this has not been attempted. And as we find that those languages

Language. languages which have adopted the method of inflecting their verbs are more imperfect in point of precision than the other, so the same may be said of inflecting the nouns: for, not to mention the energy which the analogous languages acquire by putting the accent upon the noun, or its preposition (when in an oblique case), according as the subject may require, to express which variation of meaning no particular variety of words have been invented in any inflected language, they are not even complete in other respects. The Latin, in particular, is in many cases defective, the same termination being employed in many instances for different cases of the same noun. Thus the genitive and dative singular, and nominative and vocative plural, of the first declension, are all exactly alike, and can only be distinguished from one another by the formation of the sentences;—as are also the nominative, vocative, and ablative singular, and the dative and ablative plural. In the second, the genitive singular, and nominative and vocative plural, are the same; as are also the dative and ablative singular, and dative and ablative plural; except those in *UM*, whose nominative, accusative, and vocative singular, and nominative, accusative, and vocative plural, are alike. The other three declensions agree in as many of their cases as these do; which evidently tends to perplex the meaning, unless the hearer is particularly attentive to, and well acquainted with the particular construction of the other parts of the sentence; all of which is totally removed, and the clearest certainty exhibited at once, by the help of prepositions in the analogous languages.

It will hardly be necessary to enter into such a minute examination of the advantages or disadvantages attending the variation of *adjectives*; as it will appear evident, from what has been already said, that the endowing them with terminations similar to, and corresponding with, *substantives*, must tend still more to increase the similarity of sounds in any language, than any of those particulars we have already taken notice of; and were it not for the liberty which they have, in transpositive languages, of separating the adjective from the substantive, this must have occasioned such a jingle of similar sounds as could not fail to have been most disgusting to the ear: but as it would have been impossible in many cases, in those languages where the verbs and nouns are inflected, to have pronounced the words which ought to have followed each other, unless their adjectives could have been separated from the substantives; therefore, to remedy this inconvenience, they were forced to devise this unnatural method of inflecting them also; by which means it is easy to recognise to what substantive any adjective has a reference, in whatever part of the sentence it may be placed. In these languages, therefore, this inflexion, both as to gender, number, and case, becomes absolutely necessary; and, by the diversity which it admitted in the arranging the words of the several phrases, might counterbalance the jingle of similar sounds which it introduced into the language.

24
These two different idioms of language compared as to their general effects.

Having thus examined the most striking particulars in which the transpositive and analogous languages differ, and endeavoured to show the general tendency of every one of the particulars separately, it would not be fair to dismiss the subject without considering each of these as a whole, and pointing out

their general tendency in that light: for we all know, Language. that it often happens in human inventions, that every part which composes a whole, taken separately, may appear extremely fine; and yet, when all these parts are put together, they may not agree, but produce a jarring and confusion very different from what we might have expected. We therefore imagine a few remarks upon the genius of each of these two distinct **IDIOMS** of language considered as a whole will not be deemed useless.

Although all languages agree in this respect, that they are the means of conveying the ideas of one man to another; yet as there is an infinite variety of ways in which we might wish to convey these ideas, sometimes by the easy and familiar mode of conversation, and at other times by more solemn addresses to the understanding, by pompous declamation, &c. it may so happen, that the genius of one language may be more properly adapted to the one of these than the other, while another language may excel in the opposite particular. This is exactly the case in the two general **IDIOMS** of which we now treat. Every particular in a *transpositive* language, is peculiarly calculated for that solemn dignity which is necessary for pompous orations. Long sounding words, formed by the inflection of the different parts of speech,—flowing periods, in which the attention is kept awake by the harmony of the sounds, and in expectation of that word which is to unravel the whole,—if composed by a skilful artist, are admirably suited to that solemn dignity and awful grace which constitute the essence of a public harangue. On the contrary, in private-conversation, where the mind wishes to unbend itself with ease, these become so many clogs which encumber and perplex. At these moments we wish to transfuse our thoughts with ease and facility—we are tired with every unnecessary syllable—and wish to be freed from the trouble of attention as much as may be. Like our state robes, we would wish to lay aside our pompous language, and enjoy ourselves at home with freedom and ease. Here the solemnity and windings of the *transpositive* language are burdensome; while the facility with which a sentiment can be expressed in the *analogous* language is the thing that we wish to acquire. Accordingly, in Terence and Plautus, where the beauties of dialogue are most charmingly displayed, transposition is sparingly used. In this humble, though most engaging sphere, the analogous language moves unrivalled; in this it wishes to indulge, and never tires. But it in vain attempts to rival the *transpositive* in dignity and pomp: The number of monosyllables interrupts the flow of harmony; and although they may give a greater variety of sounds, yet they do not naturally possess that dignified gravity which suits the other language. This, then, must be considered as the striking particular in the genius of these two different **IDIOMS**, which marks their characters.

If we consider the effects which these two different characters of language must naturally produce upon the people who employ them, we will soon perceive, that the genius of the *analogous* language is much more favourable for the most engaging purposes of life, the civilizing the human mind by mutual intercourse of thought, *than the transpositive*. For as it is chiefly by the use of speech that man is raised above

the

Language. the brute creation;—as it is by this means he improves every faculty of his mind, and to the observations which he may himself have made, has the additional advantage of the experience of those with whom he may converse, as well as the knowledge which the human race have acquired by the accumulated experience of all preceding ages;—as it is by the enlivening glow of conversation that kindred souls catch fire from one another, that thought produces thought, and each improves upon the other, till they soar beyond the bounds which human reason, if left alone, could ever have aspired to;—we must surely consider that language as the most beneficial to society, which most effectually removes those bars that obstruct its progress. Now, the genius of the *analogous* languages is so easy, so simple and plain, as to be within the reach of every one who is born in the kingdom where it is used to speak it with facility: even the rudest among the vulgar can hardly fall into any considerable grammatical errors: whereas, in the *transpositive* languages, so many rules are necessary to be attended to, and so much variation is produced in the meaning, by the slightest variations in the sound, that it requires a study far above the reach of the illiterate mechanic ever to attain. So that, how perfect soever the language may be when spoken with purity, the bulk of the nation must ever labour under the inconvenience of rudeness and inaccuracy of speech, and all the evils which this naturally produces.—Accordingly, we find, that in Rome, a man, even in the highest rank, received as much honour, and was as much distinguished among his equals, for being able to converse with ease, as a modern author would be for writing in an easy and elegant style; and Cæsar among his contemporaries was as much esteemed for his superiority in speaking the language in ordinary conversation with ease and elegance, as for his powers of oratory, his skill in arms, or his excellence in literary composition. It is needless to point out the many inconveniences which this must unavoidably produce in a state. It is sufficient to observe, that it naturally tends to introduce a vast distinction between the different orders of men; to set an impenetrable barrier between those born in a high and those born in a low station; to keep the latter in ignorance and barbarity, while it elevates the former to such a height as must subject the other to be easily led by every popular demagogue.—How far the history of the nations who have followed this IDIOM of language confirms this observation, every one is left to judge for himself.

Having thus considered LANGUAGE in general, and pointed out the genius and tendency of the two most distinguished IDIOMS which have prevailed; we shall close these remarks with a few observations upon the particular nature and genius of those languages which are now chiefly spoken or studied in Europe.

27
Observations on those languages which are now chiefly spoken or studied in Europe.

Of all the nations whose memory history has transmitted to us, none have been so eminently distinguished for their literary accomplishments, as well as acquaintance with the polite arts, as the Greeks: nor are we as yet acquainted with a language possessed of so many advantages, with so few defects, as that which they used, and which continues still to be known by their name.—The necessary connexion between the progress of knowledge and the improvement of language, has

VOL. XI. Part II.

been already explained; so that it will not be surprising to find their progress in the one keep pace with that of the other: but it will be of utility to point out some advantages which that distinguished people possessed, which other nations, perhaps not less distinguished for talents or taste, have not enjoyed, which have contributed to render their language the most universally admired in ancient as well as in modern times.

It has been already observed, that the original inhabitants of Greece who were gross savages, and whose language of course would be very rude and narrow, were first tamed by the Pelasgi, an eastern or an Egyptian tribe. From the east it is well known that arts and sciences were spread over the rest of the world, and that Egypt was one of the countries first civilized. The language therefore imported into Greece by the Pelasgi would be pure from the fountain head, and much more perfect in its structure than if it had been transmitted through many nations. But this was not the only circumstance highly fortunate for the Greek language. Before it had time to be fully established among the people, its asperities, which it had in common with the other dialects of the east, were polished away by such a succession of poets, musicians, philosophers and legislators, from different countries, as never appeared in any other nation at a period so early as to give their genius and taste its full influence. In this respect, no people were ever so eminently distinguished as the ancient Greeks, who had their Orpheus, their Linus, their Cecrops, and their Cadmus, who introduced their different improvements at a time when the nation had no standard of taste formed by itself. Hence the original sounds of the Greek language are the most harmonious, and the most agreeable to the ear, of any that have hitherto been invented. They are indeed agreeable to every person who hears them, even when the meaning of the word is not understood; whereas almost all other languages, till they are understood, appear, to an ear which has not been accustomed to them, jarring and discordant. This is the fundamental excellence of that justly admired language; nor have the people failed to improve this to the utmost of their power, by many aids of their own invention. The Greek language is of the *transpositive* kind: but a people so lively, so acute, and so loquacious, could ill bear the ceremonious restraint to which that mode of language naturally subjected them: and have therefore, by various methods, freed it in a great measure from the stiffness which that produced. In inflecting their nouns and verbs, they sometimes prefix a syllable, and sometimes add one; which, besides the variety that it gives to the sounds of the language, adds greatly to the distinctness, and admits of a more natural arrangement of the words than in the Latin, and of consequence renders it much fitter for the easiness of private conversation: and indeed the genius of the people so far prevailed over the *idiom* of the language, as to render it, in the age of its greatest perfection, capable of almost as much ease, and requiring almost as little transposition of words, as those languages which have been called *analogous*. But as those nations who spoke this language were all governed by popular assemblies, and as no authority could be obtained among them but by a skill in rhetoric and the powers of persuasion; it became

28

The great superiority of the Greek language, owing to what causes.

Language. became necessary for every one, who wished to acquire power or consideration in the state to improve himself in the knowledge of that language, in the use of which alone he could expect honours or reputation. Hence it happened, that while the vivacity of the people rendered it easy, the great men studiously improved every excellence that it could reap from its powers as a *transpositive* language; so that, when brought to its utmost perfection by the amazing genius of the great Demosthenes, it attained a power altogether unknown to any other language.—Thus happily circumstanced, the Greek language arrived at that envied pre-eminence which it still justly retains. From the progress of arts and sciences; from the gaiety and inventive genius of the people; from the number of free states into which Greece was divided, each of which invented words of its own, all of which contributed to the general stock; and from the natural communication which took place between these states, which excited in the strongest degree the talents of the people; it acquired a copiousness unknown to any ancient language, and excelled by few of the moderns.—In point of harmony of numbers, it is altogether unrivalled; and on account of the ease as well as dignity which, from the causes above mentioned, it acquired, it admits of perfection in a greater number of particular kinds of composition than any other language known.—The irresistible force and overwhelming impetuosity of Demosthenes seem not more natural to the genius of the language, than the more flowery charms of Plato's calm and harmonious cadences, or the unadorned simplicity of Xenophon; nor does the majestic pomp of Homer seem to be more agreeable to the genius of the language in which he wrote, than the more humble strains of Theocritus, or the laughing festivity of Anacreon: Equally adapted to all purposes, when we peruse any of these authors, we would imagine the language was most happily adapted for his particular style alone. The same powers it likewise, in a great measure possessed for conversation; and the dialogue seems not more natural for the dignity of Sophocles or Euripides, than for the more easy tenderness of Menander, or buffoonery of Aristophanes.—With all these advantages, however, it must be acknowledged, that it did not possess that unexceptionable clearness of meaning which some analogous languages enjoy, or that characteristic force which the emphasis properly varied has power to give, were not these defects counterbalanced by other causes which we shall afterwards point out.

29
The Latin language inferior to the Greek; and why.

The Romans, a people of fierce and warlike dispositions, for many ages during the infancy of their republic, more intent on pursuing conquests and military glory than in making improvements on literature or the fine arts, bestowed little attention to their language. Of a disposition less social or more phlegmatic than the Greeks, they gave themselves no trouble about rendering their language fit for conversation; and it remained strong and nervous, but, like their ideas, was limited and confined. More disposed to command respect by the power of their arms, than by the force of persuasion, they despised the more effeminate powers of speech: so that, before the Punic wars, their language was perhaps more reserved and uncourtly than any other at that time known.—But after their rival

Carthage was destroyed, and they had no longer that powerful curb upon their ambition; when riches flowed in upon them by the multiplicity of their conquests;—luxury began to prevail, the stern austerity of their manners to relax, and selfish ambition to take place of that disinterested love for their country so eminently conspicuous among all orders of men before that period.—Popularity began then to be courted; ambitious men, finding themselves not possessed of that merit which ensured them success with the virtuous senate, amused the mob with artful and seditious harangues; and by making them believe that they were possessed of all power, and had their sacred rights encroached upon by the senate, led them about at their pleasure, and got themselves exalted to honours and riches by these insidious arts. It was then the Romans first began to perceive the use to which a command of language could be put. Ambitious men then studied it with care, to be able to accomplish their ends; while the more virtuous were obliged to acquire a skill in this, that they might be able to repel the attacks of their adversaries.—Thus it happened, that in a short time that people from having entirely neglected, began to study their language with the greatest assiduity; and as Greece happened to be subjected to the Roman yoke about that time, and a friendly intercourse was established between these two countries, this greatly conspired to nourish in the minds of the Romans a taste for that art of which they had lately become so much enamoured. Greece had long before this period been corrupted by luxury; their taste for the fine arts had degenerated into unnecessary refinement; and all their patriotism consisted in popular harangues and unmeaning declamation. Oratory was then studied as a refined art; and all the subtleties of it were taught by rule, with as great care as the gladiators were afterwards trained up in Rome. But while they were thus idly trying who should be the lord of their own people, the nerves of government were relaxed, and they became an easy prey to every invading power. In this situation they became the *subjects*, under the title of the *allies*, of Rome, and introduced among them the same taste for haranguing which prevailed among themselves. Well acquainted as they were with the powers of their own language, they set themselves with unwearied assiduity to polish and improve that of their new masters: but with all their assiduity and pains, they never were able to make it arrive at that perfection which their own language had acquired; and in the Augustan age, when it had arrived at the summit of its glory, Cicero bitterly complains of its want of copiousness in many particulars.

30
But as it was the desire of all who studied this language with care, to make it capable of that stately dignity and pomp necessary for public harangues, they followed the genius of the language in this particular, and in a great measure neglected those lesser delicacies which form the pleasure of domestic enjoyment; so that, while it acquired more copiousness, more harmony, and precision, it remained stiff and inflexible for conversation: nor could the minute distinction of nice grammatical rules be ever brought down to the apprehension of the vulgar; whence the language spoken among the lower class of people remained rude and unpolished even to the end of the monarchy. The

Hups

Language. Huns who overran Italy, incapable of acquiring any knowledge of such a difficult and abstruse language, never adopted it; and the native inhabitants being made acquainted with a language more natural and easily acquired, quickly adopted that idiom of speech introduced by their conquerors, although they still retained many of those words which the confined nature of the barbarian language made necessary to allow them to express their ideas.—And thus it was that the language of Rome, that proud mistress of the world, from an original defect in its formation, although it had been carried to a perfection in other respects far superior to any northern language at that time, easily gave way to them, and in a few ages the knowledge of it was lost among mankind: while, on the contrary, the more easy nature of the Greek language has still been able to keep some slight footing in the world, although the nations in which it has been spoken have been subjected to the yoke of foreign dominion for upwards of two thousand years, and their country has been twice ravaged by barbarous nations, and more cruelly depressed than ever the Romans were.

From the view which we have already given of the Latin language, it appears evident, that its idiom was more strictly transpositive than that of any other language yet known, and was attended with all the defects to which that idiom is naturally subjected: nor could it boast of such favourable alleviating circumstances as the Greek, the prevailing sounds of the Latin being far less harmonious to the ear; and although the formation of the words is such as to admit of full and distinct sounds, and the words are so modulated as to lay no restraint upon the voice of the speaker; yet, to a person unacquainted with the language, they do not convey that enchanting harmony so remarkable in the Greek language. The Latin is stately and solemn; it does not excite disgust; but at the same time it does not charm the ear, so as to make it listen with delightful attention. To one acquainted with the language indeed, the nervous boldness of the thoughts, the harmonious rounding of the periods, the full solemn swelling of the sounds, so distinguishable in the most eminent writers in that language which have been preserved to us, all conspire to make it pleasant and agreeable.—In these admired works we meet with all its beauties, without perceiving any of its defects; and we naturally admire, as perfect, a language which is capable of producing such excellent works.—Yet with all these seeming excellencies, this language is less copious, and more limited in its style of composition, than many modern languages; far less capable of precision and accuracy than almost any of these; and infinitely behind them all in point of easiness in conversation. But these points have been so fully proved already, as to require no further illustration.—Of the compositions in that language which have been preserved to us, the *Oration*s of Cicero are best adapted to the genius of the language, and we there see it in its utmost perfection. In the *Philosophical Works* of that great author we perceive some of its defects; and it requires all the powers of that great man to render his *Epistles* agreeable, as these have the genius of the language to struggle with.—Next to oratory, history agrees with the genius of this language; and Cæsar, in his *Commentaries*,

has exhibited the language in its purest elegance, without the aid of pomp or foreign ornament.—Among the poets, Virgil has best adapted his works to his language. The flowing harmony and pomp of it is well adapted for the epic strain, and the correct delicacy of his taste rendered him perfectly equal to the task. But Horace is the only poet whose force of genius was able to overcome the bars which the language threw in his way, and succeed in lyric poetry. Were it not for the brilliancy of the thoughts, and acuteness of the remarks, which so eminently distinguish this author's compositions, his odes would long ere now have sunk into utter oblivion. But so conscious have all the Roman poets been of the unfitness of their language for easy dialogue, that almost none of them, after Plautus and Terence, have attempted any dramatic compositions in that language. Nor have we any reason to regret that they neglected this branch of poetry, as it is probable, if they had ever become fond of these, they would have been obliged to adopt so many unnatural contrivances to render them agreeable, as would have prevented us (who of course would have considered ourselves as bound to follow them) from making that progress in the drama which so particularly distinguishes the productions of modern times.

The modern *Italian* language, from an inattention too common in literary subjects, has been usually called a *child of the Latin language*, and is commonly believed to be the ancient Latin a little debased by the mixture of the barbarous language of those people who conquered Italy. The truth is, the case is directly the reverse: for this language, in its general idiom and fundamental principles, is evidently of the analogous kind, first introduced by those fierce invaders, although it has borrowed many of its words, and some of its modes of phraseology, from the Latin, with which they were so intimately blended that they could scarcely be avoided; and it has been from remarking this slight connexion, so obvious at first sight, that superficial observers have been led to draw this general conclusion, so contrary to fact.

When Italy was overrun by the Lombards, and the empire destroyed by these northern invaders, they, as conquerors, continued to speak their own native language. Fierce and illiterate, they would not stoop to the servility of studying a language so clogged with rules, and difficult of attainment, as the Latin would naturally be to a people altogether unacquainted with nice grammatical distinctions: while the Romans, of necessity, were obliged to study the language of their conquerors, as well to obtain some relief of their grievances by prayers and supplications, as to destroy that odious distinction which subsisted between the conquerors and conquered, while they continued as distinct people. As the language of their new masters, although rude and confined, was natural in its order, and easy to be acquired, the Latins would soon attain a competent skill in it: and as they bore such a proportion to the whole number of people, the whole language would partake somewhat of the general sound of the former: for, in spite of all their efforts to the contrary, the organs of speech could not at once be made to acquire a perfect power of uttering any unaccustomed sounds; and as it behoved the language of the barbarians to be much less copious than the Latin, whenever

Language.

³¹
The Italian
language of
Gothic idi-
om, and

Language.

33
of Latin
found.

they found themselves at a loss for a word, they would naturally adopt those which most readily presented themselves from their new subjects. Thus a language in time was formed, somewhat resembling the Latin both in the general tenor of the sounds and in the meaning of many words: and as the barbarians gave themselves little trouble about language, and in some cases perhaps hardly knew the general analogy of their own language, it is not surprising if their new subjects should find themselves sometimes at a loss on that account; or if, in these situations, they followed, on some occasions, the analogy suggested to them by their own: which accounts for the strange degree of mixture of heterogeneous grammatical analogy we meet with in the Italian as well as Spanish and French languages. The idiom of all the Gothic languages is purely analogous; and in all probability, before their mixture with the Latins and other people in their provinces, the several grammatical parts of speech followed the plain simple idea which that supposes, the verbs and nouns were all probably varied by auxiliaries, and their adjectives retained their simple unalterable state:—but by their mixture with the Latins, this simple form has been in many cases altered: their verbs became in some cases inflected; but their nouns in all these languages still retained their original form; although they have varied their adjectives, and foolishly clogged their nouns with gender, according to the Latin idioms. From this heterogeneous and fortuitous (as we may say, because injudicious) mixture of parts, results a language possessing almost all the defects of each of the languages of which it is composed, with few of the excellencies of either: for it has neither the ease and precision of the *analogous*, nor the pomp and boldness of the *transpositive*, languages; at the same time that it is clogged with almost as many rules, and liable to as great abuses.

33
Has the de-
fects of
both its
parent
tongues.

These observations are equally applicable to the French and Spanish as to the Italian language. With regard to this last, in particular, we may observe, that as the natural inhabitants of Italy, before the last invasion of the barbarians, were sunk and enervated by luxury, and by that depression of mind and genius which anarchy always produces, they had become fond of feasting and entertainments, and the enjoyment of sensual pleasures constituted their highest delight; and their language partook of the same debility as their body.—The barbarians too, unaccustomed to the seductions of pleasure, soon fell from their original boldness and intrepidity, and, like Hannibal's troops of old, were enervated by the sensual gratifications in which a nation of conquerors unaccustomed to the restraint of government freely indulged. The softness of the air, the fertility of the climate, the unaccustomed flow of riches which they at once acquired, together with the voluptuous manner of their conquered subjects; all conspired to enervate their minds, and render them soft and effeminate. No wonder then, if a language new-moulded at this juncture should partake of the genius of the people who formed it; and instead of participating of the martial boldness and ferocity of either of their ancestors, should be softened and enfeebled by every device which an effeminate people could invent.—The strong consonants which terminated the words, and gave them life and boldness, be-

ing thought too harsh for the delicate ears of these Language. sons of sloth, were banished their language; while sonorous vowels, which could be protracted to any length in music, were substituted in their stead.—Thus the Italian language is formed flowing and harmonious, but destitute of those nerves which constitute the strength and vigour of a language: at the same time, the sounds are neither enough diversified, nor in themselves of such an agreeable tone, as to afford great pleasure without the aid of musical notes; and the small pleasure which this affords is still lessened by the little variety of measure which the great similarity of the terminations of the words occasions. Hence it happens, that the language is fitted for excelling in fewer branches of literature than almost any other: and although we have excellent historians, and more than ordinary poets, in Italian, yet they labour under great inconveniences, from the language wanting nerves and stateliness for the former, and sufficient variety of modulation for the latter. It is, more particularly on this account, altogether unfit for an epic poem: and though attempts have been made in this way by two men, whose genius, if not fettered by the language, might have been crowned with success; yet these, notwithstanding the fame that with some they may have acquired, must, in point of poetic harmony, be deemed defective by every impartial person. Nor is it possible that a language which hardly admits of poetry without rhyme, can ever be capable of producing a perfect poem of great length; and the stanza to which their poets have ever confined themselves, must always produce the most disagreeable effect in a poem where unrestrained pomp and pathos are necessary qualifications. The only species of poetry in which the Italian language can claim a superior excellence, is the tender tone of elegy: and here it remains unrivalled and alone; the plaintive melody of the sounds, and smooth flow of the language, being perfectly adapted to express that soothing melancholy which this species of poetry requires. On this account the plaintive scenes of the *Pastor Fido* of *Guarini* have justly gained to that poem an universal applause; although, unless on this account alone, it is perhaps inferior to almost every other poem of the kind which ever appeared.—We must observe with surprise, that the Italians, who have fettered every other species of poetry with the severest shackles of rhyme, have in this species showed an example of the most unrestrained freedom; the happy effects of which ought to have taught all Europe the powerful charms attending it: yet with amazement we perceive, that scarce an attempt to imitate them has been made by any poet in Europe except by Milton in his *Lycidas*; no dramatic poet, even in Britain, having ever adopted the unrestrained harmony of numbers to be met with in this and many other of their best dramatic compositions.

Of all the languages which sprung up from the mixture of the Latins with the northern people on the destruction of the Roman empire, none approach so near to the genius of the Latin as the Spanish does.—For as the Spaniards have been always remarkable for their military prowess and dignity of mind, their language is naturally adapted to express ideas of that kind. Sonorous and solemn, it admits nearly

34
And
though
flowing and
harmonious,
is too
feeble for
the highest
species of
composition.35
The excel-
lency of
the Spanish
tongue.

Language. of as much dignity as the Latin. For conversation, it is the most elegant and courteous language in Europe.

The humane and generous order of chivalry was first invented, and kept its footing longest, in this nation; and although it ran at last into such a ridiculous excess as deservedly made it fall into universal disrepute, yet it left such a strong tincture of romantic heroism upon the minds of all ranks of people, as made them jealous of their glory, and strongly emulous of cultivating that heroic politeness, which they considered as the highest perfection they could attain. Every man disdained to flatter, or to yield up any point of honour which he possessed; at the same time, he rigorously exacted from others all that was his due.—These circumstances have given rise to a great many terms of respect and courteous condescension, without meanness or flattery, which gave their dialogue a respectful politeness and elegance unknown to any other European language. This is the reason why the characters so finely drawn by Cervantes in *Don Quixotte* are still unknown to all but those who understand the language in which he wrote. Nothing can be more unlike the gentle meekness and humane heroism of the knight, or the native simplicity, warmth of affection, and respectful loquacity of the squire, than the inconsistent follies of the one, or the impertinent forwardness and disrespectful petulance of the other, as they are exhibited in every English translation. Nor is it, as we imagine, possible to represent so much familiarity, united with such becoming condescension in the one, and unfeigned deference in the other, in any other European language, as is necessary to paint these two admirable characters.

Although this language, from the solemn dignity and majestic elegance of its structure, is perhaps better qualified than any other modern one for the sublime strains of epic poetry; yet as the poets of this nation have all along imitated the Italians by a most servile subjection to rhyme, they never have produced one poem of this sort, which in point of poesy or style deserves to be transmitted to posterity. And in any other species of poetry but this, or the higher tragedy, it is not naturally fitted to excel. But although the drama and other polite branches of literature were early cultivated in this country, and made considerable progress in it, before the thirst of gain debased their souls, or the desire of universal dominion made them forfeit that liberty which they once so much prized; since they became enervated by an overbearing pride, and their minds enslaved by superstition, all the polite arts have been neglected: so that, while other European nations have been advancing in knowledge, and improving their language, they have remained in a state of torpid inactivity; and their language has not arrived at that perfection which its nature would admit, or the acute genius of the people might have made us naturally expect.

36
The French language deficient in dignity and energy; but It will perhaps by some be thought an unpardonable insult, if we do not allow the French the preference of all modern languages in many respects. But so far must we pay a deference to truth, as to be obliged to rank it among the poorest languages in Europe. Every other language has some sounds which can be uttered clearly by the voice: even the Italian,

although it wants energy, still possesses distinctness of articulation. But the French is almost incapable of either of these beauties; for in that language the vowels are so much curtailed in the pronunciation, and the words run into one another in such a manner as necessarily to produce an indistinctness which renders it incapable of measure or harmony. From this cause, it is in a great measure incapable of poetic modulation, and rhyme has been obliged to be substituted in its stead; so that this poorest of all contrivances which has ever yet been invented to distinguish poetry from prose, admitted into all the modern languages when ignorance prevailed over Europe, has still kept some footing in the greatest part of these, rather through a deference for established customs than from any necessity. Yet as the French language admits of so little poetic modulation, rhyme is in some measure necessary to it; and therefore this poor deviation from prose has been adopted by it, and dignified with the name of *Poetry*. But by their blind attachment to this artifice, the French have neglected to improve, so much as they might have done, the small powers for harmony of which their language is possessed; and by being long accustomed to this false taste, they have become fond of it to such a ridiculous excess, as to have all their tragedies, nay even their comedies, in rhyme. While the poet is obliged to enervate his language, and check the flow of composition, for the sake of linking his lines together, the judicious actor finds more difficulty in destroying the appearance of that measure, and preventing the clinking of the rhimes, than in all the rest of his task.—After this, we will not be surprised to find Voltaire attempt an epic poem in this species of poetry; although the more judicious Fenelon in his *Telemaque* had shown to his countrymen the only species of poesy that their language could admit of for any poem which aspired to the dignity of the epic strain.—Madam Deshouliers, in her *Idyllie*, has shown the utmost extent of harmony to which their language can attain in smaller poems: indeed in the tenderness of an elegy, or the gaiety of a song, it may succeed; but it is so destitute of force and energy, that it can never be able to reach the pindaric, or even perhaps the lyric strain,—as the ineffectual efforts even of the harmonious Rousseau, in his translation of the *Psalms of David*, of this stamp, may fully convince us.

With regard to its powers in other species of composition, the sententious rapidity of Voltaire, and the more nervous dignity of Rousseau, afford us no small presumption, that, in a skilful hand, it might acquire so much force, as to transmit to futurity historical facts in a style not altogether unworthy of the subject. In attempts of pathetic declamation, the superior abilities of the composer may perhaps on some occasions excite a great idea; but this is ever cramped by the genius of the language: and although no nation in Europe can boast of so many orations where this grandeur is attempted; yet perhaps there are few who cannot produce more perfect, although not more laboured, compositions of this kind.

But notwithstanding the French language labours under all these inconveniences; although it can neither equal the dignity or genuine politeness of the Spanish, the nervous boldness of the English, nor the melting softness of the Italian; although it is destitute of poetic

Language. poetic harmony, and so much cramped in sound as to be absolutely unfit for almost every species of musical composition (F); yet the sprightly genius of that volatile people has been able to surmount all these difficulties, and render it the language most generally esteemed, and most universally spoken of any in Europe; for this people, naturally gay and loquacious, and fond to excess of those superficial accomplishments which engage the attention of the fair sex, has invented such an infinity of words capable of expressing vague and unmeaning compliment, now dignified by the name of *politeness*, that, in this strain, one who uses the French can never be at a loss; and as it is easy to converse *more*, and really say *less*, in this than in any other language, a man of very moderate talents may distinguish himself much more by using this than any other that has ever yet been invented. On this account, it is peculiarly well adapted to that species of conversation which must ever take place in those general and promiscuous companies, where many persons of both sexes are met together for the purposes of relaxation or amusement; and must of course be naturally admitted into the courts of princes, and assemblies of great personages, who, having fewer equals with whom they can associate, are more under the necessity of conversing with strangers, in whose company the tender stimulus of friendship does not so naturally expand the heart to mutual trust or unrestrained confidence. In these circumstances, as the heart remaineth disengaged, conversation must necessarily flag; and mankind in this situation will gladly adopt that language in which they can converse most easily without being deeply interested. On these accounts the French now is, and probably will continue to be, reckoned the most polite language in Europe, and therefore the most generally studied and known: nor should we envy them this distinction, if our countrymen would not weaken and enervate their own manly language, by adopting too many of their unmeaning phrases.

37
admirably
fitted for
light con-
versation.

38
The excel-
lencies and
defects of
the English
tongue.

The English is perhaps possessed of a greater degree of excellence, blended with a greater number of defects, than any of the languages we have hitherto mentioned. As the people of Great Britain are a bold, daring, and impetuous race of men, subject to strong passions, and from the absolute freedom and independence which reigns amongst all ranks of people throughout this happy isle, little solicitous about con-

Language. trolling these passions;—our language takes its strongest characteristic distinction from the genius of the people; and, being bold, daring, and abrupt, is admirably well adapted to express those great emotions which spring up in an intrepid mind at the prospect of interesting events. Peculiarly happy too in the full and open sounds of the vowels, which forms the characteristic *tone* of the language, and in the strong use of the aspirate H in almost all those words which are used as exclamations, or marks of strong emotions upon interesting occasions, that particular class of words called *interjections* have, in our language, more of that fulness and unrestrained freedom of tones, in which their chief power consists, and are pushed forth from the inmost recesses of the soul in a more forcible and unrestrained manner, than in any other language whatever. Hence it is more peculiarly adapted for the great and interesting scenes of the *tragedy* than any language that has yet appeared on the globe. Nor has any other nation ever arrived at that perfection which the English may justly claim in that respect; for however faulty our dramatic compositions may be in some of the critical niceties which relate to this art,—in nervous force of diction, and in the natural expression of those great emotions which constitute its soul and energy, we claim, without dispute, an unrivalled superiority. Our language too, from the great intercourse that we have had with almost all the nations of the globe by means of our extensive commerce, and from the eminent degree of perfection which we have attained in all the arts and sciences, has acquired a copiousness beyond what any other modern language can lay claim to; and even the most partial favourers of the Greek language are forced to acknowledge, that, in this respect, it must give place to the English. Nor is it less happy in that facility of construction which renders it more peculiarly adapted to the genius of a free people, than any other form of language. Of an *idiom* purely analogous, it has deviated less from the genius of that *idiom*, and possesses more of the characteristic advantages attending it, than any other language that now exists: for, while *others*, perhaps by their more intimate connexion with the Romans, have adopted some of their transpositions, and clogged their language with unnecessary fetters, we have preserved ourselves free from the contagion, and still retain the primitive simplicity of our language. Our

verbs

(F) An author of great discernment, and well acquainted with the French language, has lately made the same remark; and as the loftiness of his genius often prevents him from bringing down his illustrations to the level of ordinary comprehension, he has on this and many other occasions been unjustly accused of being fond of paradoxes.—But as music never produces its full effect but when the tones it assumes are in unison with the idea that the words naturally excite, it of necessity follows, that if the words of any language do not admit of that fulness of sound, or that species of tones, which the passion or affection that may be described by the words would naturally require to excite the same idea in the mind of one who was unacquainted with the language, it will be impossible for the music to produce its full effect, as it will be cramped and confined by the sound of the words,—and as the French language does not admit of those full and open sounds which are necessary for pathetic expression in music, it must of course be unfit for musical composition.—It is true indeed, that in modern times, in which so little attention is bestowed on the simple and sublime charms of pathetic expression, and a fantastical tingling of unmeaning sounds is called *music*—where the sense of the words is lost in fugues, quavers, and unnecessary repetition of particular syllables,—all languages are nearly fitted for it; and among these the French: nor is it less to be doubted, that, in the easy gaiety of a song, this language can properly enough admit of all the musical expression which that species of composition may require.

Language. *verbs* are all varied by auxiliaries (except in the instance we have already given, which is so much in our favour); our *nouns* remain free from the perplexing embarrassment of *genders*, and our pronouns mark this distinction where necessary with the most perfect accuracy; our *articles* also are of course freed from this unnatural encumbrance, and our *adjectives* preserve their natural freedom and independence. From these causes our language follows an order of construction so natural and easy, and the rules of *syntax* are so few and obvious, as to be within the reach of the most ordinary capacity. So that from this, and the great clearness and distinctness of meaning with which this mode of construction is necessarily accompanied, it is much better adapted for the familiar intercourse of private society, and liable to fewer errors in using it, than any other language yet known; and on this account we may boast, that in no nation of Europe do the lower class of people speak their language with so much accuracy, or have their minds so much enlightened by knowledge, as in Great Britain.—What then shall we say of the discernment of those grammarians, who are every day echoing back to one another complaints of the poverty of our language on account of the few and simple rules which it requires in syntax? As justly might we complain of an invention in mechanics, which, by means of one or two simple movements, obvious to an ordinary capacity, little liable to accidents, and easily put in order by the rudest hand, should possess the whole powers of a complex machine, which had acquired an infinite apparatus of wheels and contrary movements, the knowledge of which could only be acquired, or the various accidents to which it was exposed by using it be repaired, by the powers of the ingenious artist, as complain of this characteristic excellence of our language as a defect.

But if we thus enjoy in an eminent degree the advantages attending an *analogous* language, we likewise feel in a considerable measure the defects to which it is exposed; as the number of monosyllables with which it always must be embarrassed, notwithstanding the great improvements which have been made in our language since the revival of letters in Europe, prevents in some degree that swelling fullness of sound which so powerfully contributes to harmonious dignity and graceful cadences in literary compositions. And as the genius of the people of Britain has always been more disposed to the rougher arts of command than to the softer insinuations of persuasion, no pains have been taken to correct these natural defects of our language; but, on the contrary, by an inattention, of which we have hardly a parallel in the history of any civilized nation, we meet with many instances, even within this last century, of the harmony of sound being sacrificed to that brevity so desirable in conversation, as many elegant words have been curtailed, and harmonious syllables suppressed, to substitute in their stead others, shorter indeed, but more barbarous and uncouth. Nay, so little attention have our forefathers bestowed upon the harmony of sounds in our language, that one would be tempted to think, on looking back to its primitive state, that they had on some occasions studiously debased it. Our language, at its first formation, seems to have laboured under a capital defect in point of

Language. found, as such a number of S's enter into the formation of our words, and such a number of letters and combinations of other letters assume a similar sound, as to give a general hiss through the whole tenor of our language, which must be exceedingly disagreeable to every unprejudiced ear. We would therefore have naturally expected, that at the revival of letters, when our forefathers became acquainted with the harmonious languages of Greece and Rome, they would have acquired a more correct taste, and endeavoured, if possible, to diminish the prevalence of this disgusting sound. But so far have they been from thinking of this, that they have multiplied this letter exceedingly. The plurals of almost all our nouns were originally formed by adding the harmonious syllable *en* to the singular, which has given place to the letter *s*; and instead of *houfen* formerly, we now say *houses*. In like manner, many of the variations of our verbs were formed by the syllable *eth*, which we have likewise changed into the same disagreeable letter; so that, instead of *loveth*, *moveth*, *writeth*, *walketh*, &c. we have changed them into the more modish forms of *loves*, *moves*, *writes*, *walks*, &c. Our very auxiliary verbs have suffered the same change; and instead of *hath* and *doth*, we now make use of *has* and *does*. From these causes, notwithstanding the great improvements which have been made in language, within these few centuries, in other respects; yet, with regard to the pleasingness of sound alone, it was perhaps much more perfect in the days of Chaucer than at present; and although custom may have rendered these sounds so familiar to our ear, as not to affect us much; yet to an unprejudiced person, unacquainted with our language, we have not the smallest doubt but the language of *Bacon* or *Sidney* would appear more harmonious than that of *Robertson* or *Hume*. This is indeed the fundamental defect of our language, and loudly calls for reformation.

But notwithstanding this great and radical defect with regard to pleasingness of sounds, which must be so strongly perceived by every one who is unacquainted with the meaning of our words; yet to those who understand the language, the exceeding copiousness which it allows in the choice of words proper for the occasion, and the nervous force which the perspicuity and graceful elegance the emphasis bestows upon it, make this defect be totally overlooked; and we could produce such numerous works of prose, which excel in almost every different style of composition, as would be tiresome to enumerate: every reader of taste and discernment will be able to recollect a sufficient number of writings which excel in point of style, between the graceful and becoming gravity so conspicuous in all the works of the author of the *Whole duty of Man*, and the animated and nervous diction of *Robertson* in his *History of Charles the Fifth*,—the more flowery style of *Shaftesbury*, or the Attic simplicity and elegance of *Addison*. But although we can equal, if not surpass, every modern language in works of prose, it is in its poetical powers that our language shines forth with the greatest lustre. The brevity to which we must here necessarily confine ourselves, prevents us from entering into a minute examination of the poetical powers of our own, compared with other languages; otherwise it would be easy to show, that

every

Language. every other modern language labours under great restraints in this respect which ours is freed from;—that our language admits of a greater variety of poetic movements, and diversity of cadence, than any of the admired languages of antiquity; that it distinguishes with the greatest accuracy between accent and quantity, and is possessed of every other poetic excellence which their languages were capable of: so that we are possessed of all the sources of harmony which they could boast; and, besides all these, have one super-added, which is the cause of great variety and more forcible expression in numbers than all the rest; that is, the unlimited power given by the emphasis over quantity and cadence; by means whereof, a necessary union between sound and sense, numbers and meaning, in versification, unknown to the ancients, has been brought about, which gives our language in this respect a superiority over all those justly admired languages. But as we cannot here further pursue this subject, we shall only observe, that these great and distinguishing excellencies far more than counterbalance the inconveniences that we have already mentioned: and although, in mere pleasantness of sounds, or harmonious flow of syllables, our language may be inferior to the Greek, the Latin, Italian, and Spanish; yet in point of manly dignity, graceful variety, intuitive distinctness, nervous energy of expression, unconstrained freedom and harmony of poetic numbers, it will yield the palm to none. Our immortal Milton, slowly rising in graceful majesty, stands up as equal, if not superior, in these respects, to any poet, in any other language, that ever yet existed;—while Thomson, with more humble aim, in melody more smooth and flowing, softens the soul to harmony and peace:—the plaintive moan of Hammond calls forth the tender tear and sympathetic sigh; while Gray's more soothing melancholy fixes the sober mind to silent contemplation:—more tender still than these, the amiable Shenstone comes; and from his Doric reed, still free from courtly affectation, flows a strain so pure, so simple, and of such tender harmony, as even Arcadian shepherds would be proud to own. But far before the rest, the daring Shakespeare steps forth conspicuous, clothed in native dignity; and, pressing forward with unremitting ardour, boldly lays claim to both dramatic crowns held out to him by Thalia and Melpomene:—his rivals, far behind, look up, and envy him for these unfading glories; and the astonished nations round, with distant awe, behold and tremble at his daring flight.—Thus the language, equally obedient to all, bends with ease under their hands, whatever form they would have it assume; and, like the yielding wax, readily receives, and faithfully transmits to posterity, those impressions which they have stamped upon it.

Such are the principal outlines of the language of Great Britain, such are its beauties, and such its most capital defects; a language more peculiarly circumstanced than any that has ever yet appeared.—It is the language of a great and powerful nation, whose fleets surround the globe, and whose merchants are in every port; a people admired or revered by all the world:—and yet it is less known in every foreign country than many of the other languages in Europe. In it are written more perfect treatises on every art and

science than are to be found in any other language;—yet it is less sought after or esteemed by the literati in any part of the globe than almost any of these. Its superior powers for every purpose of language are sufficiently obvious from the models of perfection in almost every particular which can be produced in it:—yet it is neglected, despised, and vilified by the people who use it; and many of those authors who owe almost the whole of their fame to the excellence of the language in which they wrote, look upon that very language with the highest contempt. Neglected and despised, it has been trodden under foot as a thing altogether unworthy of cultivation or attention. Yet in spite of all these inconveniences, in spite of the many wounds it has thus received, it still holds up its head, and preserves evident marks of that comeliness and vigour which are its characteristic distinction. Like a healthy oak planted in a rich and fertile soil, it has sprung up with vigour: and although neglected, and suffered to be overrun with weeds; although exposed to every blast, and unprotected from every violence; it still beareth up under all these inconveniences, and shoots up with a robust healthiness and wild luxuriance of growth. Should this plant, so sound and vigorous, be now cleared from those weeds with which it has been so much encumbered;—should every obstacle which now buries it under thick shades, and hides it from the view of every passerby, be cleared away;—should the soil be cultivated with care, and a strong fence be placed around it, to prevent the idle or the wicked from breaking or distorting its branches;—who can tell with what additional vigour it would flourish, or what amazing magnitude and perfection it might at last attain!—How would the astonished world behold, with reverential awe, the majestic gratefulness of that object which they so lately despised!

Beauty of LANGUAGE considered in regard to Composition. The beauties of language may be divided into three classes: 1. Those which arise from sound; 2. Those which respect significance; 3. Those derived from a resemblance between sound and signification.

I. *With respect to sound.* In a cursory view, one would imagine, that the agreeableness or disagreeableness of a word with respect to sound, should depend upon the agreeableness or disagreeableness of its component syllables: which is true in part, but not entirely; for we must also take under consideration the effect of syllables in succession. In the first place, Syllables in immediate succession, pronounced each of them with the same, or nearly the same, aperture of the mouth, produce a succession of weak and feeble sounds; witness the French words *dit il, pathetique*: on the other hand, a syllable of the greatest aperture succeeding one of the smallest, or the contrary, makes a succession which, because of its remarkable disagreeableness, is distinguished by a proper name, viz. *hiatus*. The most agreeable succession is, where the cavity is increased and diminished alternately, within moderate limits: examples, *Alternative, longevity, pusillanimous*. Secondly, Words consisting wholly of syllables pronounced slow, or of syllables pronounced quick, commonly called *long and short syllables*, have little melody in them; witness the words *petitioner, fruiterer, dixzeines*; on the other hand, the intermixture of long and short syllables is remarkably agreeable;

Language-able; for example, *degree, repent, wonderful, altitude, rapidity, independent, impetuosity*; the cause of which is explained in POETRY, Part II.

To proceed to the music of periods. As the arrangement of words in succession, so as to afford the greatest pleasure to the ear, depends on principles remote from common view, it will be necessary to premise some general observations upon the appearance that objects make when placed in an increasing or decreasing series; which appearance will vary according to the prevalence of resemblance or of contrast. Where the objects vary by small differences so as to have a mutual resemblance, we in ascending conceive the second object of no greater size than the first, the third of no greater size than the second, and so of the rest; which diminisheth in appearance the size of every object except the first: but when beginning at the greatest object, we proceed gradually to the least, resemblance makes us imagine the second as great as the first, and the third as great as the second; which in appearance magnifies every object except the first. On the other hand, in a series varying by large differences, where contrast prevails, the effects are directly opposite: a great object succeeding a small one of the same kind, appears greater than usual; and a little object succeeding one that is great, appears less than usual †. Hence a remarkable pleasure in viewing a series ascending by large differences; directly opposite to what we feel when the differences are small. The least object of a series ascending by large differences has the same effect upon the mind as if it stood single without making a part of the series: but the second object, by means of contrast, appears greater than when viewed singly and apart; and the effect is perceived in ascending progressively, till we arrive at the last object. The opposite effect is produced in descending; for in this direction, every object, except the first, appears less than when viewed separately and independent of the series. We may then assume as a maxim, which will hold in the composition of language as well as of other subjects, That a strong impulse succeeding a weak, makes a double impression on the mind; and that a weak impulse succeeding a strong, makes scarce any impression.

‡ See Resemblance.

† De Struct. perfecta orat. lib. ii.

After establishing this maxim, we can be at no loss about its application to the subject in hand. The following rule is laid down by Diomedes †. "In verbis observandum est, ne à majoribus ad minora descendat oratio; melius enim dicitur, *Vir est optimus*, quam, *Vir optimus est*." This rule is also applicable to entire members of a period, which, according to our author's expression, ought not, more than single words, to proceed from the greater to the less, but from the less to the greater. In arranging the members of a period, no writer equals Cicero: The following examples are too beautiful to be slurred over by a reference.

Quicum quæstor fueram,
Quicum me fors consuetudoque majorum,
Quicum me deorum hominumque judicium conjuxerat.

Again:

Habet honorem quem petimus,
Habet spem quam præpositam nobis habemus,
VOL. XI. Part II.

Habet exultationem, multo sudore, labore, vigiliis, *Language.*
lusuque, collectam.

Again:

Eripite nos ex miseris,
Eripite nos ex faucibus eorum,
Quorum crudelitas nostro sanguine non potest expleri.
De Oratore, lib. i. § 52.

This order of words or members gradually increasing in length, may, so far as concerns the pleasure of sound, be denominated *a climax in sound*.

With respect to the music of periods as united in a discourse, this depends chiefly on variety. Hence a rule for arranging the members of different periods with relation to each other; That to avoid a tedious uniformity of sound and cadence, the arrangement, the cadence, and the length of the members, ought to be diversified as much as possible: and if the members of different periods be sufficiently diversified, the periods themselves will be equally so.

II. *With respect to signification.* The beauties of language with respect to signification, may not improperly be distinguished into two kinds: first, the beauties that arise from a right choice of words or materials for constructing the period; and next, the beauties that arise from a due arrangement of these words or materials.

I. Communication of thought being the chief end of language, it is a rule, That perspicuity ought not to be sacrificed to any other beauty whatever. Nothing, therefore, in language ought more to be studied, than to prevent all obscurity in the expression; for to have no meaning, is but one degree worse than to have a meaning that is not understood. We shall here give a few examples where the obscurity arises from a wrong choice of words.

Livy, speaking of a rout after a battle, "Multique in ruina *major* quam fuga oppressi obruncatique." This author is frequently obscure by expressing but part of his thought, leaving it to be completed by his reader. His description of the sea fight, lib. 28. cap. 30. is extremely perplexed.

Unde tibi reditum certo subtemine Parcæ
Rupere. HORAT.

Qui persæpe cava testudine flevit amorem,
Non elaboratum ad pedem. Id.

Me fabulosæ Vulture in Appulo,
Altricis extra limen Apuliæ,
Ludo, fatigatumque somno,
Fronde nova puerum palumbes
Texere. Id.

Puræ rivus aquæ, silvaque jugerum
Paucorum, et segetis certa fides meæ,
Fulgentem imperio fertilis Africæ
Fallit forte beatior. Id.

Cum fas atque nefas exiguo sine libidinum
Discernunt avidi. Id.

Ac spem fronte serenat. VIRG.

The rule next in order is, That the language ought

Language. to correspond to the subject: heroic actions or sentiments require elevated language; tender sentiments ought to be expressed in words soft and flowing; and plain language, void of ornament, is adapted to subjects grave and didactic. Language may be considered as the dress of thought; and where the one is not suited to the other, we are sensible of incongruity, in the same manner as where a judge is dressed like a fop, or a peasant like a man of quality. Where the impression made by the words resembles the impression made by the thought, the similar emotions mix sweetly in the mind, and double the pleasure; but where the impressions made by the thought and the words are dissimilar, the unnatural union they are forced into is disagreeable.

This concordance between the thought and the word has been observed by every critic, and is so well understood as not to require any illustration. But there is a concordance of a peculiar kind that has scarcely been touched in works of criticism, though it contributes to neatness of composition. It is what follows.

In a thought of any extent, we commonly find some parts intimately united, some slightly, some disjointed, and some directly opposed to each other. To find these conjunctions and disjunctions imitated in the expression, is a beauty; because such imitation makes the words concordant with the sense. This doctrine may be illustrated by a familiar example: When we have occasion to mention the intimate connexion that the soul hath with the body, the expression ought to be, *the soul and body*; because the article *the*, relative to both, makes a connexion in the expression, resembling in some degree the connexion in the thought: but when the soul is distinguished from the body, it is better to say *the soul and the body*; because the disjunction in the words resembles the disjunction in the thought. We proceed to other examples, beginning with conjunctions.

“Constituit agmen; et expedire tela animosque, equitibus iussis,” &c. *Livy*, lib. 38. § 25. Here the words that express the connected ideas are artificially connected by subjecting them both to the regimen of one verb. And the two following are of the same kind.

“Quum ex paucis quotidie aliqui eorum caderent aut vulnerarentur, et qui superarent, fessi et corporibus et animis essent,” &c. *Ibid.* § 29.

Post acer Mnestheus adducto constitit arcu,
Alta petens, pariterque oculos telumque tetendit.

Æneid, v. 507.

But to justify this artificial connexion among the words, the ideas they express ought to be intimately connected; for otherwise that concordance which is required between the sense and the expression will be impaired. In that view, the following passage from Tacitus is exceptionable; where words that signify ideas very little connected, are however forced into an artificial union. “Germania omnis à Gallis, Rhætisque, et Pannoniis, Rheno et Danubio fluminibus; à Sarmatis Dacisque, mutuo metu aut montibus separatur.”

Upon the same account, the following passage seems equally exceptionable.

Language. The fiend look'd up, and knew
His mounted scale aloft; nor more, but fled
Murm'ring, and with him fled the shades of night.

Paradise Lost, book iv. at the end.

There is no natural connection between a person's flying or retiring, and the succession of daylight to darkness; and therefore to connect artificially the terms that signify these things cannot have a sweet effect.

Two members of a thought connected by their relation to the same action, will naturally be expressed by two members of the period governed by the same verb; in which case these members, in order to improve their connection, ought to be constructed in the same manner. This beauty is so common among good writers as to have been little attended to; but the neglect of it is remarkably disagreeable: for example, “He did not mention Leonora, nor that her father was dead.” Better thus: “He did not mention Leonora, nor her father's death.”

Where two ideas are so connected as to require but a copulative, it is pleasant to find a connexion in the words that express these ideas, were it even so slight as where both begin with the same letter. Thus,

“The peacock, in all his pride, does not display half the colour that appears in the garments of a British lady, when she is either dressed for a ball or a birthday.” *Spect.*

“Had not my dog of a steward run away as he did, without making up his accounts, I had still been immersed in sin and sea-coal.” *Ib.*

My life's companion, and my bosom friend,
One faith, one fame, one fate shall both attend.

DRYDEN, *Translation of Æneid*.

Next, as to examples of disjunction and opposition in the parts of the thought, imitated in the expression; an imitation that is distinguished by the name of *antithesis*.

Speaking of Coriolanus soliciting the people to be made consul:

With a proud heart he wore his humble weeds.

Coriolanus.

“Had you rather Cæsar were living, and die all slaves, than that Cæsar were dead, to live all free men?”
Julius Cæsar.

He hath cool'd my friends and heated mine enemies.

SHAKESPEARE.

An artificial connection among the words, is undoubtedly a beauty when it represents any peculiar connection among the constituent parts of the thought; but where there is no such connection, it is a positive deformity, because it makes a discordance between the thought and expression. For the same reason, we ought also to avoid every artificial opposition of words where there is none in the thought. This last, termed *verbal antithesis*, is studied by low writers, because of a certain degree of liveliness in it. They do not consider how incongruous it is, in a grave composition, to cheat the reader, and to make him expect a contrast in the thought, which upon examination is not found there.

Language. A fault directly opposite to the last mentioned, is to conjoin artificially words that express ideas opposed to each other. This is a fault too gross to be in common practice; and yet writers are guilty of it in some degree, when they conjoin by a copulative things transacted at different periods of time. Hence a want of neatness in the following expression: "The nobility too, whom the king had no means of retaining by suitable offices and preferments, had been seized with the general discontent, and unwarily threw themselves into the scale which began already too much to preponderate." *Hume*. In periods of this kind, it appears more neat to express the past time by the participle passive, thus: "The nobility having been seized with the general discontent, unwarily threw themselves," &c. or, "The nobility, who had been seized, &c. unwarily threw themselves," &c.

It is unpleasant to find even a negative and affirmative proposition connected by a copulative:

If it appear not plain, and prove untrue,
Deadly divorce step between me and you.

SHAKESPEARE.

In mirth and drollery it may have a good effect to connect verbally things that are opposite to each other in the thought. Example: Henry IV. of France introducing the marshal Biron to some of his friends, "Here, gentlemen (says he) is the marshal Biron, whom I freely present both to my friends and enemies."

This rule of studying uniformity between the thought and expression may be extended to the construction of sentences or periods. A sentence or period ought to express one entire thought or mental proposition; and different thoughts ought to be separated in the expression by placing them in different sentences or periods. It is therefore offending against neatness, to crowd into one period entire thoughts requiring more than one; which is joining in language things that are separated in reality. Of errors against this rule take the following examples:

"Behold, thou art fair, my beloved, yea pleasant: also our bed is green."

Burnet, in the history of his own times, giving Lord Sunderland's character, says; "His own notions were always good; but he was a man of great expence."

"I have seen a woman's face break out in heats, as she has been talking against a great lord, whom she had never seen in her life; and indeed never knew a party-woman that kept her beauty for a twelvemonth." *SpeEt*.

Lord Bolingbroke, speaking of Strada: "I single him out among the moderns, because he had the foolish presumption to censure Tacitus, and to write history himself; and your lordship will forgive this short excursion in honour of a favourite writer."

To crowd into a single member of a period different subjects, is still worse than to crowd them into one period.

————Trojam genitore Adamaſto
Paupere (manſiſſetque utinam fortuna!) profectus.
Aeneid iii. 614.

From conjunctions and disjunctions in general, we

proceed to comparisons, which make one species of them, beginning with similes. And here also, the intimate connection that words have with their meaning requires, that in describing two resembling objects, a resemblance in the two members of the period ought to be studied. To begin with examples of resemblances expressed in words that have no resemblance.

"I have observed of late, the style of some great ministers very much to exceed that of any other productions." *Swift*. This, instead of studying the resemblance of words in a period that expresses a comparison, is going out of one's road to avoid it. Instead of *productions*, which resemble not ministers great nor small, the proper word is *writers* or *authors*.

"I cannot but fancy, however, that this imitation, which passes so currently with *other judgements*, must at some time or other have stuck a little with your *lordship*." *Shaſteſb*. Better thus: "I cannot but fancy, however, that this imitation, which passes so currently with *others*, must at some time or other have stuck a little with your *lordship*."

"A glutton or mere sensualist is as ridiculous as the other two characters." *Id*.

"They wisely prefer *the generous efforts of good will and affection*, to the reluctant compliances of *such as obey by force*." *Bolingb*.

It is a still greater deviation from congruity, to affect not only variety in the words, but also in the construction.

Hume speaking of Shakespeare: "There may remain a suspicion that we overrate the greatness of his genius, in the same manner as bodies appear more gigantic on account of their being disproportioned and mishapen." This is studying variety in a period where the beauty lies in uniformity. Better thus: "There may remain a suspicion that we overrate the greatness of his genius, in the same manner as we overrate the greatness of bodies that are disproportioned and mishapen."

Next of comparison where things are opposed to each other. And here it must be obvious, that if resemblance ought to be studied in the words which express two resembling objects, there is equal reason for studying opposition in the words which express contrasted objects. This rule will be best illustrated by examples of deviations from it.

"A friend exaggerates a man's virtues; an enemy inflames his crimes." *SpeEt*. Here the opposition in the thought is neglected in the words; which at first view seem to import, that the friend and enemy are employed in different matters, without any relation to each other, whether of resemblance or of opposition. And therefore the contrast or opposition will be better marked by expressing the thought as follows: "A friend exaggerates a man's virtues, an enemy his crimes."

"The wise man is happy when he gains his own approbation; the fool when he recommends himself to the applause of those about him." *Id*. Better: "The wise man is happy when he gains his own approbation, the fool when he gains that of others."

We proceed to a rule of a different kind. During the course of a period, the scene ought to be continued without variation: the changing from person to person,

Language from subject to subject, or from person to subject, within the bounds of a single period, distracts the mind, and affords no time for a solid impression.

Hook, in his Roman history, speaking of Eumenes, who had been beat to the ground with a stone, says, "After a short time *he* came to himself; and the next day *they* put him on board his ship, *which* conveyed him first to Corinth, and thence to the island of Ægina."

The following period is unpleasant, even by a very slight deviation from the rule: "That sort of instruction which is acquired by inculcating an important moral truth," &c. This expression includes two persons, one acquiring, and one inculcating; and the scene is changed without necessity. To avoid this blemish, the thought may be expressed thus: "That sort of instruction which is afforded by inculcating," &c.

The bad effect of such a change of person is remarkable in the following passage: "The Britons, daily harassed by cruel inroads from the Picts, were forced to call in the Saxons for their defence, *who* consequently reduced the greatest part of the island to their own power, drove the Britons into the most remote and mountainous parts, and *the rest of the country*, in customs, religion, and language, became wholly Saxon." *Swift*.

The following passage has a change from subject to person: "This prostitution of praise is not only a deceit upon the gross of mankind, who take their notion of characters from the learned; but also *the better sort* must by this means lose some part at least of that desire of fame which is the incentive to generous actions, when they find it promiscuously bestowed on the meritorious and undeserving." *Guardian*, N° 4.

The present head, which relates to the choice of materials, shall be closed with a rule concerning the use of copulatives. Longinus observes, that it animates a period to drop the copulatives; and he gives the following example from Xenophon: "Closing their shields together, they were pushed, they fought, they slew, they were slain." The reason may be what follows. A continued sound, if not loud, tends to lay us asleep: an interrupted sound rouses and animates by its repeated impulses: thus feet composed of syllables, being pronounced with a sensible interval between each, make more lively impressions than can be made by a continued sound. A period of which the members are connected by copulatives, produceth an effect upon the mind approaching to that of a continued sound; and therefore the suppressing copulatives must animate a description. It produces a different effect akin to that mentioned: the members of a period connected by proper copulatives, glide smoothly and gently along; and are a proof of sedateness and leisure in the speaker: on the other hand, one in the hurry of passion, neglecting copulatives and other particles, expresses the principal image only; and for that reason, hurry or quick action is best expressed without copulatives:

Veni, vidi, vici.

Ite:

Ferte citi flammam, date vela, impellite remos.

Æneid, iv. 593.

Quis globus, O cives, caligine volvitur atra?
Ferte citi ferrum, date tela, scandite muros.
Hostis adest, eja.

Æneid, ix. 37.

Language

In this view Longinus justly compares copulatives in a period to strait tying, which in a race obtrudes the freedom of motion.

It follows, that a plurality of copulatives in the same period ought to be avoided; for if the laying aside copulatives give force and liveliness, a redundancy of them must render the period languid. The following instance may be appealed to, though there are but two copulatives: "Upon looking over the letters of my female correspondents, I find several from women complaining of jealous husbands; and at the same time protesting their own innocence, and desiring my advice upon this occasion." *Spect.*

Where the words are intended to express the coldness of the speaker, there indeed the redundancy of copulatives is a beauty:

"Dining one day at an alderman's in the city, Peter observed him expatiating after the manner of his brethren in the praises of his furloin of beef. "Beef" (said the sage magistrate) is the king of meat: beef comprehends in it the quintessence of partridge, and quail, and venison, and pheasant, and plum pudding, and custard." *Tale of a Tub*, § 4. And the author shows great delicacy of taste by varying the expression in the mouth of Peter, who is represented more animated: "Bread (says he), dear brothers, is the staff of life; in which bread is contained, *inclusive*, the quintessence of beef, mutton, veal, venison, partridge, plum pudding, and custard."

Another case must also be excepted. Copulatives have a good effect where the intention is to give an impression of a great multitude consisting of many divisions; for example: "The army was composed of Grecians, and Carians, and Lycians, and Pamphyliaus, and Phrygians." The reason is, that a leisurely survey, which is expressed by the copulatives, makes the parts appear more numerous than they would do by a hasty survey: in the latter case, the army appears in one group; in the former, we take as it were an accurate survey of each nation, and of each division.

2. To pave the way for the rules of arrangement, it will here be necessary to explain the difference between a natural style and that where transposition or inversion prevails. In a natural style, relative words are by juxtaposition connected with those to which they relate, going before or after, according to the peculiar genius of the language. Again, a circumstance connected by a preposition, follows naturally the word with which it is connected. But this arrangement may be varied, when a different order is more beautiful: a circumstance may be placed before the word with which it is connected by a preposition; and may be interjected even between a relative word and that to which it relates. When such liberties are frequently taken, the style becomes inverted or transposed.

But as the liberty of inversion is a capital point in the present subject, it will be necessary to examine it more narrowly, and in particular to trace the several degrees in which an inverted style recedes more and more from that which is natural. And first, as to the placing

Language placing a circumstance before the word with which it is connected, this is the easiest of all inversion, even so easy as to be consistent with a style that is properly termed *natural*: witness the following examples.

"In the sincerity of my heart, I profess," &c.

"By our own ill management, we are brought to so low an ebb of wealth and credit, that," &c.

"On Thursday morning there was little or nothing transacted in Change-alley."

"At St Bride's church in Fleetstreet, Mr Woolston (who wrote against the miracles of our Saviour), in the utmost terrors of conscience, made a public recantation."

The interjecting a circumstance between a relative word and that to which it relates, is more properly termed *inversion*; because, by a disjunction of words intimately connected, it recedes farther from a natural style. But this license has degrees; for the disjunction is more violent in some cases than in others.

In nature, though a subject cannot exist without its qualities, nor a quality without a subject; yet in our conception of these, a material difference may be remarked. We cannot conceive a quality but as belonging to some subject: it makes indeed a part of the idea which is formed of the subject. But the opposite holds not; for though we cannot form a conception of a subject void of all qualities, a partial conception may be formed of it, abstracting from any particular quality: we can, for example, form the idea of a fine Arabian horse without regard to his colour, or of a white horse without regard to his size. Such partial conception of a subject is still more easy with respect to action or motion, which is an occasional attribute only, and has not the same permanency with colour or figure: we cannot form an idea of motion independent of a body; but there is nothing more easy than to form an idea of a body at rest. Hence it appears, that the degree of inversion depends greatly on the order in which the related words are placed: when a substantive occupies the first place, the idea it suggests must subsist in the mind at least for a moment, independent of the relative words afterward introduced; and that moment may without difficulty be prolonged by interjecting a circumstance between the substantive and its connections. This liberty therefore, however frequent, will scarce alone be sufficient to denominate a style *inverted*. The case is very different, where the word that occupies the first place denotes a quality or an action; for as these cannot be conceived without a subject, they cannot without greater violence be separated from the subject that follows; and for that reason, every such separation by means of an interjected circumstance belongs to an inverted style.

To illustrate this doctrine, examples are necessary. In the following, the word first introduced does not imply a relation:

—————Nor Eve to iterate
Her former respals fear'd.

—————Hunger and thirst at once,
Powerful persuaders, quicken'd at the scent
Of that alluring fruit, urg'd me so keen.—

Morn that now meet'd the orient sun, now flit
With the fix'd stars, fix'd in their orb that flies,
And ye five other wand'ring fires that move

In mystic dance, not without song, resound
His praise.

Where the word first introduced imports a relation, the disjunction will be found more violent:

Of man's first disobedience, and the fruit
Of that forbidden tree, whose mortal taste
Brought death into the world, and all our wo,
With loss of Eden, till one greater Man
Restore us, and regain the blissful seat,
Sing heav'nly muse.

—————Upon the firm opacous globe
Of this round world, whose first convex divides
The luminous inferior orbs enclos'd
From chaos and th' inroad of darkness old,
Satan alighted walks.

—————On a sudden open fly,
With impetuous recoil and jarring sound,
Th' infernal doors.

—————Wherein remain'd,
For what could else? to our almighty foe
Clear victory, to our part loss and rout.

Language would have no great power, were it confined to the natural order of ideas: By inversion a thousand beauties may be compassed, which must be relinquished in a natural arrangement.

Rules. 1. In the arrangement of a period, as well as in a right choice of words, the first and great object being perspicuity, the rule above laid down, that perspicuity ought not to be sacrificed to any other beauty, holds equally in both. Ambiguities occasioned by a wrong arrangement are of two sorts; the one where the arrangement leads to a wrong sense, and the other where the sense is less doubtful. The first, being the more culpable, shall take the lead, beginning with examples of words put in a wrong place.

"How much the imagination of such a presence must exalt a genius, we may observe *merely* from the influence which an ordinary presence has over men." *Shafesb.* The arrangement leads to a wrong sense: the adverb *merely* seems by its position to affect the preceding word; whereas it is intended to affect the following words, *an ordinary presence*; and therefore the arrangement ought to be thus: "How much the imagination of such a presence must exalt a genius, we may observe from the influence which an ordinary presence *merely* has over men." [Or better],—"which even an ordinary presence has over men."

"Sixtus the Fourth was, if I mistake not, a great collector of books at least." *Boling.* The expression here leads evidently to a wrong sense; the adverb *at least*, ought not to be connected with the substantive *books*, but with *collector*, thus: "Sixtus the Fourth was a great collector at least, of books."

Speaking of Louis XIV. "If he was not the greatest king, he was the best actor of majesty at least that ever filled a throne." *Id.* Better thus: "If he was not the greatest king, he was at least the best actor of majesty." &c. This arrangement removes the wrong sense occasioned by the juxtaposition of *majesty* and *at least*.

Language. The following examples are of a wrong arrangement of members.

"I have confined myself to those methods for the advancement of piety, which are in the power of a prince limited like ours by a strict execution of the laws." *Swift*. The structure of this period leads to a meaning which is not the author's, viz. power limited by a strict execution of the laws. That wrong sense is removed by the following arrangement: "I have confined myself to those methods for the advancement of piety, which, by a strict execution of the laws, are in the power of a prince limited like ours."

"This morning, when one of Lady Lizard's daughters was looking over some hoods and ribbands brought by her tirewoman, with great care and diligence, I employed no less in examining the box which contained them." *Guardian*. The wrong sense occasioned by this arrangement, may be easily prevented by varying it thus: "This morning, when, with great care and diligence, one of Lady Lizard's daughters was looking over some hoods and ribbands," &c.

"A great stone that I happened to find after a long search by the sea shore, served me for an anchor." *Swift*. One would think that the search was confined to the sea shore; but as the meaning is, that the great stone was found by the sea shore, the period ought to be arranged thus: "A great stone that, after a long search, I happened to find by the sea shore, served me for an anchor."

Next of a wrong arrangement where the sense is left doubtful; beginning, as in the former sort, with examples of a wrong arrangement of words in a member.

"These forms of conversation by degrees multiplied and grew troublesome." *Spect.* Here it is left doubtful whether the modification by degrees relates to the preceding member or to what follows: it should be, "These forms of conversation multiplied by degrees."

"Nor does this false modesty expose us only to such actions as are indiscreet, but very often to such as are highly criminal." *Spect.* The ambiguity is removed by the following arrangement: "Nor does this false modesty expose us to such actions only as are indiscreet," &c.

"The empire of Blefuscu is an island situated to the north-east side of Lilliput, from whence it is parted only by a channel of 800 yards wide." *Swift*. The ambiguity may be removed thus: "from whence it is parted by a channel of 800 yards wide only."

In the following examples the sense is left doubtful by wrong arrangement of members.

The minister who grows less by his elevation, like a little statue placed on a mighty pedestal, will always have his jealousy strong about him." *Bolingb.* Here, so far as can be gathered from the arrangement, it is doubtful, whether the object introduced by way of simile relates to what goes before or to what follows. The ambiguity is removed by the following arrangement: "The minister who, like a little statue placed on a mighty pedestal, grows less by his elevation, will always," &c.

Speaking of the superstitious practice of locking up the room where a person of distinction dies: "The

knight, seeing his habitation reduced to so small a compass, and himself in a manner shut out of his own house, upon the death of his mother, ordered all the apartments to be flung open, and exorcised by his chaplain." *Spect.* Better thus: "The knight, seeing his habitation reduced to so small a compass, and himself in a manner shut out of his own house, ordered, upon the death of his mother, all the apartments to be flung open."

Speaking of some indecencies in conversation: "As it is impossible for such an irrational way of conversation to last long among a people that make any profession of religion, or show of modesty, if the country gentlemen get into it, they will certainly be left in the lurch." *Ib.* The ambiguity vanishes in the following arrangement: "the country gentlemen, if they get into it, will certainly be left in the lurch."

"And since it is necessary that there should be a perpetual intercourse of buying and selling, and dealing upon credit, where fraud is permitted or connived at, or hath no law to punish it, the honest dealer is always undone, and the knave gets the advantage." *Swift*. Better thus: "And since it is necessary that there should be a perpetual intercourse of buying and selling, and dealing upon credit, the honest dealer, where fraud is permitted or connived at, or hath no law to punish it, is always undone, and the knave gets the advantage."

From these examples, the following observation will occur: That a circumstance ought never to be placed between two capital members of a period; for by such situation it must always be doubtful, so far as we gather from the arrangement, to which of the two members it belongs: where it is interjected, as it ought to be, between parts of the member to which it belongs, the ambiguity is removed, and the capital members are kept distinct, which is a great beauty in composition. In general, to preserve members distinct that signify things distinguished in the thought, the best method is, to place first in the consequent member, some word that cannot connect with what precedes it.

If it shall be thought, that the objections here are too scrupulous, and that the defect of perspicuity is easily supplied by accurate punctuation; the answer is, That punctuation may remove an ambiguity, but will never produce that peculiar beauty which is perceived when the sense comes out clearly and distinctly by means of a happy arrangement. Such influence has this beauty, that, by a natural transition of perception, it is communicated to the very sound of the words, so as in appearance to improve the music of the period. But as this curious subject comes in more properly elsewhere, it is sufficient at present to appeal to experience, that a period, so arranged as to bring out the sense clear, seems always more musical than where the sense is left in any degree doubtful.

The next rule is, That words expressing things connected in the thought, ought to be placed as near together as possible. This rule is derived immediately from human nature, prone in every instance to place together things in any manner connected: where things are arranged according to their connexions, we have a sense of order; otherwise we have a sense

Language. of disorder, as of things placed by chance: and we naturally place words in the same order in which we would place the things they signify. The bad effect of a violent separation of words or members thus intimately connected, will appear from the following examples.

"For the English are naturally fanciful, and very often disposed, by that gloominess and melancholy of temper which is so frequent in our nation, to many wild notions and visions, to which others are not so liable." *Spekt.* Here the verb or assertion is, by a pretty long circumstance, violently separated from the subject to which it refers: this makes a harsh arrangement; the less excusable that the fault is easily prevented by placing the circumstance before the verb, after the following manner: "For the English are naturally fanciful, and by that gloominess and melancholy of temper which is so frequent in our nation, are often disposed to many wild notions, &c."

"From whence we may date likewise the rivalry of the house of France, for we may reckon that of Valois and that of Bourbon as one upon this occasion, and the house of Austria, that continues at this day, and has oft cost so much blood and so much treasure in the course of it." *Bolingbr.*

"It cannot be impertinent or ridiculous therefore in such a country, whatever it might be in the abbot of St Real's, which was Savoy, I think; or, in Peru, under the incas, where Garcilasso de la Vega says it was lawful for none but the nobility to study—for men of all degrees to instruct themselves in those affairs wherein they may be actors, or judges of those that act, or controllers of those that judge." *Ibid.*

"If Scipio, who was naturally given to women, for which anecdote we have, if I mistake not, the authority of Polybius, as well as some verses of Nevius preserved by Aulus Gellius, had been educated by Olympias at the court of Philip, it is improbable that he would have restored the beautiful Spaniard." *Ibid.*

If any one have a curiosity for more specimens of this kind, they will be found without number in the works of the same author.

A pronoun, which saves the naming a person or thing a second time, ought to be placed as near as possible to the name of that person or thing. This is a branch of the foregoing rule; and with the reason there given, another occurs, viz. That if other ideas intervene, it is difficult to recal the person or thing by reference.

"If I had leave to print the Latin letters transmitted to me from foreign parts, they would fill a volume, and be a full defence against all that Mr Partridge, or his accomplices of the Portugal inquisition, will be ever able to object; *who*, by the way, are the only enemies my predilections have ever met with at home or abroad." Better thus:—"and be a full defence against all that can be objected by Mr Partridge, or his accomplices of the Portugal inquisition; *who*, by the way, are," &c.

"There being a round million of creatures in human figure, throughout this kingdom, *whose* whole subsistence," &c. *Swift.* Better: "There being, throughout this kingdom, a round million of creatures in human figure, whose whole subsistence," &c.

The following rule depends on the communication

of emotions to related objects; a principle in human nature that hath an extensive operation; and we find this operation, even where the objects are not otherwise related than by juxtaposition of the words that express them. Hence, to elevate or depress an object, one method is, to join it in the expression with another that is naturally high or low: witness the following speech of Eumenes to the Roman senate.

"Causam veniendi sibi Romam fuisse, præter cupiditatem vivendi *deos hominesque*, quorum beneficio in ea fortuna cesseret, supra quam ne optare quidem auderet, etiam ut coram moneret senatum ut Persei conatus obviam iret." *Livy.* To join the Romans with the gods in the same enunciation, is an artful stroke of flattery, because it tacitly puts them on a level.

On the other hand, the degrading or vilifying an object, is done successfully by ranking it with one that is really low: "I hope to have this entertainment in readiness for the next winter; and doubt not but it will please more than the opera or puppet show." *Spekt.*

"Manifold have been the judgements which Heaven from time to time, for the chastisement of a sinful people, has inflicted upon whole nations. For when the degeneracy becomes common, it is but just the punishment should be general. Of this kind, in our own unfortunate country, was that destructive pestilence, whose mortality was so fatal as to sweep away, if Sir William Petty may be believed, five millions of Christian souls, besides women and Jews." *Arbuthnot.*

"Such also was that dreadful conflagration ensuing in this famous metropolis of London, which consumed, according to the computation of Sir Samuel Moreland, 100,000 houses, not to mention churches and stables." *Ibid.*

"But on condition it might pass into a law, I would gladly exempt both lawyers of all ages, subaltern and field officers, young heirs, dancing masters, pickpockets, and players." *Swift.*

Sooner let earth, air, sea, to chaos fall,
Men, monkeys, lap dogs, parrots, perish all.

Rape of the Lock.

Circumstances in a period resemble small stones in a building, employed to fill up vacancies among those of a larger size. In the arrangement of a period, such under parts crowded together make a poor figure; and never are graceful but when interspersed among the capital parts.

"It is likewise urged, that there are, by computation, in this kingdom, above 10,000 parsons, whose revenues, added to those of my lords the bishops, would suffice to maintain, &c. *Swift.* Here two circumstances, viz. *by computation*, and *in this kingdom*, are crowded together unnecessarily. They make a better appearance separated in the following manner: "It is likewise urged, that in this kingdom there are by computation, above 10,000 parsons, &c."

If there be room for a choice, the sooner a circumstance is introduced, the better; because circumstances are proper for that coolness of mind, with which we begin a period as well as a volume: in the progress the mind warms, and has a greater relish for matters of importance. When a circumstance is placed at the beginning of the period, or near the beginning, the transition from it to the principal subject is agreeable:

Language. it is like ascending, or going upward. On the other hand, to place it late in the period has a bad effect; for after being engaged in the principal subject, one is with reluctance brought down to give attention to a circumstance. Hence evidently the preference of the following arrangement, "Whether in any country a choice altogether unexceptionable has been made, seems doubtful;" before this other, "Whether a choice altogether unexceptionable has in any country been made, &c."

For this reason the following period is exceptionable in point of arrangement. "I have considered formerly, with a good deal of attention, the subject upon which you command me to communicate my thoughts to you." *Boling.* Which, with a slight alteration, may be improved thus: "I have formerly, with a good deal of attention, considered the subject," &c.

Swift, speaking of a virtuous and learned education: "And although they may be, and too often are, drawn by the temptations of youth, and the opportunities of a large fortune, into some irregularities, *when they come forward into the great world*; it is ever with reluctance and compunction of mind, because their bias to virtue still continues." Better: "And although, *when they come forward into the great world*, they may be, and too often," &c.

In arranging a period, it is of importance to determine in what part of it a word makes the greatest figure, whether at the beginning, during the course, or at the close. The breaking silence rouses the attention, and prepares for a deep impression at the beginning: the beginning, however, must yield to the close; which being succeeded by a pause, affords time for a word to make its deepest impression. Hence the following rule, That to give the utmost force to a period, it ought, if possible, to be closed with that word which makes the greatest figure. The opportunity of a pause should not be thrown away upon accessories, but reserved for the principal object, in order that it may make a full impression: which is an additional reason against closing a period without a circumstance. There are, however, periods that admit not such a structure; and in that case the capital word ought, if possible, to be placed in the front, which next to the close is the most advantageous for making an impression. Hence, in directing our discourse to a man of figure, we ought to begin with his name; and one will be sensible of a degradation when this rule is neglected, as it frequently is for the sake of verse. We give the following examples.

Integer vitæ, scelerisque purus,
Non eget Mauris jaculis, neque arcu,
Nec venenatis gravida sagittis,
Fusce, phœtra. *HORAT. Carm. lib. i. ode 22.*

Je crains Dieu, cher Abner, et n'ai point d'autre
crainte.

In these examples, the name of the person addressed to makes a mean figure, being like a circumstance slipped into a corner. That this criticism is well founded, we need no other proof than Addison's translation of the last example.

O Abner! I fear my God, and I fear none but him.
Guardian, N° 117.

Language.
O father, what intends thy hand, the cry'd,
Against thy only son? What fury, O son,
Possesses thee to bend that mortal dart
Against thy father's head?

Paradise Lost, book ii. l. 727.

Every one must be sensible of a dignity in the invocation at the beginning, which is not attained by that in the middle. It is not meant, however, to censure this passage: on the contrary, it appears beautiful, by distinguishing the respect that is due to a father from that which is due to a son.

The substance of what is said in this and the foregoing section, upon the method of arranging words in a period, so as to make the deepest impression with respect to sound as well as signification, is comprehended in the following observation: That order of words in a period will always be the most agreeable, where, without obscuring the sense, the most important images, the most sonorous words, and the longest members, bring up the rear.

Hitherto of arranging single words, single members, and single circumstances. But the enumeration of many particulars in the same period is often necessary: and the question is, In what order they should be placed? And, first, with respect to the enumerating particulars of equal rank: As there is no cause for preferring any one before the rest, it is indifferent to the mind in what order they be viewed; therefore it is indifferent in what order they be named. 2dly, If a number of objects of the same kind, differing only in size, are to be ranged along a straight line, the most agreeable order to the eye is of an increasing series: in surveying a number of subjects, beginning at the least, and proceeding to greater and greater, the mind swells gradually with the successive objects, and in its progress has a very sensible pleasure. Precisely for the same reason, words expressive of such objects ought to be placed in the same order. The beauty of this figure, which may be termed a *climax in sense*, has escaped Lord Bolingbroke in the first member of the following period: "Let but one, great, brave, disinterested, active man arise, and he will be received, followed, and almost adored." The following arrangement has sensibly a better effect: "Let but one brave, great, active, disinterested man arise," &c. Whether the same rule ought to be followed in enumerating men of different ranks, seems doubtful: on the one hand, a number of persons presented to the eye in form of an increasing series, is undoubtedly the most agreeable order; on the other hand, in every list of names, we set the person of the greatest dignity at the top, and descend gradually through his inferiors. Where the purpose is to honour the persons named according to their rank, the latter ought to be followed; but every one who regards himself only, or his reader, will choose the former order. 3dly, As the sense of order directs the eye to descend from the principal to its greatest accessory, and from the whole to its greatest part, and in the same order through all the parts and accessories, till we arrive at the minutest; the same order ought to be followed in the enumeration of such particulars.

When force and liveliness of expression are demanded, the rule is, to suspend the thought as long as possible,

Language. fible, and to bring it out full and entire at the close, which cannot be done but by inverting the natural arrangement. By introducing a word or member before its time, curiosity is raised about what is to follow; and it is agreeable to have our curiosity gratified at the close of the period: the pleasure we feel resembles that of seeing a stroke exerted upon a body by the whole collected force of the agent. On the other hand, where a period is so constructed as to admit more than one complete close in the sense, the curiosity of the reader is exhausted at the first close, and what follows appears languid or superfluous; his disappointment contributes also to that appearance, when he finds, contrary to expectation, that the period is not yet finished. Cicero, and after him Quintilian, recommend the verb to the last place. This method evidently tends to suspend the sense till the close of the period; for without the verb the sense cannot be complete; and when the verb happens to be the capital word, which it frequently is, it ought at any rate to be the last, according to another rule above laid down. The following period is placed in its natural order: "Were instruction an essential circumstance in epic poetry, I doubt whether a single instance could be given of this species of composition in any language." The period thus arranged admits a full close upon the word *composition*; after which it goes on languidly, and closes without force. This blemish will be avoided by the following arrangement: "Were instruction an essential circumstance in epic poetry, I doubt whether, in any language, a single instance could be given of this species of composition."

"Some of our most eminent divines have made use of this Platonic notion, as far as it regards the subsistence of our passions after death, with great beauty and strength of reason." *Speel*. Better thus: "Some of our most eminent divines have, with great beauty and strength of reason, made use of this Platonic notion," &c.

"Men of the best sense have been touched, more or less, with these groundless horrors and presages of futurity, upon surveying the most indifferent works of nature." *Ib*. Better, "Upon surveying the most indifferent works of nature, men of the best sense," &c.

"She soon informed him of the place he was in; which, notwithstanding all its horrors, appeared to him more sweet than the bower of Mahomet, in the company of his Balsora." *Guardian*. Better, "She soon, &c. which appeared to him, in the company of his Balsora, more sweet than the bower of Mahomet."

None of the rules for the composition of periods are more liable to be abused than those last mentioned; witness many Latin writers, among the moderns especially, whose style, by inversions too violent, is rendered harsh and obscure. Suspension of the thought till the close of the period, ought never to be preferred before perspicuity. Neither ought such suspension to be attempted in a long period; because in that case the mind is bewildered amidst a profusion of words: a traveller, while he is puzzled about the road, relishes not the finest prospect: "All the rich presents which Astyages had given him at parting, keeping only some Median horses, in order to propagate the breed of them in Persia, he distributed among his friends whom he left at the court of Ecbatana." *Trav. of Cyrus*.

VOL. XI. Part II.

III. *Beauties from a Resemblance between Sound and Language.* Signification. There being frequently a strong resemblance of one sound to another, it will not be surprising to find an articulate sound resembling one that is not articulate: thus the sound of a bow string is imitated by the words that express it:

—The string let fly,
Twang'd short and sharp, like the shrill swallow's cry.
Odyssey, xxi. 449.

The sound of felling trees in a wood:

Loud sounds the axe, redoubling strokes on strokes,
On all sides round the forest hurls her oaks
Headlong. Deep echoing groan the thickets brown,
Then *ruffling, crackling, crashing*, thunder down.
Iliad, xxiii. 144.

But when loud surges lash the sounding shore,
The hoarse rough verse should like the torrent roar.
POPE'S *Essay on Criticism*, 369.

Dire Scylla there a scene of horror forms,
And here Charybdis fills the deep with storms:
When the tide rushes from her rumbling caves,
The rough rock roars; tumultuous boil the waves.
POPE.

No person can be at a loss about the cause of this beauty; it is obviously that of imitation.

That there is any other natural resemblance of sound to signification, must not be taken for granted. There is no resemblance of sound to motion, nor of sound to sentiment. We are, however, apt to be deceived by artful pronunciation: the same passage may be pronounced in many different tones, elevated or humble, sweet or harsh, brisk or melancholy, so as to accord with the thought or sentiment: such concord must be distinguished from that concord between sound and sense which is perceived in some expressions independent of artful pronunciation; the latter is the poet's work, the former must be attributed to the reader. Another thing contributes still more to the deceit: in language, sound and sense being intimately connected, the properties of the one are readily communicated to the other; for example, the quality of grandeur, of sweetness, or of melancholy, though belonging to the thought solely, is transferred to the words, which by that means resemble in appearance the thought that is expressed by them. That there may be a resemblance of articulate sounds to some that are not articulate, is self-evident; and that in fact there exist such resemblances successfully employed by writers of genius, is clear from the foregoing examples, and from many others that might be given. But we may safely pronounce, that this natural resemblance can be carried no farther; the objects of the different senses differ so widely from each other, as to exclude any resemblance: sound in particular, whether articulate or inarticulate, resembles not in any degree taste, smell, nor motion; and as little can it resemble any internal sentiment, feeling, or emotion. But must we then admit, that nothing but sound can be imitated by sound? Taking imitation in its proper sense, as importing a resemblance between two objects, the proposition must be admitted: and yet in many passages

Language. Images that are not descriptive of sound, every one must be sensible of a peculiar concord between the sound of the words and their meaning. As there can be no doubt of the fact, what remains is to inquire into its cause.

Resembling causes may produce effects that have no resemblance; and causes that have no resemblance may produce resembling effects. A magnificent building, for example, resembles not in any degree a heroic action; and yet the emotions they produce are concordant, and bear a resemblance to each other. We are still more sensible of this resemblance in a song, when the music is properly adapted to the sentiment; there is no resemblance between the thought and sound; but there is the strongest resemblance between the emotion raised by music tender and pathetic, and that raised by the complaint of an unsuccessful lover. Applying this observation to the present subject, it appears, that, in some instances, the sound even of a single word makes an impression resembling that which is made by the thing it signifies: witness the word *running* composed of two short syllables; and more remarkably the words *rapidity*, *impetuosity*, *precipitation*. Brutal manners produce in the spectator an emotion not unlike what is produced by a harsh and rough sound; and hence the beauty of the figurative expression, *rugged* manners. Again, the word *little*, being pronounced with a very small aperture of the mouth, has a weak and faint sound, which makes an impression resembling that made by a diminutive object. This resemblance of effects is still more remarkable where a number of words are connected in a period: words pronounced in succession make often a strong impression; and when this impression happens to accord with that made by the sense, we are sensible of a complex emotion, peculiarly pleasant; one proceeding from the sentiment, and one from the melody or sound of the words. But the chief pleasure proceeds from having these two concordant emotions combined in perfect harmony, and carried on in the mind to a full close. Except in the single case where sound is described, all the examples given by critics of sense being imitated in sound, resolve into a resemblance of effects: emotions raised by sound and signification may have a resemblance; but sound itself cannot have a resemblance to any thing but sound.

Proceeding now to particulars, and beginning with those cases where the emotions have the strongest resemblance, we observe, first, That by a number of syllables in succession, an emotion is sometimes raised, extremely similar to that raised by successive motion; which may be evident even to those who are defective in taste, from the following fact, that the term *movement* in all languages is equally applied to both. In this manner, successive motion, such as walking, running, galloping, can be imitated by a succession of long or short syllables, or by a due mixture of both: for example, slow motion may be justly imitated in a verse where long syllables prevail; especially when aided by a slow pronunciation:

Illi inter sese magna vi brachia tollunt.

Georg. iv. 174.

On the other hand, swift motion is imitated by a succession of short syllables;

Quadrupedantē putrem sonitu quatit ungula can- Language.
pum.

Again:

Radit iter liquidum, celeres neque commovet alas:

Thirdly, A line composed of monosyllables makes an impression by the frequency of its pauses, similar to what is made by laborious interrupted motion:

With many a weary step, and many a groan,
Up the high hill he heaves a huge round stone.

Odyssey, xi. 736.

First march the heavy mules securely flow;
O'er hills, o'er dales, o'er craggs, o'er rocks they go.

Iliad, xxiii. 138.

Fourthly, The impression made by rough sounds in succession, resembles that made by rough or tumultuous motion: on the other hand, the impression of smooth sounds resembles that of gentle motion. The following is an example of both.

Two craggy rocks projecting to the main,
The roaring winds tempestuous rage restrain;
Within, the waves in softer murmurs glide,
And ships secure without their haulers ride.

Odyssey, iii. 118.

Another example of the latter:

Soft is the strain when Zephyr gently blows,
And the smooth stream in smoother numbers flows.

Essay on Criticism, 366.

Fifthly, Prolonged motion is expressed in an Alexandrine line. The first example shall be of a slow motion prolonged:

A needless Alexandrine ends the song;
That, like a wounded snake, drags its slow length along.

Ib. 356.

The next example is of forcible motion prolonged:

The waves behind impel the waves before,
Wide-rolling, foaming high, and tumbling to the shore.

Iliad, xiii. 1004.

The last shall be of rapid motion prolonged:

Not so when swift Camilla scours the plain,
Flies o'er the unbending corn, and skims along the main.

Essay on Criticism, 373.

Again, speaking of a rock torn from the brow of a mountain:

Still gathering force, it smokes, and urg'd amain,
Whirls, leaps, and thunders down impetuous to the plain.

Iliad, xiii. 197.

Sixthly, A period consisting mostly of long syllables, that is, of syllables pronounced slow, produces an emotion resembling faintly that which is produced by gravity and solemnity. Hence the beauty of the following verse:

Olli sedato respondet corde Latinus.

It resembles equally an object that is insipid and uninteresting.

Tædet quotidianarum harum formarum. TERENCE.

Seventhly,

Language. Seventhly, A slow succession of ideas is a circumstance that belongs equally to settled melancholy, and to a period composed of polysyllables pronounced slow; and hence, by similarity of emotion, the latter is imitative of the former :

In those deep solitudes, and awful cells,
Where heav'nly pensive Contemplation dwells,
And ever-musing Melancholy reigns.

POPE, *Eloisa to Abelard.*

Eighthly, A long syllable made short, or a short syllable made long, raises, by the difficulty of pronouncing contrary to custom, a feeling similar to that of hard labour :

When Ajax strives some rock's vast weight to throw,
The line too labours, and the words move slow.

Essay on Criticism, 370.

Ninthly, Harsh or rough words pronounced with difficulty, excite a feeling similar to that which proceeds from the labour of thought to a dull writer.

Just writes to make his barrenness appear,
And strains from hard-bound brains eight lines a year.

POPE'S *Epistle to Dr Arbuthnot*, l. 181.

We shall close with one example more, which of all makes the finest figure. In the first section mention is made of a climax in sound; and in the second of a climax in sense. It belongs to the present subject to observe, that when these coincide in the same passage, the concordance of sound and sense is delightful: the reader is conscious of pleasure not only from the two climaxes separately, but of an additional pleasure from their concordance, and from finding the sense so justly imitated by the sound. In this respect, no periods are more perfect than those borrowed from Cicero in the first section.

The concord between sense and sound is not less agreeable in what may be termed an *anticlimax*, where the progress is from great to little; for this has the effect to make diminutive objects appear still more diminutive. Horace affords a striking example :

Parturiunt montes, nascitur ridiculus mus.

The arrangement here is singularly artful: the first place is occupied by the verb, which is the capital word by its sense as well as sound: the close is reserved for the word that is the meanest in sense as well as in sound: and it must not be overlooked, that the resembling sounds of the two last syllables give a ludicrous air to the whole.

In this article we have mentioned none of the beauties of language but what arise from words, taken in their proper sense. Beauties that depend upon the metaphorical and figurative power of words, are treated under the separate articles of FIGURES, PERSONIFICATION, APOSTROPHE, HYPERBOLE, METAPHOR, &c. See also ORATORY.

Purity of LANGUAGE. Both the Greeks and Romans were particularly careful of preserving the purity of their language. It seems amongst the Romans to have been a point which they thought worthy the attention of the state itself; for we find the Cumeans not daring to make use of the Latin language in their

public acts without having first obtained leave in form. Tiberius himself would not hazard the word *monopolium* in the senate without making an excuse for employing a foreign term. Seneca gives it as a certain maxim, that wherever a general false taste in style and expression prevails, it is an infallible sign of corruption of manners in that people: A liberty of introducing obsolete words, or forming new ones, is a mark, he thinks, of an equal licentiousness of the moral kind. Accordingly it is observed, there are scarce more than eight or ten instances of new words to be produced from the most approved Roman writers, in the course of two or three centuries. If this mode of reasoning concerning the morals of the state was introduced and applied in our own country, no nation on the face of the earth could appear more abandoned; for no nation is more fond of adopting new words; though our language is sufficiently copious. This delicacy of Seneca appears to be carried a little too far, and his manner of estimating the morals of the people must be a little fallacious. The Greeks were very remarkable for their discernment of provincialisms, especially the Athenians, whose dialect was inconceivably sweet and elegant.

LANGUED, in heraldry, expresses such animals whose tongue, appearing out of the mouth, is borne of a different colour from the rest of the body.

LANGUEDOC, a large and maritime province of France; bounded on the north by Quercy, Rouerque, Auvergne, and Lionnois; on the east by Dauphny and Provence; on the west by Gascony; and on the south by the Mediterranean sea and Roussillon. It is 225 miles in length, and 100 in breadth where broadest. It forms the departments of what are now called Aude, Gard, Upper Garonne, and Herault. The clergy are more rich and numerous here than in the rest of France, there being three archbishops and 20 bishops. Languedoc is divided into the Upper and Lower; and in general it is a very pleasant country, fertile in corn, fruits, and excellent wines; and the inhabitants carry on a considerable trade. There are many curious medicinal plants, with iron mines, quarries of marble, and turquoise stone. There is also a great deal of kelp, and on the heaths are considerable numbers of the kermes oak. The principal rivers are the Rhone, the Garonne, the Aude, the Tarne, the Allier, and the Loire. There are also a great number of mineral springs. Thoulouse is the capital town. This province is famous for the royal canal, which runs through it, joining the Mediterranean with the Atlantic ocean. This canal was undertaken in 1666, and finished in 1680; the mathematician who undertook it made a basin 400 yards long, 300 broad, and 7 feet deep, which is always kept full of water, and may be let out by means of a sluice on the side of the Mediterranean, as well as by another on the side of the Atlantic.

LANGUET, HUBERT, born at Viteaux in Burgundy in 1518, gained great reputation by his learning and virtue in the 16th century. Having read one of Melancthon's books at Bologna, he conceived so high an esteem for the author, that he went to Wirtemberg purposely to visit him; he arrived there in 1549, when he contracted a strict friendship with Melancthon, and embraced the Protestant religion. In 1565, he was one of the first counsellors of Augustus

Langued-
||
Languet.

Languet
||
Langham.

elector of Saxony, who employed him in several important affairs and negotiations. He was afterwards admitted to the confidence of William prince of Orange; and died at Antwerp on the 30th of September 1581. We have many of his letters written in Latin to Sir Philip Sydney, to Camerarius the father and son, and to Augustus elector of Saxony, which have been several times reprinted, in three volumes; and there is also attributed to him a famous treatise, entitled, *Vindicia contra Tyrannos*, and other works. His life is written by Philibert de la Mare.

LANGUET, *John-Baptist-Joseph*, the celebrated vicar of St Sulpice at Paris, and a doctor of the Sorbonne, was born at Dijon in 1675. He was received into the Sorbonne in 1698; and attached himself to the community of St Sulpice, to which parish he was of great service. M. de la Chetardie the vicar, conscious of his talents, chose him for his curate, in which capacity he officiated near ten years; and in 1714 succeeded to the vicarage. His parish church being small and out of repair, he conceived the design of building a church suitable to the size of his parish, which he began with the sum of 100 crowns, but soon obtained considerable donations; and the duke of Orleans, regent of the kingdom, granted him a lottery, and laid the first stone of the porch in 1718. It was consecrated in 1745, after M. Languet had spared neither labour nor expence to render it one of the finest churches in the world both for architecture and ornament. Another work which did him no less honour was the *Maison de l'enfant Jesus*. This establishment consists of two parts; the first composed of about 35 poor ladies of good families, and the second of more than 400 poor women and children of town and country. The order and economy in this house, for the education and employment of so many persons, gave Cardinal Fleury so high an idea of the vicar of St Sulpice, that he proposed to make him superintendant general of all the hospitals in the kingdom; which, however, was declined. Never man took more pains than he did to procure charitable donations and legacies, which he distributed with admirable discretion: he is said from good authority to have disbursed near a million of livres to the poor annually. When there was a general dearth in 1725, he sold, in order to relieve the poor, his household goods, pictures, and some curious pieces of furniture that he had procured with difficulty; and when the plague raged at Marseilles, he sent large sums into Provence for the relief of the distressed. M. Languet was not only singular in this warm, disinterested, benevolent conduct, but also, in another circumstance equally rare; and this was in the refusal of several bishoprics that were offered him: he resigned even his vicarage in 1748; but continued to preach every Sunday at his own parish church, and to support the *Maison de l'enfant Jesus*, to his death, which happened in 1750. It is observed, that his piety and charity did not proceed from poverty of talents; for he was sensible and lively in conversation, and his genius often discovered itself in his agreeable repartees.

LANGUOR, among physicians, signifies great weakness and loss of strength, attended with a dejection of mind; so that the patients can scarce walk or even stand upright, but are apt to faint away.

LANHAM. See LAVENHAM.

LANIARD (from *Lanier*, Fr.), a short piece of cord or line fastened to several machines in a ship, and serving to secure them in a particular place, or to manage them more conveniently. Such are the laniards of the gun port, the laniard of the buoy, the laniard of the cat hook, &c.—The principal laniards used in a ship, however, are those employed to extend the shrouds and stays of the masts by their communication with the dead eyes, so as to form a sort of mechanical power resembling that of a tackle. These laniards are fixed in the dead eyes as follows: one end of the laniards is thrust through one of the holes of the upper dead eye, and then knotted, to prevent it from drawing out; the other is then passed through one of the holes in the lower dead eye, whence, returning upward, it is inserted through the second hole in the upper dead eye, and next through the second in the lower dead eye, and finally through the third holes in both dead eyes. The end of the laniard being then directed upwards from the lowest dead eye, is stretched as stiff as possible by the application of tackles; and that the several parts of it may slide with more facility through the holes of the dead eyes, it is well smeared with hog's lard or tallow, so that the strain is immediately communicated to all the turns at once.

LANIGEROUS, an appellation given to whatever bears wool.

LANISTA, in antiquity, is sometimes used to signify an executioner; but more frequently for a master gladiator, who taught the use of arms, and had always people under him ready to exhibit shows of that kind. For this purpose, they either purchased gladiators, or educated children in that art that had been exposed.

LANIUS, the SHRIKE, or *Butcher bird*, a genus of birds belonging to the order of accipitres. See ORNITHOLOGY *Index*.

LANNER, or LANNAR. See FALCO, ORNITHOLOGY *Index*.

LANSDOWNE, LORD. See GRANVILLE.

LANSQUINET, the name of a game at cards, of French origin.

It may be played at by any indiscriminate number of people, though a single pack of cards is used during the deal. The dealer, who possesses an advantage, shuffles the cards, and after they have been cut by another of the party, deals out two cards on his left hand, turning them up, then one for himself, and a fourth that he places on the table for the company, which is called the *rejouissance*. On this card any, or all the company, the dealer excepted, may put their money, which the dealer is compelled to answer. The dealer continues turning the cards upwards, one by one, till two of a sort come up, that is to say, two aces, two deuces, &c. which, to prevent mistakes, or their being considered as single cards, he places on each side of his own card; and as often as two, three, or the fourth sort of a card come up, he invariably places, as before mentioned, on each side of his own card. The company has a right to take and put money upon any single card, unless the dealer's card should happen to be double, which is often the case, by his card being the same as one of the two hand-cards, which he first dealt out on his left hand: thus he continues dealing till he brings either their cards

or

Lantana,
Lantern.

or his own. Whilst the dealer's own card remains undrawn, he wins; and whichever card is turned up first, loses. If he deals out the two cards on his left hand, which are styled the *hand-cards*, before his own, he is entitled to deal again. This advantage amounts to no more than his being exempted from losing, when he turns up a similar card to his own, immediately after he has turned up one for himself.

Lanquinet is often played without the *rejouissance*, the dealer giving every one of the party a card to put their money upon. It is also often played by dealing only two cards, one for the company and the other for the dealer.

It should likewise be observed, that a limitation is generally fixed for the sum to be placed upon any card or number of cards, either in gold or silver, beyond which the dealer is not obliged to answer.

LANтана, or INDIAN SAGE, a genus of plants belonging to the didynamia class; and in the natural method ranking under the 40th order, *Personate*. See BOTANY Index.

LANTERN, or LANTHORN, a device to carry a candle in; being a kind of cover usually made of white iron, with slashes of some transparent matter, as glass, horn, &c. to transmit the light.

Sir George Staunton informs us that some of the Chinese lanterns were entirely made of horn, so very thin and transparent that they were at first taken for glass, to which they prefer it as being cheaper, less liable to accident, and more easily repaired. Those which Sir George had the opportunity of examining, consisted of one uniform piece of horn, the seams being made invisible by an art found out by the Chinese. The horns commonly used are those of sheep and goats, which being bent by immersing them in boiling water, are cut open and flattened, after which they are easily separated into two or three thin plates. To make these laminæ or plates join readily, they are exposed to the penetrating heat of steam till they are perfectly soft, and the edges that are to lap over each other are scraped and slanted off, so that the joinings may be no thicker than any other part of the plate.

Such lanterns would be extremely proper for military store-houses; and Rochou of the National Institute was desired to attempt to make them for the marine store-houses of France. While he was thus engaged, it occurred to him that he might supply the urgent necessities of the navy without horn, by filling up the interstices of wire cloth with fine transparent glue. He first tinned the iron wires of the sieve-cloth he made use of; but afterwards found it more convenient to give it a coating of oil paint to preserve it from rust. The glue he made use of was procured by boiling the clippings of parchment with the air-bladders and membranes of sea-fish, not from any conviction of their superiority to other articles, but as being the cheapest he could procure. To this he added the juice of garlic and cyder, in such proportions as he found to communicate great tenacity. Into this transparent pure glue he plunged his wire-cloth, which came out with its interstices filled with the compound. The ease with which lanterns made of this substance are repaired in case of accident, by a slight coating of glue, is given by the inventor as a great advantage; and according to him, they were

employed as signal lanterns in the expedition to Ireland.

Dark LANTERN, one with only one opening, which, may also be closed up when the light is to be entirely hid, or opened when there is occasion for the assistance of the light to discover some object.

Magic LANTERN, an optic machine, whereby little painted images are represented so much magnified, as to be accounted the effect of magic by the ignorant. See DIOPTRICS, Art. X. p. 37.

LANTERN, in *Architecture*, a little dome raised over the roof of a building to give light, and serve as a crowning to the fabric.

The term *lantern* is also used for a square cage of carpentry, placed over the ridge of a corridor or gallery, between two rows of shops, to illumine them, like that of the Royal Exchange, London.

LANTERN, on ship board, a well known machine, of which there are many in a ship, particularly for the purpose of directing the course of other ships in a fleet or convoy; such are the poop and top lanterns, &c.

Feast of LANTERNS, in China, is a celebrated feast held on the 15th day of the first month; so called from the infinite number of lanterns hung out of the houses and streets; which, it is said, is no less than two hundred millions. On this day are exposed lanterns of all prices, whereof some are said to cost 2000 crowns. Some of their grandees retrench somewhat every day out of their table, out of their dress, equipage, &c. to appear the more magnificent in lanterns. They are adorned with gilding, sculpture, painting, jannapping, &c. And as to their size, it is extravagant; some being from 25 to 30 feet diameter: they represent halls and chambers, and two or three such machines together would make handsome houses; so that in China they are able to eat, lodge, receive visits, have balls, and act plays in a lantern. To illumine them, they should have bonfires; but as that would be inconvenient, they content themselves with lighting up in them an infinite number of torches or lamps, which at a distance have a beautiful effect. In these they exhibit various kinds of shows, to divert the people. Besides these enormous lanterns, there is a multitude of others smaller, which usually consist of six faces or lights, each about four feet high, and one and a half broad, framed in wood finely gilt and adorned; over these they stretch a fine transparent silk, curiously painted with flowers, trees, and sometimes human figures: the painting is very extraordinary, and the colours extremely bright; and when the torches are lighted, they appear highly beautiful and surprising.

LANTERN Fly. See FULGORA, ENTOMOLOGY Index.

LANUGO, the soft down of plants, like that growing on the fruit of the peach tree. See HAIR.

LAOCOON, in fabulous history, a son of Priam and Hecuba, or according to others of Antenor or of Capys. As being priest of Apollo, he was commissioned by the Trojans to offer a bullock to Neptune to render him propitious. During the sacrifice two enormous serpents issued from the sea, and attacked Laocoon's two sons who stood next to the altar. The father immediately attempted to defend his sons; but the serpents falling upon him squeezed him in their complicated wreathes, and he died in the greatest agonies. This punishment

Lantern
||
Laocoon.

Laocoon. punishment was said to have been inflicted upon him for dissuading the Trojans to bring into the city the fatal wooden horse which the Greeks had consecrated to Minerva, as also for his impiety in hurling a javelin against the sides of the horse as it entered within the walls. According to Hyginus, he suffered the above punishment for his marriage against the consent of Apollo, or, according to others, for his polluting the temple, by his commerce with his wife Antiope, before the statue of the god.

LAOCOON, in the history of the arts, is a celebrated monument of Greek sculpture executed in marble by Agesander, Polydorus, and Athenodorus, the three famous artists of Rhodes. Agesander is supposed to have been the father of the two latter. This remain of antiquity was found at Rome in the ruins of the palace of Titus, in the beginning of the sixteenth century, under the pontificate of Julius II. and afterwards deposited in the Farnese palace. Laocoon, the priest of Apollo and Neptune, is here represented with his two sons, with two hideous serpents clinging round his body, gnawing it, and injecting their poison: Virgil has given us the following description of the fact:

—*Serpens amplexus uterque
Implicat, et miseris morsu depascitur artus:—
Corrumpunt, spirisque ligant ingentibus, et jam
Bis medium amplexi, bis collo squamea circum
Terga dati, superant capite et cervicibus altis.*

This statue exhibits the most astonishing dignity and tranquillity of mind in the midst of the most excruciating torments: Pliny* says of it, that it is, *opus omnibus pictureæ et statuarie artis, præferendum.*

* Lib. xxxvi.
c. 5.

When Italy was overrun by the French during the late revolution, this wonderful monument of ancient art was removed along with the celebrated Apollo Belvidere, &c. from the Vatican, where they had been seen and admired for 300 years, and placed in the Museum of Arts at Paris. "A hero, says the French account of the latter, guided by victory, drew it from the Vatican, and transporting it to the banks of the Seine, has fixed it there for ever."

† *Hist. of
Greece,*
ii. 177.

The Laocoon, Dr Gillies† observes, may be regarded as the triumph of Grecian sculpture; since bodily pain, the grossest and most un governable of all our passions, and that pain united with anguish and torture of mind, are yet expressed with such propriety and dignity, as afford lessons of fortitude superior to any taught in the schools of philosophy. The horrible shriek which Virgil's Laocoon emits is a proper circumstance for poetry, which speaks to the fancy by images and ideas borrowed from all the senses, and has a thousand ways of ennobling its object: but the expression of this shriek would have totally degraded the statue. It is softened, therefore, into a patient sigh, with the eyes turned to heaven in search of relief. The intolerable agony of suffering nature is represented in the lower part, and particularly in the extremities of the body; but the manly breast struggles against calamity. The contention is still more plainly perceived in his furrowed forehead; and his languishing paternal eye demands assistance, less for himself than for his miserable children, who look up to him for help.

The groupe of the Laocoon is composed of five pieces of marble, joined together with so much art and

neatness, that Pliny thought the whole was of one. **Laodicæa,** The right arm of the father, and two of the arms of the children are wanting. The deficiency is supplied by arms moulded on the groupe in plaster of Paris.

Laomedon.

LAODICÆA on the Lycus, in *Ancient Geography*, a town of Phrygia, at first called *Diospolis*, then *Rhoas*. It was built by Antiochus son of Stratonice, and called after his consort *Laodice*. It was long an inconsiderable place; but increased toward the age of Augustus Cæsar, after having suffered in a siege from Mithridates. The fertility of the soil, and the good fortune of some of its citizens, raised it to greatness. Hiero who adorned it with many offerings, left the people his heir to more than 2000 talents. After that benefactor followed Zeno the rhetorician; and his son Polemo, as renowned a sophist as ever lived. This person flourished at Smyrna; but was buried here by the Syrian gate, near which were the sepulchres or coffins of his ancestors. Laodicæa, though inland, grew more potent than the cities on the coast, and became one of the largest towns in Phrygia. It was often damaged by earthquakes, and restored by its own opulence or by the munificence of the Roman emperors. These resources failed, and the city, it is probable, became early a scene of ruin. About the year 1097 it was possessed by the Turks, and submitted to Ducas general of the emperor Alexis. In 1120 the Turks sacked some of the cities of Phrygia by the Mæander, but were defeated by the emperor John Comnenus, who took Laodicæa, and built anew or repaired the walls. About 1161 it was again unfortified. Many of the inhabitants were then killed with their bishop, or carried with their cattle into captivity by the Turks. In 1190 the German emperor, Frederick Barbarossa, going by Laodicæa, with his army toward Syria on a croisade, was received so kindly, that he prayed on his knees for the prosperity of the people. About 1196 this region with Caria was dreadfully ravaged by the Turks. The sultan, on the invasion of the Tartars in 1255, gave Laodicæa to the Romans; but they were unable to defend it, and it soon returned to the Turks. It is now totally ruined and deserted. Several remains of its ancient grandeur are, however, still to be seen; particularly the ruins of two theatres and an amphitheatre.—The memory of this place is consecrated in Scripture, being one of the seven churches to which St John—in the Apocalypse addresses himself, commended by St Paul.

LAODICEA on the sea, in *Ancient Geography*, according to Strabo, was a town of Seleucus in Syria, extremely well built, with a commodious harbour. The country about it yielded great quantities of wine. The city took its name from *Laodice*, mother of Seleucus the founder of it.

LAOMEDON, a king of Troy, whose history is involved in fables. He was son of Ilus king of Troy; and married Strymo, called by some *Placia*, or *Leucippe*, by whom he had Podarces, afterwards known by the name of *Priam*, and Hefione. He built the walls of Troy, and was assisted by Apollo and Neptune, whom Jupiter had banished from heaven, and condemned to be subservient to the will of Laomedon for one year. When the walls were finished, Laomedon refused to reward the labours of the gods; and soon after his territories were laid waste by the sea or Neptune,

tune,

Laon || Lapathus. tune, and his subjects were visited by a pestilence sent by Apollo. Sacrifices were offered to the offended divinities; but the calamities of the Trojans increased, and nothing could appease the gods, according to the words of the oracle, but annually to expose to a sea monster a Trojan virgin. Whenever the monster appeared, the marriageable maidens were assembled, and the lot decided which of them was doomed to death for the good of her country. When this calamity had continued for five or six years, the lot fell upon Hesione, Laomedon's daughter. The king was unwilling to part with his daughter whom he loved with uncommon tenderness, but his refusal would irritate more strongly the wrath of the gods. In the midst of his fear and hesitation, Hercules came and offered to deliver the Trojans from this public calamity, if Laomedon would promise to reward him with a number of fine horses. The king consented; but when the monster was destroyed, he refused to fulfil his engagements, and Hercules was obliged to besiege Troy and take it by force of arms. Laomedon was put to death after a reign of 29 years; his daughter Hesione was given in marriage to Telamon, one of the conqueror's attendants; and Podarces was ransomed by the Trojans, and placed upon his father's throne. According to Hyginus, the wrath of Neptune and Apollo was kindled against Laomedon, because he refused to offer on their altars as a sacrifice all the first born of his cattle, according to a vow he had made.

LAON, a considerable town of the Isle of France, and capital of the Laonois, with a castle and bishop's see. Its principal trade consists in corn and wine; and it is very advantageously seated on a mountain, in E. Long. 3. 42. N. Lat. 49. 34.

LAOS, a kingdom of Asia beyond the Ganges; bounded on the north by China; on the east, by Tonquin and Cochin China; on the south, by Cambodia; and on the west, by the kingdom of Siam, and by the territories of the king of Ava. This country is full of forests, and abounds in rice, fruits, and fish. The inhabitants are well made, robust, of an olive complexion, and mild in their disposition; but very superstitious, and much addicted to women. Their principal occupation is tilling the ground and fishing. The king shows himself but twice a-year, and has large revenues from the elephants teeth found in his dominions. Their religion is a kind of idolatry, and much the same as in China. Langiona is the capital town.

LAPATHUS, LAPETHUS, or *Lepithus*, in *Ancient Geography*, a town of Cyprus, about the middle of its north side, with a port or station for ships, and a cognominal river. It was built by a colony of Phœnicians, according to Scylax: by Belus king of Tyre, according to Alexander Ephesius. According to Strabo, it was built by a colony of Spartans; and one of the nine kings resided here, the last of whom was Pisistratus, who commanded the naval army of Alexander the Great. There was a temple here dedicated to Venus. The territory round it is called *Lapithia* by Diodorus and Ptolemy; *Lapithii*, the people, tainted with a degree of fatuity; hence *Lapathius* denotes *fatuus*, (*Hefychius*).—Now a village called *Lapitha*; but, according to the Abbé Mariti, the longest and most extensive in the island. Besides the advantage of a fine situation,

it furnishes the best productions in the country; and though Cyprus is in general not very abundant in fruits, Lapitha seems a favoured spot in this respect, and may be called *the garden of the island*.

LAPIDARY, an artificer who cuts precious stones.

The art of cutting precious stones is of great antiquity. The French have carried this art to a very great perfection, but not in any degree superior to the British.

There are various machines employed in the cutting of precious stones, according to their quality. The diamond, which is extremely hard, is cut on a wheel of soft steel, turned by a mill, with diamond dust, tempered with olive oil, which also serves to polish it.

The oriental ruby, sapphire, and topaz, are cut on a copper wheel with diamond dust tempered with olive oil, and are polished on another copper wheel with tripoli and water. The hyacinth, emerald, amethyst, garnets, agates, and other stones not of an equal degree of hardness with the other, are cut on a leaden wheel with smalt and water, and polished on a tin wheel with tripoli. The turquois of the old and new rock, girafol, and opal, are cut and polished on a wooden wheel with tripoli also.

The lapidaries of Paris have been a corporation since the year 1290. It is governed by four jurats, who superintend their rights and privileges, visit the master workmen, take care of the masterpiece of workmanship, bind apprentices, and administer the freedom.

LAPIDARY is also used for a virtuoso skilled in the nature, kinds, &c. of precious stones; or a merchant who deals in them.

LAPIDARY Style, denotes the style proper for monumental or other inscriptions.

This is a kind of medium between prose and verse; the jejune and the brilliant are here equally to be avoided. Cicero has prescribed the rules of it: *Accedat oportet oratio varia, vehemens, plena spiritus. Omnium sententiarum gravitate, omnium verborum ponderibus, est utendum.*

The lapidary style, which was lost with the ancient monuments, has been retrieved at the beginning of this age by Count Emanuel Tesoro: it is now used various ways at the beginning of books; and even epistles dedicatory are composed in it, of which we have no example among the ancients.

LAPIDESCENT, any thing which has the faculty of petrifying, or turning bodies to a stony nature. The older naturalists speak of a lapidescent principle, a lapidescent spirit, a lapidescent juice, &c.

LAPIS, in general, is used to denote a stone of any kind.

LAPIS, in Roman antiquity, a geographical measure denoting a mile; because miles were distinguished by erecting a stone at the end of each; from the number marked on which, the length of way from Rome might be known. The device is by Plutarch ascribed to Caius Gracchus. This was more accurately executed by Augustus, who erected a gilt pillar in the forum, at which all the public ways of Italy, distinguished by stones, were terminated. The same thing was done in the Roman provinces. Hence the phrases *tertius lapis, centesimus lapis*, &c. for three, a hundred,

Lapidary
||
Lapis.

Lapis
||
Lapland.

hundred, &c. miles; and sometimes the ordinal number without *lapis*, as *ad duodecimum*, &c. at twelve miles distance.

LAPIS ASSIUS, in the natural history of the ancients, the name of a stone called also *sarcophagus*, from its power of consuming flesh. See *SARCOPHAGUS*.

LAPIS BONONIENSIS, the Bolognian stone. See *CHEMISTRY*, N^o 1081, 1082.

LAPIS FUNGIFER, a kind of earth found near Rome, Naples, and Florence. It is found in the chalk hills near Naples, in a stalactitical form and of a white colour, intermixed with fine roots of shrubs. A piece of it from Italy was found to contain siliceous, argillaceous, and calcareous earth, together with some magnesia, vegetable alkali, and oxide of iron.

LAPIS LAZULI. See *LAZULITE*, *MINERALOGY Index*.

LAPIS LYNCURIUS. See *LYNCURIUS*, } *MINERALOGY Index*.

LAPIS MUTABILIS. See *HYDROPHANES*, }

LAPIS HEPATICUS. See *LIVER-STONE*.

LAPIS LYDIUS. See *TOUCHSTONE*, and *Lapis LYDIUS*, *MINERALOGY Index*.

LAPIS OBSIDIANUS. See *OBSIDIAN*, *MINERALOGY Index*.

LAPIS NEPHRITICUS. See *JADE-STONE*, *MINERALOGY Index*.

LAPITHÆ, in *Ancient Geography*, a people of Thessaly. See the next article.

LAPITHUS, in fabulous history, a son of Apollo, by Stilbe. He was brother to Centaurus; and married Orsinome, daughter of Euronymus, by whom he had Phorbos and Periphas. The name of Lapithæ was given to the numerous children of Phorbos and Periphas, or rather to the inhabitants of the country of which they had obtained the sovereignty. The chief of the Lapithæ assembled to celebrate the nuptials of Perithous, one of their number. Among them were Theseus, Dryas, Hoplus, Mopsus, Phalerus, Exadius, Prolochus, Titaresius, &c. The Centaurs were also invited to partake the common festivity; and the amusements would have been harmless and innocent, had not one of the intoxicated Centaurs offered violence to Hippodamia the wife of Perithous. The Lapithæ resented the injury, and the Centaurs supported their companions; upon which the quarrel became universal, and ended in blows and slaughter. Many of the Centaurs were slain, and they at last were obliged to retire. Theseus among the Lapithæ showed himself brave and intrepid in supporting the cause of his friends; and Nestor also was not less active in the protection of chastity and innocence. Hesiod has described the battle of the Centaurs and Lapithæ; as has also Ovid, in a more copious manner. The invention of bits and bridles for horses is attributed to the Lapithæ.

LAPLAND, the most northerly country of Europe, extending from the North cape in 71° 30' N. Lat. to the White sea under the arctic circle, is inhabited by the same people, though the country is subject to different powers. Norwegian Lapland, under the dominion of Denmark, lies between the northern sea, the river Pais, and the lake Enarak. Swedish Lapland comprehends all the country from the Baltic to the mountains that separate Norway from Sweden. It is divided into six districts, denominated

marck or territory; and these are distinguished by the names of rivers, such as Aungnermanland, Elma, Peta, Lula, Torna, and Kimi. The eastern part, subject to the czar of Muscovy, situated between the lake Enarak and the White sea, is divided into three distinct prefectures; namely, that of the sea coast towards the north, called *Mourmankoi Leporie*; the *Terfkoï Leporie*, upon the coast of the White sea; and the third, or inland, known by the name of *Bellamoreskoï Leporie*. In Swedish Lapland, which is the most considerable of the three, the provinces or marcks are subdivided into smaller districts called *biars*, consisting each of a certain number of families; among which the land is parcelled out by government, or the prefect of the district appointed by the king of Sweden.

Lapland may be termed a huge congeries of frightful rocks and stupendous mountains; interspersed, however, with many pleasant valleys, watered by an infinite number of rivulets that run into the rivers and lakes, which discharge themselves into the gulf of Bothnia. The names of the principal lakes in Lapland are the Great Uma, the Great Windel, the Oreavan, the Stor-avan, the Great Lula; the lakes of Kartom, Kali, Torno, Enara, and Kimi. Some of these extend 60 leagues in length, and contain a great number of islands: Stor-avan is said to contain 365; and Enara contains an archipelago of islands so large, that no Laplander has lived long enough to visit each particular island. The natives believe this country to be the terrestrial paradise; and indeed nothing could be more enchanting than such vast prospects of mountains, hills, forests, lakes, rivers, &c. if the country was in a moderate climate; though even here, in summer the roses are seen blowing wild on the banks of the lakes and rivers, with all the beautiful glow of colour which appears in those cultivated in our gardens. But all the intervals between the mountains are not engrossed by these agreeable prospects; great part of the flat country is covered with brown dusky forests of fir and pine trees; and these are often skirted by wide extended morasses, the stagnating waters of which in summer produce myriads of mischievous insects, that are more intolerable than even the cold of winter.

The cold of Lapland is very intense during the winter, freezing even brandy and the watery part of spirit of wine, if the latter is not highly rectified: all the lakes and rivers are frozen to a prodigious thickness; and the whole face of the country is covered with snow to the depth of four or five feet. While this continues loose, it is impossible to travel; for a man's eyes are not only blinded with it, but if a strong wind should rise he will be buried in the drifts of snow: yet should a partial thaw take place for a few hours, the surface of this snow is formed by the succeeding frost into a hard impenetrable crust, over which the Laplander travels in his sledge with great celerity. While the thaw prevails, the air is furcharged with vapours, and the climate is rainy; but while the north wind blows, the sky is beautifully serene, and the air very clear.

The heat of summer is almost as intolerable in Lapland as the cold of winter. At the northern extremity of the country the sun never sets for three months in summer, and in winter there is an uninterrupted night of the same duration; but this is qualified in such

Lapland. a manner by a constant revolution of dawn and twilight, by a serene sky, moon light, and aurora borealis, reflected from the white surface of the earth covered with snow, that the inhabitants are enabled to hunt, fish, and proceed with their ordinary occupations. The country abounds with excellent springs; and is remarkable for some surprising cataracts, in which the water tumbles over frightful precipices, and dashes among rocks with amazing impetuosity and noise.

The soil of Lapland is generally so chilled and barren, that it produces little or no grain or fruit trees of any kind. This sterility, however, is not so much owing to the soil, which is in many places of a rich mould, as to want of industry; for in some districts the Swedes have tilled and manured pieces of ground that bear plentiful crops of rye. There is also great plenty of berries: such as black currants; what is called the Norwegian mulberry, growing upon a creeping plant, and much esteemed as an antiscorbutic; raspberries, cranberries, juniper berries, and billberries. The tops of the mountains are so much exposed to intense cold, and tempests of snow and hail, that no tree will grow near the summit; but in parts that are more sheltered, we see fine woods of birch, pine and fir, disposed by nature as if they had been planted by art in rows at regular distances, without any undergrowth or encumbrance below. Besides these trees, some parts of Lapland produce the service tree, the willow, the poplar, the elder, and the cornel. Among the plants of this country the principal is the angelica; which is greatly esteemed by the natives, who use it in their food. Here is likewise the acetosa or sorrel, which grows in great plenty, and is of much service on account of its antiscorbutic properties. They have also other kinds of herbs peculiar to the country, different kinds of grass, heath, fern, and moss; which are all enumerated by Linnæus in his *Flora Lapponica*. But the vegetable which is in greatest plenty, and of the most extensive use among them, is the *lichen rangiferus*. The rein deer is wholly sustained in winter by this vegetable; and the Laplanders themselves boil it in broth as a cordial and restorative. They likewise use one sort of it as a soft, easy, and wholesome bed for their newborn children.

Some silver and lead mines have been discovered in the provinces of Pitha and Lula; and two of copper, together with excellent veins of iron, in the district of Torno; but they are not at present worked with any considerable advantage. In some places there are veins of silver and gold mixed; but these mines are worked only for a few months in the summer, because the frost hinders the engines from playing. Here are found beautiful crystals, of a surprising magnitude, so hard and fine, that when polished they resemble real diamonds. In some places amethysts and topazes are also found, but pale and cloudy; also a great quantity of very curious stones, which are too hard to be worked by the tool of the mason. Some of these found on the banks of rivers and lakes, when they happen to bear the least resemblance to the figures of animals, the Laplanders remove to more conspicuous places, and adore as deities. The province of Tornea affords some curious stones of an octagonal shape, regular, shining, and polished by the hand of nature. In some

VOL. XI. Part II.

rivers they fish for pearls, which are generally pale; but some of them are as bright as the oriental pearls, and much larger and rounder. These pearls are found in mussel shells; and the fishery is not in the sea, but in rivers.

Lapland, as well as Norway, is infested with a great number of gray wolves and bears, with whom the inhabitants wage perpetual war. The most honourable exploit among the Laplanders is that of killing a bear; and the heroes adorn their caps with a small plate of lead or pewter for every bear they have slain. The country abounds also with elks, beavers, and otters, which live here unmolested, and find plenty of fish for their subsistence. The forests of this country furnish haunts to a great number of beautiful martens and squirrels; which last change their colour every winter from brown to gray. Lapland is also the native country of the zibeling or sable, whose skin is extremely valuable. Here are likewise ermines, weasels, hares, large black cats which attend the Laplanders in hunting, and little prick-eared curs trained to the game. But the most remarkable animal of Lapland is the rein deer, for an account of which, see CERVUS, MAMMALIA Index. These animals, so useful in various respects to the natives, are kept at no expence. In summer they feed upon grasses and alpine plants; in winter, as already mentioned, upon the *lichen rangiferus*, or rein-deer lichen, and its varieties, which are so abundant as in many parts almost totally to cover the ground for the space of several miles, and which the sagacious animal discovers under the snow by the peculiar acuteness of its smell. Most of those used for draught are castrated when very young, and are larger and fatter than the bucks. The woods, mountains, and rivers, are well stocked with wild fowl; such as bustards, partridge, grouse, heathcock, pheasants, lapwings, swans, wild geese, wild ducks, and all sorts of aquatic birds that build and breed in northern climates. In the beginning of the spring the swans go thither in numerous flights from the German ocean; the lapwings follow in such swarms that they darken the sky as they pass along, and scream so loud that they may be heard at a great distance. The rocks and mountains are likewise frequented by eagles, hawks, falcons, kites, and other birds of prey.—The rivers abound with delicious salmon from the gulf of Bothnia, trout, bream, and perch of exquisite flavour and amazing magnitude; and the inhabitants of Wardhus, or Danish Lapland, are well supplied with fish from the northern ocean.—With respect to insects, the flies hatched in the morasses and woods in summer are so numerous, that they often obscure the face of day; and so venomous, troublesome, and intolerable, that the rein deer fly to the tops of the highest mountains for shelter, and the Laplanders betake themselves to the sea side, which is the least infested by these pestilent vermine.—M. de Maupertuis, in his account of the voyage he made to Lapland, in company with the other French mathematicians sent thither by the king to measure a degree of the meridian, gives us to understand, that on the tops of the mountains in Torno the flies were so troublesome, that even the Finland soldiers, who are counted the most hardy troops in the service of Sweden, were obliged to cover their faces with the skirts of their coats from the attacks of these

Lapland. animals, which swarmed to such a degree, that the moment a piece of flesh appeared it was blackened all over. Some of these flies are very large, with green heads, and fetch blood from the skin wherever they strike. The Laplanders shroud themselves in the smoke of a large fire kindled for that purpose: yet even this disagreeable expedient was not sufficient to defend the French philosophers: they were obliged, notwithstanding the excessive heat, to wrap up their heads in garments made of the skins of rein-deer, called in that country *lapmudes*, and to cover themselves with a thick rampart of fir boughs; yet all these precautions proved ineffectual. M. de Maupertuis observed a lake quite covered with little yellowish grains, resembling millet seed, which he supposed to be the chrysalises of some of these insects.

The Laplanders are very low in stature, and are likewise remarkable for having large heads. They are also ill-shaped, and their features harsh. They are, however, strong, hardy, and robust, insomuch that they will bear incredible fatigue; and it is remarked that the stoutest Norwegian is not able to bend the bow of a Laplander. The women are much less homely than the men, and many of them are noted for a delicate and florid complexion.

These people are simple, honest, hospitable, and timorous: their timidity, however, respects war alone; for to many other species of dangers they expose themselves with surprising intrepidity, whether in ascending and descending mountains and precipices with their snow shoes and in sledges, or in venturing amidst whirlpools and cataracts in little slender boats made of thin fir boards, fastened together with thongs of leather, sinews of wild beasts, or tough and flexible twigs of willow and osier. These boats are of different sizes, from two to six yards in length, managed with oars and caulked with moss so tight as to keep out the water. The Laplanders are partly settled, and in part wild and roving: the latter live in tents made of coarse cloth; the former are fixed in small villages near the lakes, and chiefly follow fishing. They build their cottages somewhat in the shape of a cone, by placing a circle of large trees or poles aslant in the earth, and close to each other, so that their tops meet, and form a small vent for the issue of the smoke; they cover the ground within with branches of trees. In spring their food consists principally of the eggs of water fowl, which are extremely plentiful in those parts; in summer and autumn, of the birds themselves, and of various others of the partridge tribe; and in winter of the milk and flesh of the rein deer and dried fish. They had till lately no bread; but in lieu thereof used the inner rind of the pine tree dried and ground, and dried fish reduced to powder. They make confections and decoctions of berries, angelica, and sorrel, which they justly reckon to be preservatives against the scurvy. The Laplander is secured in the possession of uninterrupted health by temperance and exercise, which, together with the severity of the climate, brace his nerves to a very unusual pitch of strength, and fortify his constitution in such a manner, that he often lives to the age of 100, without feeling the least pang of disempowerment, or even perceiving his vigour in the least impaired; for it is not uncommon to see a Laplander, in extreme old age, hunting, fowling, skating, and

performing all the severest exercises with undiminished agility.

The summer garb of the men consists of a long coat of coarse cloth, reaching down the middle of the leg, and girded round the waist with a belt or girdle; from which hang a Norway knife, and a pouch containing flints, matches, tobacco, and other necessaries; the girdle itself being decorated with brass rings and chains. Their caps are made of the skin of the northern diver, with the feathers on; and their shoes of the rein deer skin, with the hair outwards. They wear no linen; but the garments of the better sort are of a finer cloth, and they delight in a variety of colours, though red, as the most glaring, is the most agreeable. In winter they are totally cased up in coats, caps, boots, and gloves, made of the rein deer skins. In the *Flora Lapponica* Linnæus says, "Perhaps the curious reader will wonder how the people in Lapland, during the terrible cold that reigns there in winter, can preserve their lives; since almost all birds, and even some wild beasts, desert it at that time. The Laplander, not only in the day, but through the whole winter nights, is obliged to wander about in the woods with his herds of rein deer. For the rein deer never come under cover, nor eat any kind of fodder, but a particular kind of liverwort. On this account the herdsmen are under the necessity of living continually in the woods, in order to take care of their cattle, lest they should be devoured by wild beasts. The Laplander easily does without more light, as the snow reflects the rays that come from the stars, and as the *aurora borealis* illuminates the air every night with a great variety of figures. No part of our body is more easily destroyed by cold than the extremities of the limbs which are most remote from the sun of this microcosm, the heart. The kibes that happen to our hands and feet, so common in the northern parts of Sweden, prove this. In Lapland you will never see such a thing; although, were we to judge by the situation of the country, we should imagine just the contrary, especially as the people wear no stockings, as we do, not only single, but double and triple. The Laplander guards himself against the cold in the following manner: He wears breeches made of rein deer skins with the hair on, reaching down to his heels, and shoes made of the same materials, the hairy part turned outwards. He puts into his shoes slender-eared broad-leaved cyperus grass, (*Carex vesicaria*, *Spec. Pl.* or the bladder *Carex*), that is cut in summer and dried. This he first combs and rubs in his hands, and then places it in such a manner that it not only covers his feet quite round, but his legs also; and being thus guarded, he is quite secured against the intense cold. With this grass they stuff their gloves likewise, in order to preserve their hands. As this grass keeps off the cold in winter, so in summer it hinders the feet from sweating, and at the same time preserves them from being annoyed by striking against stones, &c. for their shoes are very thin, being made, not of tanned leather, but the raw hide."

The women's apparel differs very little from that of the other sex: only their girdles are more ornamented with rings, chains, needle cases, and toys, that sometimes weigh 20 pounds. In winter, both men and women lie in their furs; in summer they cover themselves

Lapland. selves entirely with coarse blankets to defend them from the gnats, which are intolerable. The Laplanders are not only well disposed, but naturally ingenious. They make all their own furniture, their boats, sledges, bows and arrows. They form neat boxes of thin birch boards, and inlay them with the horn of the rein deer. The Swedes are very fond of the Lapland baskets made of the roots of trees, slit in long thin pieces, and twisted together so nicely that they will hold water. Among the manufactures of this country we likewise number curious horn spoons, and moulds in which they cast the trinkets of tin which adorn their girdles. Over and above these domestic occupations, the men within doors perform the office of cooks in dressing victuals for the family. The women act as tailors and embroiderers; they make clothes, shoes, and boots, and harnesses for the rein deer: they spin thread of fur, and knit it into caps and gloves that are very soft and warm. They draw tin into wire through a horn; and with this they cover the thread which they use in embroidering the figures of beasts, flowers, trees, and stars upon their caps and girdles.

The Laplanders make surprising excursions upon the snow in their hunting expeditions. They provide themselves each with a pair of skates, or snow shoes, which are no other than fir boards covered with the rough skin of the rein deer, turned in such a manner that the hair rises against the snow, otherwise they would be too slippery. One of these shoes is usually as long as the person who wears it; the other is about a foot shorter. The feet stand in the middle, and to them the shoes are fastened by thongs or withes. The Laplander thus equipped wields a long pole in his hand, near the end of which there is a round ball of wood to prevent its piercing too deep in the snow; and with this he stops himself occasionally. By means of these accoutrements he will travel at the rate of 60 miles a-day without being fatigued; ascending steep mountains, and sliding down again with amazing swiftness.

The Laplander not only travels a-foot, but is provided with a carriage drawn by the rein deer, in which he journeys with still greater rapidity. The sledge, called *pulka*, is made in the form of a small boat, with a convex bottom, that it may slide the more easily over the snow: the prow is sharp and pointed; but the sledge is flat behind. The traveller is swathed in this carriage like an infant in a cradle, with a stick in his hand to steer the vessel, and disengage it from pieces of rock or stumps of trees that may chance to encounter it in the route. He must also balance the sledge with his body, otherwise he will be in danger of being overturned. The traces, by which this carriage is fastened to the rein deer, are fixed to a collar about the animal's neck, and run down over the breast between the fore and hind legs, to be connected with the prow of the sledge: the reins, managed by the traveller, are tied to the horns; and the trappings are furnished with little bells, the sound of which is agreeable to the animal. With this draught at his tail, it has been reported that the rein deer will fly like lightning over hill and dale at the rate of 200 miles a-day. But this representation is greatly exaggerated. According to the best accounts, the common pace of the rein deer is only at the rate of about four miles an hour; though,

if he be pressed, he will travel 10 or 12 Swedish miles (70 or 84 English miles) in a day; but by such hard driving is generally destroyed. It, however, frequently happens, that he will persevere in his journey 50 miles without intermission, and without taking any refreshment, except occasionally moistening his mouth with the snow. Before he sets out, the Laplander whispers in his ear the way he is to follow, and the place at which he is to halt, firmly persuaded that the beast understands his meaning: but, in spite of this intimation, he frequently stops short long before he has reached the journey's end; and sometimes he overshoots the mark by several leagues. In the beginning of winter the Laplanders mark the most frequented roads, by strewing them with fir boughs; and indeed these roads are no other than pathways made through the snow by the rein deer and the pulkas: their being frequently covered with new snow, and alternately beaten by the carriage, consolidates them into a kind of causeway; which is the harder if the surface has felt a partial thaw, and been crufted by a subsequent frost. It requires great caution to follow these tracks; for if the carriage deviates to the right or left, the traveller is plunged into an abyss of snow. In less frequented parts, where there is no such beaten road, the Laplander directs his course by certain marks which he has made on the trees.

The chief occupation of the Laplanders is hunting, and this exercise they perform in various ways. In summer they hunt the wild beasts with small dogs, trained to the diversion. In winter they pursue them by their tracks upon the snow, skating with so great velocity, that they very often run down the prey. They catch ermines in traps and sometimes with dogs. They kill squirrels, martens, and sables, with blunt darts, to avoid wounding the skin. Foxes and beavers are slain with sharp-pointed darts and arrows; in shooting which, they are accounted the best marksmen in the world. The larger beasts, such as bears, wolves, elks, and wild rein deer, they either kill with firearms purchased in Sweden or Norway, or take in snares and pits dug in the forests. Their particular laws relating to the chase are observed with great punctuality. The beast becomes the property of the man in whose snare or pit he is caught; and he who discovers a bear's den has the exclusive privilege of hunting him to death. The conquest of a bear is the most honourable achievement that a Laplander can perform; and the flesh of this animal they account the greatest delicacy on earth. The bear is always despatched with a fusil, sometimes laid as a snare, ready cocked and primed; but more frequently in the hands of the hunter, who runs the most imminent risk of his life should he miss his aim of wounding the beast mortally. The death of a bear is celebrated by the Laplanders as a signal victory. The carcass is drawn to the cabin or hut of the victor by a rein deer, which is kept sacred from any other work for a whole year after this service. The bear is surrounded by a great number of men, women, and children, reciting a particular hymn or song of triumph, in which they thank the vanquished enemy for having allowed himself to be overcome without doing any mischief to his conqueror, and welcome his arrival: then they make an apostrophe to heaven, expressing their acknowledgment to

Lapland. God, that he has created beasts for the use of men, and endued mankind with strength and courage to overcome and attack the fiercest of the brute creation. The hero is saluted by the women, who spit chewed elder-bark in his face. He is feasted three days successively, and his cap is decorated with an additional figure wrought in tin wire.

The manner in which the young Laplander chooses a wife is equally remarkable and ludicrous. When he has pitched upon a female, he employs some friends as mediators with the father; and these being provided with some bottles of brandy, the suitor accompanies them to the hut of his future father-in-law, who invites the mediators to enter; but the lover is left without until the liquor be drunk, and the proposal discussed: then he is called in, and entertained with such fare as the hut affords; yet without seeing his mistress, who retires and goes out on this occasion. Having obtained leave of her parents to make his addresses in person, he puts on his best apparel, and is admitted to the lady, whom he salutes with a kiss; then he presents her with the tongue of a rein deer, a piece of beaver's flesh, or some other sort of provision. She declines the offer, which is made in presence of her sisters and relations; but makes a signal to the lover to follow her into the fields, where she accepts the presents. Thus encouraged, he begs her permission to sleep with her in the hut: if she consents, there is no further difficulty; if she disapproves of the proposal, she drops her presents on the ground. When the lovers are agreed, the youth is permitted to visit his inamorata as often as he shall think proper: but every time he comes, he must purchase this pleasure with a fresh bottle of brandy; a perquisite so agreeable to the father, that he often postpones the celebration of the nuptials for two or three years. At length the ceremony is performed at church by the priest of the parish. Even after this event, the husband is obliged to serve his father-in-law a whole year; at the expiration of which he retires to his own habitation with his wife and her patrimony of rein deer, and receives presents from all his friends and relations. From this period he sequesters his wife from the company of all strangers, especially of the male sex, and watches over her conduct with the most jealous vigilance.

Many Lapland women are barren, and none of them are very fruitful. A woman, immediately after delivery, swallows a draught of whale fat: the child is washed with snow or cold water, and wrapped up in a hare skin. The mother is seldom above five days in the straw, and in fourteen is generally quite recovered: then she carries the child to church to be baptized. Before she can reach the residence of the priest, she is often obliged to traverse large forests, mountains, lakes, and wide extended wastes of snow. The infant is fastened in a hollowed piece of wood, stretched naked on a bed of fine moss, covered with the soft skin of a young rein deer, and slung by two straps to the back of the mother, who always suckles her own child. At home this little cradle is hung to the roof of the hut, and the child lulled asleep by swinging it from one side to the other. The boys from their infancy practise the bow; and are not allowed to break their fast until they have hit the mark. The female children

are as early initiated in the business peculiar to their sex. Lapland.

These people, though for the most part vigorous and healthy, are not altogether exempted from distemper. They are subject to sore eyes, and even to blindness, from the smoke of their huts, and the fire to which they are almost continually exposed. Some waste away in consumptions; others are afflicted with rheumatic pains and the scurvy; and a few are subject to vertigo and apoplexy. For the cure of all their internal disorders, they use no other medicine than the decoction of a certain species of moss; and when this cannot be procured, they boil the stalk of angelica in the milk of the rein deer. In order to remove a fixed pain, they apply a large mushroom, burning hot, to the part affected; and this produces a blister, which is supposed to draw off the peccant humour. To their wounds they apply nothing but the turpentine that drops from the fir tree. When they are frost bitten, (though according to the above extract from Linnæus this seldom or never happens), we are told that they thrust a red-hot iron into a cheese made of rein deer's milk, and with the fat that drops from it anoint the frozen member, which generally recovers. When a Laplander is supposed to be on his deathbed, his friends exhort him to die in the faith of Christ, and bear his sufferings with resignation, by remembering the passion of our Saviour. They are not, however, very ready to attend him in his last moments; and as soon as he expires, quit the place with precipitation, apprehending some injury from his spirit or ghost, which they believe remains with the corpse and takes all opportunities of doing mischief to the living. The deceased is wrapped up in woollen or linen, according to his circumstances, and deposited in a coffin by a person selected for that purpose: but this office he will not perform, unless he is first secured from the ill offices of the manes, by a consecrated bra's ring fixed on his left arm. The Christian religion in this country has not yet dispelled all the rites of heathenish superstition: together with the body they put into the coffin an axe, a flint, and steel, a flask of brandy, some dried fish and venison. With the axe the deceased is supposed to hew down the bushes or boughs that may obstruct his passage in the other world: the steel and flint are designed for striking a light, should he find himself in the dark at the day of judgement; and on the provision they think he may subsist during his journey.

The Muscovite Laplanders observe other ceremonies, that bear an affinity to the superstitions of the Greek church. They not only supply the defunct with money, but likewise provide him with money for the porter of paradise, and a certificate signed by the priest, and directed to St Peter, specifying that the bearer had lived like a good Christian, and ought to be admitted into heaven. At the head of the coffin they place a little image of St Nicholas, who is greatly revered in all parts of Muscovy as a friend to the dead. Before the interment, the friends of the deceased kindle a fire of fir boughs near the coffin, and express their sorrow in tears and lamentations. They walk in procession several times round the body, demanding, in a whining tone, the reason of his leaving them on earth. They ask

Lapland. ask whether he was out of humour with his wife; whether he was in want of meat, drink, clothing, or other necessaries; and whether he had not succeeded in hunting and fishing? These, and other such interrogations, to which the defunct makes no reply, are intermingled with groans and hideous howlings; and, between whiles, the priest sprinkles the corpse and the mourners alternately with holy water. Finally, The body is conveyed to the place of interment on a sledge drawn by a rein deer; and this, together with the clothes of the deceased, are left as the priest's perquisite. Three days after the burial, the kinsmen and friends of the defunct are invited to an entertainment, where they eat the flesh of the rein deer which conveyed the corpse to the burying ground. This being a sacrifice to the manes, the bones are collected into a basket, and interred. Two thirds of the effects of the deceased are inherited by his brothers, and the remainder divided among his sisters: but the lands, lakes, and rivers, are held in coparceny by all the children of both sexes, according to the division made by Charles IX. of Sweden, when he assigned a certain tract of land to each family.

The commerce of the Laplanders is more considerable than one would expect in a desert country, inhabited by a savage ignorant people. They export great quantities of fish to the northern parts of Bothnia and White Russia. They likewise trade with the neighbouring countries of Norway, Sweden, Muscovy, and Finland, by selling rein deer, fine furs, baskets and toys of their own manufacture, dried pikes, and cheese made of the rein deer's milk. In return for these commodities they receive rixdollars, woollen cloths, linen, copper, tin, flour, oil, hides, needles, knives, spirituous liquors, tobacco, and other necessaries. The Laplanders march in caravans to the fairs in Finland and Norway: these are composed of a long string of 30 or 40 rein deer and pulkas tied to one another, the foremost being led by a Laplander on foot. When they have chosen a spot for an encampment, they form a large circle of their rein deer and pulkas ready yoked; and the animals lying down quietly on the snow, are fed with moss by their masters. The people kindle great fires, around which, men, women, and children sit, and sup on dried fish: but the more voluptuous spread out bear skins under their tents, where they lie at their ease and smoke tobacco.

The revenue arising from this country is of no great consequence: it is paid partly in rixdollars, but chiefly in furs; nay, some that can procure neither, pay the tribute in dried pikes. The produce of the mines forms likewise a considerable article. Fifty squirrel skins, or one fox skin, with a pair of Lapland shoes, are valued at one rixdollar. Part of the taxes is allotted for the maintenance of the Lapland clergy. The frightful aspect of this country has been deemed a more effectual defence than artificial bulwarks and garrisons, of which here are none; or than the arms and courage of the natives, who are neither warlike in themselves, nor in the least tinctured with discipline.

The Laplanders call themselves *Salme-Same*, and *Samen Almatjeh*. Their country they denominate *Same-Landa*, or *Same-aednam*; the Swedes style it *Lapland* or *Lappmarken*, and the inhabitants *Lappar*. The na-

tives of those districts under the dominion of Sweden and Denmark are Lutherans; while many of those who are subject to Russia are still Pagans. Swedish Lapland contains about eight churches, which in some parts lie at so great a distance from each other, that a native is frequently obliged to travel three days in order to attend divine service. The Laplanders, before their conversion to Christianity, which was not till lately introduced amongst them, possessed no books or manuscripts, though they knew many traditional histories and songs of ancient heroes and princes who once reigned over them; but involved in great uncertainty, and mixed with the most fabulous accounts. They have now a translation of the New Testament in their language; and many of the natives are able to read and write.

LAPLYSIA, or SEA-HARE; a genus of marine animals belonging to the class of vermes. See HELMINTHOLOGY *Index*.

LAPSANA, NIPPLEWORT; a genus of plants belonging to the syngenesia class; and in the natural method ranking under the 49th order, *Compositæ*. See BOTANY *Index*.

LAPSE, in ecclesiastical law, a slip or omission of a patron to present a clerk to a benefice within six months of its being void: in which case, the benefice is said to be in *lapse*, or *lapsed*, and the right of presentation devolved to the ordinary.

And if the ordinary neglect to present during the same time, the right of presentation accrues to the metropolitan, and to the king by neglect of the metropolitan. This right of lapse was first established in the reign of Henry II. when the bishops first began to exercise universally the right of institution to churches: and therefore when there is no right of institution, there is no right of lapse; so that no donative can lapse to the ordinary, unless it hath been augmented by the king's bounty; but no right of lapse can accrue, when the original presentation is in the crown. In case the benefice becomes void by death, or cession through plurality of benefices, there the patron is bound to take notice of the vacancy at his own peril; but in case of a vacancy by resignation or canonical deprivation, or if a clerk presented be refused for insufficiency, these being matters of which the bishop alone is presumed to be cognizant, here the law requires him to give notice thereof to the patron, otherwise he can take no advantage by way of lapse; neither shall any lapse accrue thereby to the metropolitan or the king. If the bishop refuse or neglect to examine and admit the patron's clerk, without good reason assigned or notice given, he shall have no title to present by lapse: and if the right of presentation be litigious or contested, and an action be brought against the bishop to try the title, no lapse shall occur till the question of right be decided. If the bishop be both patron and ordinary, he shall not have a double time allowed him to collate in: and if the bishop doth not collate his own clerk immediately to the living, and the patron presents, though after the six months are lapsed, yet the presentation is good, and the bishop is bound to institute the patron's clerk. If the bishop suffer the presentation to lapse to the metropolitan, the patron also has the same advantage if he presents before the archbishop has filled up the benefice: yet the ordinary

Lapwing
||
Larceny. ordinary cannot, after lapse to the metropolitan, collate his own clerk to the prejudice of the archbishop. But if the presentation lapses to the king, the patron shall never recover his right till the king has satisfied his turn by presentation; for *nullum tempus occurrit regi*.

LAPWING. See TRINGA, ORNITHOLOGY Index.

LAQUEARIUS, a kind of athleta among the ancients, who in one hand held a *laqueus*, i. e. a sort of snare, wherewith to embarrass and entangle his antagonist, and in the other a poniard to stab him.

LAQUEUS, in *Surgery*, a kind of ligature so contrived, that, when stretched by any weight or the like, it draws up close. Its use is to extend broken, or disjointed bones, to keep them in their places while they are set, and to bind the parts close together.

LAR, a town of Persia, in the province of Fars, with a castle. It carries on a great trade in silk; and its territory abounds in oranges, lemons, and very large tamarinds. E. Long. 54. 15. N. Lat. 27. 30.

LARACHA, an ancient and strong town of Africa, in the kingdom of Fez. It is seated at the mouth of a river of the same name, with a good harbour. It was once in the possession of the Spaniards; but the Moors took it from them. W. Long. 5. 55. N. Lat. 35. 0.

LARARIUM, was a chapel which the Romans frequently had in their houses for the household gods, called *lares*. Spartan says, that Alexander the son of Mammeus kept in his lararium the figure of our Saviour, together with his other idols.

LARBOARD, among seamen, the left-hand side of the ship when you stand with your face towards the head.

LARCENY, or THEFT, by contraction for latrocinium, is distinguished by the law into two sorts: the one called *simple larceny*, or plain theft, unaccompanied with any other atrocious circumstance; and *mixed or compound larceny*, which also includes in it the aggravation of a taking from one's house or person.

I. *Simple larceny*, when it is the stealing of goods above the value of twelvepence, is called *grand larceny*; when of goods to that value, or under, is *petit larceny*: offences, which are considerably distinguished in their punishment, but not otherwise. See THEFT.

II. *Mixed, or compound larceny*, is such as has all the properties of the former, (see THEFT); but is accompanied with either one or both of the aggravations of a taking from one's *house* or *person*. First therefore of larceny from the *house*, and then of larceny from the *person*.

I. Larceny from the *house*, though it might seem to have a higher degree of guilt than simple larceny, yet is not at all distinguished from the other at common law; unless where it is accompanied with the circumstance of breaking the house by night; and then it falls under another description, viz. that of burglary, (see BURGLARY). But now by several acts of parliament (the history of which is very ingeniously deduced by a learned modern writer*, who hath shown them to have gradually arisen from our improvements in trade and opulence), the benefit of clergy is taken from larcenies committed in a house in almost every instance:

except that larceny of the stock or utensils of the Plate Glass Company from any of their houses, &c. is made only single felony, and liable to transportation for seven years. The multiplicity of the general acts is apt to create some confusion; but upon comparing them diligently, we may collect, that the benefit of clergy is denied upon the following domestic aggravations of larceny; viz. first, in larcenies *above the value of twelvepence*, committed, 1. In a church or chapel, with or without violence, or breaking the same: 2. In a booth or tent in a market or fair, in the daytime or in the night, by violence or breaking the same, the owner or some of his family being therein: 3. By robbing a dwelling house in the daytime (which *robbing* implies a breaking), any person being therein: 4. In a dwelling house by day or by night, without breaking the same, any person being therein and put in fear; which amounts in law to a robbery: and in both these last cases the accessory before the fact is also excluded from his clergy. Secondly, in larcenies *to the value of five shillings*, committed, 1. By breaking any dwelling house, or any outhouse, shop, or warehouse thereunto belonging, in the daytime, although no person be therein; which also now extends to aiders, abettors, and accessories before the fact: 2. By privately stealing goods, wares, or merchandise in any shop, warehouse, coach-house, or stable, by day or by night; though the same be not broken open, and though no person be therein: which likewise extends to such as assist, hire, or command the offence to be committed. Lastly, in larcenies *to the value of forty shillings* in a dwelling house, or its out houses, although the same be not broken, and whether any person be therein or not; unless committed against their masters by apprentices under the age of 15. This also extends to those who aid or assist in the commission of any such offence.

2. Larceny from the *person*, is either by *privately* stealing, or by open and violent assault, which is usually called *robbery*.

The offence of *privately* stealing from a man's *person*, as by picking his pocket or the like, privily, without his knowledge, was debarred of the benefit of clergy so early as by the statute 8 Eliz. c. 4. But then it must be such a larceny as stands in need of the benefit of clergy, viz. of above the value of 12d.; else the offender shall not have judgement of death. For the statute creates no new offence; but only takes away the benefit of clergy, which was a matter of grace, and leaves the thief to the regular judgement of the ancient law. This severity (for a most severe law it certainly is) seems to be owing to the ease with which such offences are committed, the difficulty of guarding against them, and the boldness with which they were practised (even in the queen's court and presence) at the time when this statute was made: besides that this is an infringement of property in the manual occupation or corporal possession of the owner, which was an offence even in a state of nature. And therefore the *saccularii*, or cutpurves, were more severely punished than common thieves by the Roman and Athenian laws.

As to open and violent larceny from the person, see ROBBERY.

LARDIZABALA, a genus of plants belonging to the diœcia class, and order hexandria. It is a native of

* Barr. 375.

Lardner. of Chili, and is thus described from the drawings of La Martiniere the naturalist, who accompanied La Perouse in his voyage of discovery.

Male Flower.—Calyx formed of six expanding leaves, oblong, oval, and obtuse; the three outermost being largest. Corolla composed of six sharp petals, shorter than the leaves of the calyx.

Female Flower.—Calyx similar to that of the male, but larger. Corolla composed of six petals rarely entire, but commonly trifid at their top. Stamina six; filaments distinct; anthers six, oblong, barren. Seed-bud; cells from three to six, oblong, nearly the length of the corolla; styles none; stigmata sitting, permanent. Berries equal in number to the cells, oblong, acuminate (divided into six cells, containing several angular seeds).

LARDNER, NATHANIEL, an eminent English dissenting divine, was born at Hawkhurst in Kent, June 6. 1684. After a grammatical education, to which great attention must have been given, and in which a no less rapid progress must have been made, he was sent first to a dissenting academy in London, which was under the care of the Rev. Dr Joshua Oldfield; and thence, in his 16th year, to prosecute his studies at Utrecht, under the celebrated professors D'Uries, Grævius, and Burman. Here he remained somewhat more than three years, and then removed for a short space to Leyden. In 1703 he returned to England, continuing at his father's house to employ himself by close and diligent preparation for the sacred profession which he had in view. Qualified as he was, it was not till 1709 that he preached his first sermon, from Romans i. 16.—“a text (his biographer remarks) than which there could not have been a more proper one for a man who was destined in the order of Divine Providence to be one of the ablest advocates for the authenticity and truth of the Christian revelation that ever existed.”

A few years after this, Lardner was received into Lady Treby's family as domestic chaplain and tutor to her son, and continued in this comfortable situation till her ladyship's death in 1721. This event threw him into circumstances of some perplexity, having preached to several congregations during his residence with Lady Treby without the approbation or choice of any one congregation. Here we are told, “that it reflects no honour on the Dissenters, that a man of such merit should so long have been neglected.” But it has been observed upon this, that the pulpit was not the place in which Mr Lardner was calculated either to convey improvement or acquire reputation. Dr Kippis afterwards informs us, “that his mode of elocution was very unpleasant; that from his early and extreme deafness he could have no such command of his voice as to give it a due modulation; and that he greatly dropped his words.” It cannot then, as his biographer adds, be matter of surprise that he was not popular; nor, it may be added, can it be any reflection on the congregations to which he occasionally preached, that they did not choose for their ministry a man, who, notwithstanding his great learning and amiable virtues, was so deficient as a public speaker, that it was impossible to hear him with any pleasure, and scarcely without pain.

Though Mr Lardner had no church at which he

officiated as minister, he was engaged with some of his dissenting brethren in preaching a Tuesday evening lecture at the Old Jewry. Acquainted probably with the direction of his studies, they appointed him to preach on the proof of the *Credibility of the Gospel History*. This he discussed, we are told, in two sermons; and prosecuting the subject which he had taken up in these discourses, in February 1727, he published, in two volumes octavo, *the First Part of “The Credibility of the Gospel History, or the Facts OCCASIONALLY MENTIONED in the New Testament confirmed by Passages of ancient Authors who were contemporary with our Saviour or his Apostles, or lived near their Time.”* An *Appendix* was subjoined, relating to the time of Herod's death.

Thus Mr Lardner commenced author, and began his literary career with singular reputation. “It is scarcely necessary to say (observes Dr Kippis), how well this work was received by the learned world. Not only was it highly approved by the Protestant Dissenters, with whom the author was more immediately connected, but by the clergy in general of the established church; and its reputation gradually extended into foreign countries. It is indeed an invaluable performance, and hath rendered the most essential service to the cause of Christianity. Whoever peruses this work (and to him that does not peruse it, it will be to his own loss) will find it replete with admirable instruction, sound learning, and just and candid criticism.” These two, with the subsequent fifteen, volumes octavo, and the four thin quartos entitled *Jewish and heathen Testimonies*, occupied him, with the interruption arising from some smaller productions, during the space of *forty-three years*.

Dr Kippis gives us a particular account of the time when each volume was published, and of the subjects discussed in each. The following useful information which the doctor introduces, in speaking of the “*Supplement to the Credibility*,” deserves well to be transcribed. “I cannot avoid strongly recommending this work (says he) to the attention of all young divines. Indeed, I think that it ought to be read by every theological student before he quits the university or academy in which he is educated. There are three other works which will be found of eminent advantage to those who are intended for, or beginning to engage in, the Christian ministry. These are, Butler's Analogy, Bishop Law's Considerations on the Theory of Religion, and Dr Taylor's Key to the Apostolical Writings, prefixed to his Paraphrase on the Epistle to the Romans. Without agreeing with every circumstance advanced in these works, it may be said of them with the greatest truth, that they tend to open and enlarge the mind; that they give important views of the evidence, nature, and design of revelation; and that they display a vein of reasoning and inquiry which may be extended to other objects besides those immediately considered in the books themselves.—It must not be forgotten, that the Supplement to the Credibility has a place in the excellent collection of treatises in divinity which has lately been published by Dr Watson bishop of Landaff. For a collection which cannot fail of being eminently conducive to the instruction and improvement of younger clergymen, and for the noble, manly, and truly evangelical preface by which it is preceded,

Lardner.

Laredo
||
Lares.

ceded, this great prelate is entitled to the gratitude of the Christian world." It may not be improper to add, that the *Supplement to the Credibility* was some years ago, published separately by the bookfellers, under the title of *The History of the Gospels and Epistles*.

Applauded as Dr Lardner's works were, he received little recompense for them. Some of the latter volumes of the *Credibility* were published at a loss; and at last he sold the copy-right and all the remaining printed copies to the bookfellers, for the trifling sum of 150l. His object, however, was not private emolument, but to serve the interests of truth and virtue; and it pleased Divine Providence to spare his life, both to complete his extensive plan, and to see the last volume, the 4th of the *Testimonies*, published. This was in 1767. He was seized with a decline in the summer following; and was carried off in a few days at Hawkhurst the place of his nativity, where he had a small paternal estate, in the 85th year of his age.

LAREDO, a sea port town of Spain, in the bay of Biscay, with a large safe harbour. It is 30 miles west of Bilbao, and 72 north by west of Burgos. W. Long. 3. 45. N. Lat. 43. 23.

LARENTINALIA, in antiquity, a feast held among the Romans on the 23d day of December, but ordered to be observed twice a year by Augustus; by some supposed to have been in honour of the Lares, but by others, with more probability, in honour of Acca Laurentia; and to have been the same with Laurentalia.

LARES, among the ancients, derived by Apuleius (*De Deo Socratis*), from *lar, familiaris*; a kind of domestic genii, or divinities, worshipped in houses, and esteemed the guardians and protectors of families; supposed to reside more immediately in the chimney corner.

The Lares were distinguished from the Penates: as the former were supposed to preside over housekeeping, the servants in families, and domestic affairs; and the latter were the protectors of the masters of families, their wives and children. Accordingly the Lares were dressed in short succinct habits, to show their readiness to serve; and they held a sort of cornucopia in their hands, as a signal of hospitality and good housekeeping. According to Ovid, there were generally two of them, who were sometimes represented with a dog at their feet.

Plutarch distinguishes good and evil Lares, as he had before done good and evil Genii. There are also some public, others private Lares.

Apuleius tells us the domestic Lares were no more than the souls of departed persons, who had lived well, and discharged the duties of their station; whereas those who had done otherwise, were vagabonds, wandering about and frightening people, called *Larvæ* and *Lemures*.

The Lares were also called *Penates*, and were worshipped under the figures of little marmosets, or images of wax, silver, or earthen ware.

The public Lares were also called *Compitales*, from *compitum* "a cross way;" and *Viales*, from *via* "a way or public road;" as being placed at the meetings of roads and in the high ways, and esteemed the patrons and protectors of travellers.

Their private Lares took take of particular houses

and families: these they also called *Præstites* from *præsto*;

Quod præstant oculis omnia tuta suis. OVID. Fast.

They gave the name *Urbani*, i. e. "Lares of cities," to those who had cities under their care; and *Hospitalii*, to those who were to keep their enemies off. There were also Lares of the country, called *Rurales*, as appears by several antique inscriptions.

The Lares were also genial gods, and were supposed to take care of children from their birth. It is for this reason that when Macrobius tells us the Egyptians had four gods who presided over the births of children, viz. the Genius, Fortune, Love, and Necessity, called *præstites*, some interpret him as if he had said the Egyptians had Lares; but they have mentioned that there was a great difference between the Lares of the Romans and the *Præstites* of the Egyptians. However, the learned Mr Bryant affirms that they were the same.

The ancients differ extremely about the origin of the Lares. Varro and Macrobius say that they were the children of Mania; Ovid makes them the issue of Mercury, and the Naiad Lara or Larunda; Apuleius assures us they were the posterity of the Lemures; Nigridius, according to Arnobius, made them sometimes the guardians and protectors of houses, and sometimes the same with the Curetes of Samothracia, which the Greeks call *Ideii dactyli*. Nor was Varro more consistent in his opinion of these gods; sometimes making them the manes of heroes, and sometimes gods of the air.

T. Tatius king of the Sabines was the first who built a temple to the Lares. The chimney and fireplace in the house were particularly consecrated to them.

Tertullian tells us the custom of worshipping the Lares arose from this, that they anciently interred their dead in their houses; whence the credulous people took occasion to imagine their souls continued there also, and proceeded to pay them divine honours. To this it may be added, that the custom being afterwards introduced of burying in the high ways, they might hence take occasion to regard them as gods of the high ways.

The victim offered to the Lares in the public sacrifices was a hog: in private, they offered them wine, incense, a crown of wool, and a little of what was left at the table. They also crowned them with flowers, particularly the violet, myrtle, and rosemary. Their symbol was a dog, which was usually represented by their side, on account of its fidelity and the service it does to a man in watching his house. They were sometimes also represented as clothed in a dog's skin.

The term *Lares*, according to Mr Bryant, was formed from *laren*, an ancient word by which the ark was represented: and he supposes that the Lares and Manes were the same domestic deities under different names; and that by these terms the Hetrurians and Latins denoted the *dii arkiteæ*, who were no other than their arkite ancestors, or the persons preserved in the laren or ark; the genius of which was Isis, the reputed parent of the world. He observes farther, that they are described as dæmons and genii, who once lived on earth, and were gifted with immortality. Arnobius,

Lares

Large
||
Largs.

bis styles them *Lares quosdam genios et functorum animas*; and he says, that according to Varro, they were the children of Mania. Huetius (Demonst. Prop. iv. p. 139.) adds, that Mania had also the name of *Larunda*; and she is styled the mother of the dæmons. By some she is called *Lara*, and was supposed to preside over families; and children were offered at her altar in order to procure her favour. In lieu of these they in after times offered the heads of poppies and pods of garlic.

LARGE, a sea term applied to the wind when it crosses the line of a ship's course in a favourable direction, particularly on the beam or quarter. Thus, if a ship steer west, then the wind in any point of the compass to the eastward of the south or north may be called *large*, unless when it is directly east, and then it is said to be right aft. Sailing large is, therefore, advancing with a large wind, so as that the sheets are slackened and flowing, and the bow lines entirely disused. This phrase is generally opposed to sailing close hauled.

LARGESS. See LARGITIO.

LARGITIO, in Roman antiquity, was a distribution of corn, provision, clothes, money, &c. to the people. Gracchus, when tribune, to make himself popular, passed a law for supplying the Roman citizens with corn at a very low rate, out of the public granaries. Claudius, another tribune, with the same views to popular applause, procured it to be distributed *gratis*.—Cato, to win the common people from Cæsar, persuaded the senate to do the same, and 300,000 citizens shared in the distribution. Cæsar, after his triumph, extended his bounty to 150,000, giving them each a *mina*. The Roman emperors enlarged still further the list of those who were to partake of their distributions. *Largitio* is frequently taken in a bad sense, to signify a masked bribery; whereby candidates purchased votes, when they stood for places of honour or trust in the state. The distribution of money was called *congariam*, and the distributors *divisores* and *sequestres*.

LARGS, a village on the west coast of Scotland, opposite to the island of Bute; rendered memorable by the defeat of the Norwegians here in their last invasion of this country.—This invasion was made in the year 1263, with a fleet of 160 sail and an army of 20,000 men, commanded by Haquin king of Norway, whose ravages on the coast of Ayr, Bute, and Arran, reaching the Scottish coast, an army was immediately assembled by Alexander III. and a bloody engagement ensued at this village, when 16,000 of the invaders were slain in the battle and flight, with 5000 Scots. Haquin escaped to the Orkneys, where he soon after died of grief. The intrenchments of the Norwegian camp may still be traced along the shore of this place. The Scottish commanders who fell in battle were buried in a rising field, near the village; three or four persons were interred in one grave, on each side of which was a large stone, a third was placed across the grave, supported at the extremities by the side stones, and in this rude manner the warriors lay entombed. Some years ago the proprietor of the field demolished these repositories of the dead, leaving only one (a special favour!) which serves to give an idea of the whole.

VOL. XI. Part II.

LARINO, a town of Italy, in the kingdom of Naples, in the Capitanata, with a bishop's see. E. Long. 15. 51. N. Lat. 41. 48.

LARISSA, an ancient, rich, and celebrated town of Greece, in the province of Janna or Thessaly, with an archbishop's see of the Greek church, a palace, and several handsome mosques. According to Virgil, it was the country of Achilles. It was also the place where Philip the father of Alexander the Great resided.—The inhabitants carry on a considerable trade. The city is agreeably seated on the river Peneus, in E. Long. 23. 36. N. Lat. 38. 51.

LARIX, the LARCH TREE. See PINUS, BOTANY Index

LARK. See ALAUDA, ORNITHOLOGY Index, and BIRD-Catching.

The lark is not only a very agreeable bird for the cage, but will live upon almost any food, so that it has once a-week a fresh tuft of three-leaved grass. The proper method of keeping them in health is this: there must be two pans of food, the one containing meat, the other oat meal and hempseed. A very good food is the following: boil an egg very hard, to which add the crumb of a halfpenny loaf, and as much hempseed: let the egg be chopped very small, and the hempseed bruised in the mortar; when these are mixed, the bread is to be crumbled in among the rest, and the whole to be rolled together with a common rolling pin, and kept for use. There must be some fine small gravel strewed at the bottom of the cage, and renewed at farthest once in a week. This will prevent the bird's feet from getting hurt by being clogged with the dung; and his basking in this will keep him also from growing lousy, after which few come to good. There must be a perch in the cage, and it must either be lined with green bays, or made of fine matting, which the lark is very fond of. When the bird is first taken, some meat must be strewed upon the sand in the bottom of the cage; for it will be sometimes almost famished before it finds the meat in the pan.

The cock bird of this kind is known from the hen by the loudness and length of his call, by his tallness as he walks about the cage, and by his doubling his notes in the evening, as if he was going with his mate to roost. A better rule than all others, however, is his singing strong; for the hen wood lark sings but very weakly.—Both the cock and hen of this kind are subject to many disorders; the principal of these are cramps, giddiness of the head, and breeding lice. Cleanliness is the best cure for the first and the last of these complaints; but we know of no cure for the other. A good strong bird, however, will often last very well five or six years, and improve all the time.

LARKSPUR. See DELPHINIUM, BOTANY Index.

LARMIER, in *Architecture*, a flat square member of the cornice below the cimassum, and jets out farthest; being so called from its use, which is to disperse the water, and cause it to fall at a distance from the wall, drop by drop, or as if by tears, the French word *larm*, signifying a tear.

LARRIBUNDAR, a sea port town of Asia, in Indostan; seated at the mouth of the river Sinda, or Indus, with a harbour capable of receiving ships of

Lariao
||
Larribun-
dar.

Larva
||
Lassitude.

200 tons burden. It is but a small place, consisting of about 100 houses built of wood; but has a stone fort, with a few guns. E. Long. 67. o. N. Lat. 25. o.

LARVA, in *Natural History*, a name given by Linnaeus to insects in that state, called by other writers *cruca* or *caterpillar*. See *ENTOMOLOGY Index*.

LARVÆ, in antiquity, derived from the Hetruscan word *lar* or *lars*, signifying "prince or lord," denoted the ghosts of the deceased, considered as wicked and mischievous. Hence is formed the term *larvatus*, i. e. *larvâ indutus* or *demoniac*. The ingenious Mr Farmer urges the etymology and use of this term to prove, that the heathen demons were human ghosts.—The larvæ were also called *lemures*.

LARUS, the GULL, a genus of birds belonging to the order of anseres. See *ORNITHOLOGY Index*.

LARYNX, in *Anatomy*, the upper part of the wind-pipe. See *ANATOMY*, N° 116.

LASCARIS, (ANDREW JOHN, surnamed *Ryndace-nus*, of an ancient Greek family, went into Italy, after the taking of Constantinople by the Turks in 1453. He was well received by Laurence de Medicis, a distinguished protector of learned men; and was twice sent to Constantinople to collect the best Greek manuscripts, by which means numberless scarce and valuable treasures of literature were carried into Italy. At his return, Louis XII. king of France prevailed on him to settle in the university of Paris, and sent him twice ambassador to Venice. Ten years after, Cardinal John de Medicis being elected pope, under the name of *Leo X.* John Lascaris, his old friend, went to Rome, and had the direction of a Greek college. He died at Rome in 1535, at about the 90th year of his age. He brought into the west most of the fine Greek manuscripts that are now extant, and composed some epigrams in Greek and Latin.

LASCARIS, *Constantine*, one of the Greeks who were principally concerned in the revival of learning in the West, retired into Italy in 1454, and taught polite literature at Milan, whither he was called by Francis Sforza; he afterwards went to Rome, where he was well received by Cardinal Bessarion. He afterwards taught rhetoric and the Greek tongue at Naples; and ended his days at Messina, leaving the senate of that city many excellent manuscripts which he had brought from Constantinople. He was interred at the public expence, and the senate of Messina erected a marble tomb to his memory. He wrote some grammatical works.

LASERPITIUM, **LAZAR-WORT**, a genus of plants belonging to the pentandria class; and in the natural method ranking under the 45th order, *Umbellatæ*. See *BOTANY Index*.

LASH, or **LACE**, in the sea language, signifies to bind and make fast; as, to lash the bonnet to the course, or the drabber to the bonnets; also the carpenter takes care that the spare yards be lashed fast to the ship's side; and in a rolling sea, the gunners mind that the guns be well lashed, lest they should break loose. Lashers are properly those ropes which bind fast the tackles and the breechings of the ordnance, when hauled or made fast within board.

LASSITUDE, or **WEARINESS**, in *Medicine*, a morbid sensation, that comes on spontaneously, without any previous motion, exercise, or labour. This is a

frequent symptom in acute distempers: it arises either from an increase of bulk, a diminution of proper evacuation, or too great a consumption of the fluids necessary to maintain the spring of the solids, or from a vitiated secretion of that juice.

LASSUS, or **LASUS**, a dithyrambic poet, born at Hermione in Peloponnesus about 500 years before Christ. He is reckoned among the wise men of Greece by some. He is particularly known by the answer he gave to a man who asked him what could best render life pleasant and comfortable? Experience. He was acquainted with music. Some fragments of his poetry are to be found in Athenæus. He wrote an ode upon the Centaurs, and a hymn to Ceres, without inserting the letter S in the composition.

LAST, in general, signifies the burden or load of a ship. It signifies also a certain measure of fish, corn, wool, leather, &c. A last of codfish, white herrings, meal, and ashes for soap, is twelve barrels; of corn or rapeseed, ten quarters; of gunpowder, twenty-four barrels; of red herrings, twenty cades; of hides, twelve dozen; of leather, twenty dickers; of pitch and tar, fourteen barrels; of wool, twelve sacks; of stock fish, one thousand; of flax or feathers, 1700lb.

LASTAGE, or **LESTAGE**, a duty exacted in some fairs and markets, for carrying things bought whither one will. It signifies also the ballast or lading of a ship; and sometimes is used for garbage, rubbish, or such like filth.

LATERAN was originally the proper name of a man; whence it descended to an ancient palace in Rome, and to the buildings since erected in its place; particularly a church called *St John of Lateran*, which is the principal see of the popedom.

Councils of the LATERAN, are those held in the basilica of the Lateran; of these there have been five, held in 1123, 1139, 1179, 1215, and 1513.

Canons Regular of the Congregation of the LATERAN, is a congregation of regular canons, whereof that church is the principal place or seat.

It is pretended there has been an uninterrupted succession of clerks, living in community from the time of the apostles: and that a number of these were established in the Lateran in the time of Constantine. But the canons were not introduced till the time of Leo I. and these held the church 800 years, till the reign of Boniface, who took it from them, and placed secular canons in their room: 150 years after, the regulars were reinstated.

A LATERE, a term used to denote the qualifications of the cardinals whom the pope sends as legates into foreign countries. They are called *legates à latere*, as being his holiness's assistants and counsellors in ordinary. These are the most considerable of the other three kinds of legates, being such as the pope commissions to take his place in councils; and so called, in regard that he never gives this office to any but his favourites and confidants, who are always *à latere*, at his side. A legate à latere has the power of conferring benefices without a mandate, of legitimating bastards to hold offices, and has a cross carried before him as the ensign of his authority.

De LATERE, legates who are not cardinals, but yet are intrusted with an apostolical legation. See the article **LEGATE**.

LATE-WAKE,

Lassus
||
Latere.

Late-wake
||
Lathræa.

LATE-WAKE, a ceremony used at funerals in the Highlands of Scotland. The evening after the death of any person, the relations and friends of the deceased meet at the house, attended by bagpipe or fiddle; the nearest of kin, be it wife, son, or daughter, opens a melancholy ball, dancing, and *greeting* (i. e. crying violently) at the same time, and this continues till day light; but with such gambols and frolics among the younger part of the company, that the loss which occasioned them is often more than supplied by the consequences of that night. If the corpse remains unburied for two nights, the same rites are renewed. Thus, Scythian like, they rejoice at the deliverance of their friends out of this life of misery.

LATEEN SAIL, a long triangular sail extended by a lateen yard, and frequently used by xebecs, polacres, fetees, and other vessels navigated in the Mediterranean sea.

LATH, in building, a long, thin, and narrow slip of wood nailed to the rafters of a roof or ceiling, in order to sustain the covering.

LATH Bricks, a particular sort of bricks made in some parts of England, of 22 inches in length and 6 in breadth, which are used in the place of laths or spars, supported by pillars in casts, for the drying of malt. This is an excellent contrivance; for besides that they are not liable to fire, as the wooden laths are, they retain the heat vastly better; so that being once heated, a very small quantity of fire will serve to keep them so.

LATHE, a very useful engine for the turning of wood, ivory, metals, and other materials. The invention of the lathe is very ancient; Diodorus Siculus says, the first who used it was a grandson of Dædalus, named Talus. Pliny ascribes it to Theodore of Samos; and mentions one Thericles, who rendered himself very famous by his dexterity in managing the lathe. With this instrument the ancients turned all kinds of vases, many whereof they enriched with figures and ornaments in basso relievo. Thus Virgil:

Lenta quibus torno facili superaddita vitis.

The Greek and Latin authors make frequent mention of the lathe; and Cicero calls the workmen who used it *vascularii*. It was a proverb among the ancients, to say a thing was formed in the lathe, to express its delicacy and justness.

The lathe is composed of two wooden cheeks or sides, parallel to the horizon, having a groove or opening between; perpendicular to these are two other pieces called *puppets*, made to slide between the cheeks, and to be fixed down at any point at pleasure. These have two points, between which the piece to be turned is sustained; the piece is turned round, backwards and forwards, by means of a string put round it, and fastened above to the end of a pliable pole, and underneath to a treadle or board moved with the foot. There is also a rest which bears up the tool, and keeps it steady.

As it is the use and application of this instrument that makes the greatest part of the art of turning, we refer the particular description thereof, as well as the manner of applying it in various works, to that head. See **TURNING**.

LATHRÆA, a genus of plants belonging to the

didynamia class; and in the natural method ranking under the 40th order, *Personateæ*. See **BOTANY Index**.

LATHREVE, **LEIDGREVE**, or **TRITHENGREVE**, was an officer under the Saxon government, who had authority over a third part of the county; and whose territory was therefore called *trithing*, otherwise a *leid* or *leithin*, in which manner the county of Kent is still divided; and the rapes in Suffex seem to answer to the same. As to the jurisdiction of this officer, those matters that could not be determined in the hundred court, were thence brought to the trithing; where all the principal men of the three or more hundreds being assembled by the *lathreve*, or *trithingreve*, did debate and decide it; or if they could not, then the *lathreve* sent it up to the county court, to be there finally determined.

LATHYRUS, **CHICKLING**, a genus of plants belonging to the diadelphia class; and in the natural method ranking under the 32d order, *Papilionaceæ*. See **BOTANY Index**.

LATIAR, in Roman antiquity, a feast or ceremony instituted by Tarquinius Superbus, in honour of Jupiter Latiaris or Latialis.—Tarquin having made a treaty of alliance with the Latins, proposed, in order for perpetuating it, to erect a common temple, where all the allies, the Romans, Latins, Hernici, Volsci, &c. should assemble themselves every year, hold a kind of fair, exchange merchandises, feast, sacrifice, and make merry together. Such was the institution of the Latiar. The founder only appointed one day for this feast: the first consul added another to it, upon concluding the peace with the Latins; and a third was added after the people who had retired to the Mons Sacer were returned to Rome; and a fourth, after appeasing the sedition raised on occasion of the plebeians aspiring to the consulate.

These four days were called the *Latin ferie*; and all things done during the course of the ferie, as feasts, sacrifices, offerings, &c. were called *Latiaræ*.

LATICLAVE, (*Laticlavium*), in Roman antiquity, was an honourable distinction, peculiar, in the times of the republic, to the senators; but whether it was a particular kind of garment, or only an ornament upon it, the critics are not agreed: But the more general opinion is, that it was a broad stripe of purple sewed upon the fore part of their tunic, and round the middle of the breast. There were buttons set on the *latus clavus* or *laticlave*, which appeared like the heads of large nails, whence some think it derived its name.—The senators, prætors, and chief magistrates of colonies and municipal cities had a right to wear it. The prætexta was always worn over it; but when the prætor pronounced sentence of death, the prætexta was then put off and the laticlave retained. The *laticlavium* differed from the *angusticlavium*, but authors do not agree in what this difference consisted; the most general opinion seems to be, that the slips or stripes of purple were narrower in the angusticlave.

LATIMER, **HUGH**, bishop of Worcester, was born about the year 1480 at Thurcaston in Leicestershire, the only son of a yeoman of that village. At the age of fourteen he was sent to Christ's college, Cambridge, where he applied himself to the study of divinity, and in proper time took the degree of bachelor in that science. At this time he was a zealous

Lathreve
||
Latim-r.

Latimer,
Latin.

Papist, and was honoured with the office of keeper of the cross to the university: but when he was about thirty years of age, he became a convert to the Protestant religion; and being now one of the twelve licensed preachers from Cambridge, he promulgated his opinions with great freedom. It was not long before he was accused of heresy; and being summoned before Cardinal Wolsey, was obliged to subscribe certain articles of faith, which he certainly did not believe. About the year 1529 he was presented by the king to the rectory of Westkinton in Wiltshire; to which place, after residing some time at court with his friend and patron Dr Butts, he retired; but resuming his former invectives against the Popish doctrines, he was again summoned to answer certain interrogatories, and again obliged to subscribe. In 1535 he was promoted to the bishopric of Worcester; in the possession of which dignity he continued till the year 1539, when, rather than assent to the act of the six articles, he resigned his mitre, and retired into the country; but was in a short time accused of speaking against the six articles, and committed to the Tower, where he continued prisoner till the death of Henry VIII. which happened in January 1547. On the accession of Edward VI. Latimer was released, but not restored to his bishopric, though he preached several times before the king, and continued to exercise his ministerial function with unremitting zeal and resolution. Young Edward, alas! finished his short reign in 1553; and Mary, of infamous memory, ascending the throne, poor Latimer was immediately doomed to destruction, and, together with Cranmer and Ridley, confined in the Tower. In April 1554, they were removed to Oxford, that they might dispute with the learned doctors of both universities. Latimer declining the disputation on account of his great age and infirmities, delivered his opinion in writing; and refusing to subscribe the Popish creed, was condemned for heresy; and in October following was, together with Bishop Ridley, burnt alive. He behaved with uncommon fortitude on the occasion, and died a real martyr to the Reformation. His general character is that of a learned, virtuous, and brave man. His works are, 1. Sermons, 1635. fol. 2. Letters, in Fox's Acts and Monuments, vol. ii. fol. 1580. 3. An Injunction to the Prior and Convent of St Mary's in Worcester-shire. See record at the end of Burnet's History of the Reformation, part ii. p. 293.

LATIN, a dead language, first spoken in Latium, and afterwards at Rome; and still used in the Romish church, and among many of the learned.

This language is principally derived from the Greek, and particularly from the Eolic dialect of that tongue, though it has a great number of words which it borrowed from the languages of the Etrusci, Osce, and other ancient people of Italy; and foreign commerce and wars, in course of time, added a great many more.

The Latin is a strong nervous language, perfectly suitable to the character of the people who spoke it: we have still works of every kind admirably well written in the Latin, though there are vast numbers lost.

The Latin tongue was for a while confined almost wholly within the walls of Rome; nor would the Romans allow the common use of it to their neighbours, or to the nations they subdued: but by degrees they

in time became sensible of the necessity of its being generally understood for the convenience of commerce; and accordingly used their endeavours, that all the nations subject to their empire should be united by one common language; so that at length they imposed the use of it by a particular law for that purpose. After the translation of the seat of the empire from Rome to Constantinople, the emperors of the east, being always desirous of retaining the title of Roman emperors, appointed the Latin to be still used; but at length neglecting the empire of the west, they abandoned all care of the Latin tongue, and used the Greek. Charlemagne coming to the empire of the west, revived this language; but at length it gave way, and the French took place of the Latin; it was, however, prodigiously degenerated before it came to be laid aside, in which condition it was found at the time of the Reformation, when Vives, Erasmus, &c. began to open the way for its recovery; since which time the monkish latinity has been declining, and all endeavours have been used to retrieve the pure language of the Augustan age. See LANGUAGE.

LATIN Church. See CHURCH.

LATINS, an ancient nation of Italy. See LATIUM.

LATINUS, king of the Latins in Italy, was the son of Faunus; and, it is said, began to reign about the 1216th year before the Christian era. Lavinia, his only daughter, married Æneas, after that Trojan prince had killed Turnus king of the Rutuli. See ROME.

LATISSIMUS, in *Anatomy*, the name of several muscles. See ANATOMY, *Table of the Muscles*.

LATITUDE, in *Astronomy*, is the distance of a star north or south from the ecliptic. In geography it signifies the distance of any place north or south from the equator. See ASTRONOMY, and GEOGRAPHY, *passim*.

LATITUDINARIAN, a person of moderation with regard to religious opinions, who believes there is a latitude in the road to heaven, which may admit people of different persuasions.

LATIUM, in *Ancient Geography*, the country of the Latins, at first contained within very narrow bounds, but afterwards increased by the accession of various people. The appellation, according to Virgil, is à *latendo*, from Saturn's lying hid there from the hostile pursuits of his son Jupiter; and from *Latium* comes the name *Latini*, the people. (Virgil): though Dionysius Halicarnassæus derives it from King Latinus, who reigned about the time of the Trojan war. But whatever be in this, it is certain, that Latium, when under Æneas and his descendants, or the Alban kings, contained only the Latins, exclusive of the Æqui, Volsci, Hernici, and other people; only that Æneas reckoned the Rutuli, after their conquest, among the Latins. And this constituted the ancient *Latium*, confined to the Latins; but afterwards, under the kings, and after their time, it reached from the Tiber to Circeii. Under the consuls, the country of the Equi, Volsci, Hernici, &c. after long and bloody wars, was added to Latium, under the appellation *adjectitious* or *superadded Latium*, as far as the river Liris, the eastern boundary, and to the north as far as the Marfi and Sabines. The various people, which in succession occupied

Latins
||
Latium.

Latmus
||
Latria.

pied Latium, were the Aborigines, the Pelasgi, the Arcades, the Siculi, the Arunci, the Rutuli; and beyond Circeii, the Volsci, the Osce, the Ausones: but who first, who next, occupied the country, it is difficult to say.

LATMUS, in *Ancient Geography*, a mountain of Ionia, or on the confines of Caria, famous for the fable of Endymion, of whom the Moon was said to be enamoured: hence called *Latmius Heros*, and *Latmius Venator*. In the mountain was a cave in which Endymion dwelt (Scholiast on Apollonius Rhodius). Supposed by Hecataeus to be the *Phtheiron Mons* of Homer; but by others to be *Grius Mons*, not far from Latmus (Strabo.)

LATOMIA, properly signifies a *stone quarry*: But the places whence stones had been dug having been made use of sometimes as dungeons, jails, or prisons for criminals, it is oftentimes applied as a name for a prison. There was a place of confinement of this sort at Rome, near the Tullianum; another at Syracuse, in which Cicero says Verres had shut up Roman citizens.

LATONA, in *Mythology*, a Pagan goddess, whose history is very obscure. Hesiod makes her the daughter of Titan Coeus and Phoebe his sister. She was admired for her beauty, and celebrated for the favours which she granted to Jupiter. Juno, always jealous of her husband's amours, made Latona the object of her vengeance, and sent the serpent Python to disturb her peace and persecute her. Latona wandered from place to place in the time of her pregnancy, continually alarmed for fear of Python. She was driven from heaven; and Terra, influenced by Juno, refused to give her a place where she might rest and bring forth. Neptune, moved with compassion, struck with his trident and made immoveable the island of Delos, which before wandered in the Ægean, and appeared sometimes above, and sometimes below, the surface of the sea. Latona, changed into a quail by Jupiter, came to Delos; where she resumed her original shape, and gave birth to Apollo and Diana, leaning against a palm tree or an olive. Her repose was of short duration: Juno discovered the place of her retreat, and obliged her to fly from Delos. She wandered over the greatest part of the world; and in Caria, where her fatigue compelled her to stop, she was insulted and ridiculed by the peasants, of whom she asked for water while they were weeding a marsh. Their refusal and insolence provoked her, and she entreated Jupiter to punish their barbarity. They were all changed into frogs. She was also insulted by Niobe; who boasted herself greater than the mother of Apollo and Diana, and ridiculed the presents which the piety of her neighbours had offered to Latona. At last, Latona, though persecuted and exposed to the resentment of Juno, became a powerful deity, and saw her children receive divine honours. Her worship was generally established where her children received adoration; particularly at Argos, Delos, &c. where she had temples. She had an oracle at Egypt, celebrated for the true and decisive answers which it gave. Latona, Venus, and Diana, were the three goddesses most in veneration among the Roman women.

LATRIA, in *Theology*, a religious worship due only to God. See ADORATION.

The Romanists say, "They honour God with the worship of *latria*, and the saints with the worship of *dulia*." But the terms, however distinct, are usually confounded.

The worship of *latria*, besides its inner characters, has its external marks to distinguish it; the principal whereof is sacrifice, which cannot be offered to any other but God himself, as being a solemn acknowledgement or recognition of the sovereignty of God, and our dependence on him.

Mr Daille seems to own, that some of the fathers of the fourth century allowed the distinction between *latria* and *dulia*.

LATRINÆ, were public houses of office, or necessaries, amongst the Romans. We do not find, in the writings or buildings that remain of antiquity, that they had any privies in their dwellings. The *latrinæ* were public places where the slaves washed and emptied their masters' close stools. We are pretty well assured that the Romans had public places of convenience, which were covered over, and had a sponge hanging up in them for cleanliness. Rich men had close stools, which were taken away occasionally to the common sewers.

LATRUNCULI, a game amongst the Romans, of much the same nature with our chess. The *latrunculi* were properly the chess men, called also *latrones* and *calculi*. They were made of glass, and distinguished by black and white colours. Sometimes they were made of wax or other convenient substances. Some give the invention of this game to Palamedes when at the siege of Troy: Seneca attributes it to Chilon, one of the seven Grecian sages; others honour Pyrrhus with the invention; and others again contend that it is of Persian origin—but is not this *Lis de lana caprina*? Frequent allusions to this game are met with in the Roman classics, and a little poem was written upon it, addressed to Piso, which some say was the work of Ovid, others of Lucan, in the end of some editions of whose works it is to be found, and to which we refer for a fuller account of the game. This game expresses so well the chance and order of war, that it is, with great appearance of probability, attributed to some military officer as the inventor. One Canius Julius was so exceedingly fond of chess, that after he was sentenced to death by Caligula, he was found playing, but interrupted in his game by a call to execution; he obeyed the summons, but first desired the centurion who brought the fatal order, to bear witness that he had one man upon the board more than his antagonist, that he might not falsely brag of victory when he should be no more.

LATTEN denotes iron plates turned over, of which tea canisters are made.

Plates of iron being prepared of a proper thinness, are smoothed by rusting them in an acid liquor, as common water made eager with rye. With this liquor they fill certain troughs, and then put in the plates, which they turn once or twice a-day, that they may be equally rusted over. After this they are taken out, and well scoured with sand; and, to prevent their rusting again, are immediately plunged into pure water, in which they are to be left till the instant they are to be tinned or blanchèd; the manner of doing which is this: They flux the tin in a large iron crucible, which

Latrina
||
Latten.

has

Latten,
Lattimo.

has the figure of an oblong pyramid with four faces, of which two opposite ones are less than the two others. The crucible is heated only from below, its upper part being luted with the furnace all round. The crucible is always deeper than the plates which are to be tinned are long; they always put them in downright, and the tin ought to swim over them; to this purpose artificers of different trades prepare plates of different shapes, though Mr Reaumur thinks them all exceptionable. But the Germans use no sort of preparation of the iron to make it receive the tin, more than the keeping it always steeped in water till the time; only when the tin is melted in the crucible, they cover it with a layer of a sort of suet, which is usually two inches thick, and the plate must pass through this before it can come to the melted tin. The first use of this covering is to keep the tin from burning; for if any part should take fire, the suet would soon moisten it, and reduce it to its primitive state again. The blanchers say, this suet is a compounded matter. It is indeed of a black colour; but Mr Reaumur supposed that to be only an artifice to make it a secret, and that it is only coloured with soot or the smoke of a chimney: but he found it true so far, that the common unprepared suet was not sufficient; for after several attempts, there was always something wanting to render the success of the operation certain. The whole secret of blanching, therefore, was found to lie in the preparation of this suet; and this at length he discovered to consist only in the first frying and burning it. This simple operation not only gives it the colour, but puts it into a condition to give the iron a disposition to be tinned, which it does surprisingly.

The melted tin must also have a certain degree of heat: for if it is not hot enough, it will not stick to the iron; and if it is too hot, it will cover it with too thin a coat, and the plates will have several colours, as red, blue, and purple, and upon the whole will have a cast of yellow. To prevent this, by knowing when the fire has a proper degree of heat, they might try with small pieces of iron; but, in general, use teaches them to know the degree, and they put in the iron when the tin is at a different standard of heat, according as they would give it a thicker or thinner coat. Sometimes also they give the plates a double layer, as they would have them very thickly covered. This they do by dipping them into the tin when very hot the first time, and when less hot the second. The tin which is to give the second coat must be fresh covered with suet; and that with the common suet, not the prepared.

LATTEN Brass, plates of milled brass reduced to different thickness, according to the uses they are intended for.

LATTIMO, in the glass trade, a name for a fine milk-white glass. There are several ways of making it, but the best of all is this: take 400 weight of crystal frit, 60 pounds of calcined tin, and two pounds and a half of prepared manganese; mix these well with the frit, and set them in a pot in a furnace to melt and refine. At the end of 18 hours this will be purified; then cast it into water, purify it again afterwards in the furnace, and make a proof of it. If it be too clear, add 15 pounds more of calcined tin; mix it well with the metal, and let it stand one day to puri-

fy; it will then be of a whiteness surpassing even that of snow, and is fit to work into vessels.

LATUS PRIMARIUM, a right line drawn through the vertex of the section of a cone, within the same, and parallel to the base.

LATUS Transversum of the hyperbola, is the right line between the vertices of the two opposite sections, or that part of their common axis lying between the two opposite cones.

LAVA, a stream of melted minerals which runs out of the mouths, or bursts out through the sides, of burning mountains, during the time of an eruption. See *ÆTNA*, *VESUVIUS*, *HECLA*; and see also *VOLCANO*, *GEOLOGY Index*.

The lava at its first discharge is in a state of prodigious ignition, greatly superior to any thing we can have an idea of from the small artificial furnaces made by us. Sir William Hamilton informs us, that the lava of Vesuvius, at the place whence it issued (in the year 1767), "had the appearance of a river of red hot and liquid metal, such as we see in the glass houses, on which were large floating cinders half lighted, and rolling over one another with great precipitation down the side of the mountain, forming on the whole a most beautiful and uncommon cascade."

Now, if we consider the materials of which the lava consists, which undoubtedly are the common matters to be found everywhere in the earth, namely, stones, metallic ores, clay, sand, &c. we shall find that our hottest furnaces would by no means be able to bring them into any degree of fusion; since the materials for glass cannot be melted without a great quantity of very fusible salts, such as alkalies, nitre, &c. mixed along with them. The heat of a volcano must therefore be immense; and besides its heat, it is sometimes attended with a very uncommon circumstance; for Sir William Hamilton informs us, that "the red hot heat of stones thrown up by Vesuvius on the 31st of March 1766, were perfectly transparent;" and the like remark he makes on the vast stream of lava which issued from the same volcano in 1779. This we cannot look upon to be the mere effect of heat; for mere heat with us will not make a solid body transparent; and these stones, we are sure, were not in a state of fusion, or the resistance of the air would have broke them all to pieces, even supposing them, which is very improbable, to have been in that state detached from the rest of the lava. For the transparency, therefore, (according to some authors) we must have recourse to electricity; which in some of our experiments hath the property of rendering opaque bodies transparent*. Indeed it is scarcely possible but the lava and every other matter thrown out of a volcano must be in the highest degree electrical, if the fire itself take its rise from electricity.

The lava, after having once broke out, does not constantly continue running from the same vent, but often has intermissions, after which it will burst out sometimes at the same place, and sometimes at another. No real flame ever appears to come from the lava. In the day time its progress is marked by a thick white smoke, from which the light of the red hot matter being reflected in the night time, makes it appear like flame. But if, during its progress, it meets with trees or other combustible substances, which it frequently does, a bright flame immediately issues from

Latus Primarius,
Lava.

Excessive
heat of
lavas.

* See Electricity
Inden.

Probably
in a highly
electrified
state also.

Their general
appearance.

Lava.

its surface, as hath also been remarked by Sir William Hamilton—This liquid substance, after having run pure for about 100 yards (more or less, no doubt, according to different circumstances), begins to collect cinders, stones, and a scum is formed on the surface. Our author informs us, that the lava which he observed, with its scum, had the appearance of the river Thames, as he had seen it after a hard frost and a great fall of snow, when beginning to thaw, carrying down vast masses of snow and ice. In some places it totally disappeared, and ran in a subterraneous passage formed by the scum for several paces; after which it came out pure, having left the scum behind, though a new one was quickly formed. This lava at the farthest extremity from its source did not appear liquid, but like a heap of red-hot coals, forming a wall in some places 10 or 12 feet high, which rolling from the top soon formed another wall, and so on.—This was the appearance also put on by the lava which issued in the great eruption of 1783 in Iceland; with this difference, that the wall was at one time 210 feet high, and the general thickness of it was more than 100: (See HECLA). While a lava is in this state, Sir William is of opinion, that it is very practicable to divert it into another channel, in a manner somewhat similar to what is practised with rivers. This he was afterwards told had been done with success during the great eruption of *Ætna* in 1669: that the lava was directing its course towards the walls of Catania, and advancing very slowly, when they prepared a channel for it round the walls of the town, and turned it into the sea. A succession of men, covered with sheep skins wetted, were employed to cut through the tough flanks of lava, till they made a passage for that in the centre, which was in perfect fusion, to disgorge itself into the channel prepared for it. But this, it is evident, can only take place in small streams of this burning matter; with that above mentioned it would have been impossible. It hath been also observed of the lavas of *Ætna*, that they do not constantly fall down to the lowest places, but will sometimes ascend in such a manner as to make the valleys rise into hills. On this Sir William Hamilton has the following note: “Having heard the same remark with regard to the lavas of *Vesuvius*, I determined, during an eruption of that volcano, to watch the progress of a current of lava, and I was soon enabled to comprehend this seeming phenomenon, though it is, I fear, very difficult to explain. Certain it is, that the lavas, while in their most fluid state, follow always the laws of other fluids; but when at a great distance from their source, and consequently encumbered with scoriæ and cinders, the air likewise having rendered their outward coat tough, they will sometimes (as I have seen) be forced up a small ascent, the fresh matter pushing forward that which went before it, and the exterior parts of the lava acting always as conductors (or pipes, if I may be allowed the expression) for the interior parts, that have retained their fluidity from not being exposed to the air.”

From the year 1767 to 1779, this gentleman made many curious observations on the lavas of *Vesuvius*. He found, that they constantly formed channels in the mountain as regular as if they had been made by art; and that, whilst in a state of perfect fusion, they continued their course in those channels, which were

sometimes full to the brim, and at others more or less so according to the quantity of matter thrown out. These channels, after small eruptions, were generally from two to five or six feet wide, and seven or eight in depth. They were often hid from the sight by a quantity of scoriæ that had formed a crust over them, and the lava, having been conveyed in a covered way for some yards, came out again fresh into an open channel. Our author informs us, that he had walked in some of these subterraneous galleries, which were exceedingly curious, the sides, top, and bottom, being exceedingly smooth and even: others were incrusted with what he calls very extraordinary scoriæ, beautifully ramified white salts in the form of dropping stalactites, &c.

On viewing a stream of lava while in its fluid state in the month of May 1779, he perceived the operation of it in the channels above described in great perfection. After quitting them, it spread itself in the valley, and ran gently like a river that had been frozen, and had masses of ice floating upon it. The wind happening then to shift, our traveller was so incommoded by the smoke, that the guide proposed to cross it, which was instantly put in execution without any other inconvenience than the violent heat with which the legs and feet were affected. The crust was so tough, that their weight made no impression upon it, and the motion so slow that they were in no danger of falling. This circumstance, according to Sir William, points out a method of escape should any person happen to be enclosed betwixt two lavas, but ought never to be tried except in cases of real necessity; and indeed, if the current of melted matter was very broad, must undoubtedly be attended with extreme danger, both from the heat of the upper crust and the chance of its breaking and falling down with the passenger into the burning liquid below. That which Sir William Hamilton crossed was about 50 or 60 feet broad.

Having passed this burning stream, our travellers walked up along the side of it to its very source. Here they saw it boiling and bubbling violently up out of the ground, with a hissing and crackling noise like that which attends the playing off an artificial fire work. A hillock of about 15 feet high was formed by the continual splashing up and cooling of the vitrified matter. Under this was an arched hollow, red hot within, like a heated oven; the lava which ran from it being received into a regular channel raised upon a sort of wall of scoriæ and cinders, almost perpendicularly, of about the height of 8 or 10 feet, and much resembling an ancient aqueduct. On quitting this fountain of lava, they went quite up to the crater, where as usual they found a little mountain throwing up stones and red hot scoriæ with loud explosions; but the smoke and smell of sulphur were so intolerable, that they were obliged to quit the place with precipitation.

By the great eruption in August 1779, the curious channels above mentioned were entirely destroyed, the cone of the mountain was covered with a stratum of lava full of deep cracks, from whence continually issued a sulphureous smoke that tinged the scoriæ and cinders with a deep yellow, or sometimes white tint. The lava of this eruption appeared to be more perfectly vitrified than that of any former one he had observed.

Lava.

4
Do not always descend to the lowest places.

Lava.

served. The pores of the fresh lava were generally full of a perfect vitrification, and the scoriae themselves, viewed through a magnifying glass, appeared like a confused heap of filaments of fowl vitrification. When a piece of the solid lava had been cracked in its fall, without separating entirely, fibres of perfect glass were always observed reaching from side to side within the cracks. The natural spun glass which fell in some places along with the ashes of this eruption, and which has likewise been observed in other places, he is of opinion must have proceeded from an operation of the kind just mentioned; the lava cracking and separating in the air at the time of its emission from the crater, and by that means spinning out the pure vitrified matter from its pores or cells; the wind at the same time carrying off the filaments of glass as fast as they were produced.

Our author observed a kind of pumice stone sticking to some very large fragments of the new lava. On close inspection, however, he found that this substance had been forced out of the minute pores of the solid lava itself; and was a collection of fine vitreous fibres or filaments confounded together at the time of their being pressed out by the contraction of the large fragments of lava in cooling, and which had been bent downwards by their own weight. "This curious substance (says he) has the lightness of a pumice, and resembles it in every respect, except that it is of a darker colour."

When the pores of this lava were large, and filled with pure vitrified matter, the latter was sometimes found blown into bubbles on the surface; probably by the air which had been forced out at the time the lava contracted itself in cooling; and from these thin bubbles it appeared, that this kind of volcanic glass has much the same transparency with our common glass bottles, and like them is of a dirty yellow colour; but when large pieces of it were broken off with a hammer, they appeared perfectly black and opaque.

In the lava of this eruption it was observed, that many detached pieces were in the shape of a barley-corn or plum stone, small at each end, and thick in the middle. Some of these did not weigh above an ounce; but others could not be less than 60 pounds. Our author took them to be drops from the liquid fountain of fire, which might naturally acquire such a form in their fall. There were also many other curious vitrifications, different from any he had seen before, mixed with this huge shower of scoriae and masses of lava.

In treating of Mount Etna, M. Houel makes mention of a piece of lava which, after having been once ejected by the volcano, was swallowed up, and thrown out a second time. The intense heat to which it was then subjected, had such an effect upon it, that it appeared all full of chinks to a considerable depth, and which run at right angles to one another. He had also an opportunity of observing to great advantage some of the hollow channel formed by the lavas of Etna, similar to those described by Sir William Hamilton, but on a much larger scale. Here the great eruption of water in 1755 had overturned, in a vertical direction a huge tube of this kind for the length of half a mile. The tube itself appeared to be composed of enormous

Lava.

masses, somewhat resembling planks; each two feet thick and twelve or fifteen in breadth, continued in a straight line through the whole of that space. At the same time by the action of the lava a kind of walls had been formed, from ten to sixteen feet in height, and curved at the top. Some of these walls appear rolled together like paper; and M. Houel is of opinion, that these various appearances on the surface of the lava when cooled, must have arisen from particles heterogeneous to the real lava; and which detach themselves from it, rising to the surface under a variety of forms proportioned to the spaces of time taken up in cooling. These crusts are formed of different kinds of scoriae and dirty lava, mixed with sand or ashes. At the same place are also found great numbers of small pieces like those of ice heaped upon one another after having floated for some time on a river. Beneath these the pure lava is met with, and which has evidently been in a state of perfect fusion. This is extremely dense; and by looking narrowly into its chinks, the composition of the whole appears to be merely homogeneous. "It is curious (says he) to observe, so near one species of lava which is very pure, another which has likewise arrived at the same place in a fluid state, and has there undergone so great a change as scarce to retain an appearance of its original state. It is, however, like iron dross, in grains of unequal sizes. We find it also at various distances, such as one, two, or more hundred fathoms. It is sometimes found in large pieces like tables, covered over with sharp points, some longer and others shorter. All these pieces are quite detached from one another, as if they had been brought thither and scattered from a tumbril. The matter of which the crust of the lava is formed, seems to have issued from it in the same manner in which froth rises upon solution of soap in water. It appears afterwards to have swelled, burst, and assumed its present form, presenting to the view various spaces filled with small loose stones. A great number of new lavas were likewise observed, all of them putting forth various kinds of efflorescences in great quantity.

The hardness, density, and solidity of lavas, no doubt proceed from the degree of heat to which they have been exposed, and which seems to be greater or less according to their quantity. Hence the Icelandic volcanoes, which pour forth the greatest quantities of lava, produce it also in the greatest degree of liquefaction, and Dr Van Troil observes, that what he saw must have been liquefied to an extreme degree.

The composition of the lavas of different volcanoes, ⁵Observations on the and even of different parts of those of the same volcano, is extremely different. Sir William Hamilton is of different compositions of lavas by Sir opinion that this difference in composition contributes not a little to the facility or difficulty with which they afterwards receive earth capable of vegetation. "Some W. Hamilton (says he) have been in a more perfect state of vitrification than others, and are consequently less liable to the impressions of time. I have often observed on Mount Vesuvius, when I have been close to a mouth from whence the lava was disgorging itself, that the quality of it varied greatly from time to time. I have seen it as fluid and coherent as glass when in fusion; and I have seen it farinaceous, the particles separating as they forced their way out, just like meal coming from under the grindstone. A stream of lava of this fort

Lava. 6
By Mr Bergman.

sort being less compact, and containing more earthy particles, would certainly be much sooner fit for vegetation than one composed of the more perfect vitrified matter." Mr Bergman, who has accurately analyzed some Icelandic lavas, informs us, that one kind is very coarse, heavy, and hard, full of bladders, almost black, intermixed with white grains resembling quartz, which in some places have a figure not very unlike a square. This black-matter is not attracted by the magnet; but if a piece of it is held against a compass, the needle visibly moves. When tried in the crucible, it yields from ten to twelve pounds of iron in every hundred weight. It does not dissolve in the least with sal sodæ, and very difficultly with borax, and scarce at all with urinous salt. It seems to contain a great deal of clay in its composition, which may be extracted by all acid solvents. This last he is likewise, from experiments, assured is the case with the lava of Solfaterra in Italy.

The white lava, which possesses more or less of those transparent grains or rays with which lavas are generally chequered, does not seem to be of the nature of quartz, as it cannot be attacked by sal sodæ; it is, however, soluble with some difficulty by borax and fusible urinous salt, or microcosmic acid. These effects are perfectly similar to those produced upon the diamond, ruby, sapphire, topaz, and hyacinth. The chrysolite, garnet, tourmalin, and schoerl, can neither be dissolved by sal sodæ, though they are somewhat attacked by it when reduced to a fine powder; and upon the two last mentioned ones it produces a slight effervescence; on which account, says Mr Bergman, it is possible that the precious stones found upon Mount Vesuvius, which are sold at Naples, are nearer related to the real precious stones than is generally imagined. He found no such grains in a finer kind of lava, quite porous within, and entirely burnt out, and considerably lighter than the former ones.

The Iceland agate is of a black or blackish brown colour, a little transparent at the thin edges like glass, and gives fire with steel. It cannot easily be melted by itself; but becomes white, and flies in pieces. It can hardly be dissolved in the fire by fusible urinous salt; but it succeeds a little better with borax, though with some difficulty. With sal sodæ it dissolves very little, though in the first moments some ebullition is perceived, and the whole mass is afterwards reduced to powder. Hence Mr Bergman concludes, that this agate hath been produced by an excessive fire out of the black lava formerly mentioned.

In the Iceland pumice-stone, quartz and crystals are often found, particularly in the black and reddish brown kind. The stones thrown out of the volcano, whether gray, or burnt brown, seemed to consist of a hardened clay, mixed with a siliceous earth. They were sprinkled with rays and grains resembling quartz, and some few flakes of mica. They fused with great difficulty in the fire; with sal sodæ they showed some effervescence at first, but which ceased in a short time. The parts resembling quartz produced no motion at all; from whence Mr Bergman concludes, that the black lava already mentioned proceeds principally from this mass. Several other stones which were sent him from Iceland, Mr Bergman supposed to have no con-

nexion with the eruptions, but to have been produced some other way.

In Mr Ferber's travels through Italy, we are informed, that he has seen a species of lava so exactly resembling blue iron slags, that it was not to be distinguished from them but with great difficulty. The same author tells us likewise, that "the Vicentine and Veronese lavas and volcanic ashes contain enclosed several sorts of fire-striking and flint horn stones, of a red, black, white, green, and variegated colour, such as jaspers and agates; that hyacinths, chrysolites, and *pietre obsidiane*, described by Mr Arduini in his *Giornale d'Italia*, are found at Leonedo; and that chalcedony or opal pebbles, and noduli with enclosed water drops, (*chalcedonii opali enhydri*), are dug out of the volcanic cineritious hills near Vicenza.

M. Dolomieu considers the chemical analysis of lava as but of little account. When subjected to the force of fire a second time, they are all of them reducible to the same kind of glass; from which it has been concluded, that all volcanic products have been formed of the same kind of materials, and that the subterraneous fire has always acted on and variously modified the same kind of stone. But an analysis by fire, he justly observes, is of all others the most fallacious. The substances are all fusible, and we have no proper methods of measuring the intensity of our fire; so that the same substance which to day may come out of our furnaces untouched, may to morrow be found completely altered, even though the fire employed should not appear to us to be any more violent than the former. Analyses by different menstrua have not been more successful. Mr Bergman has indeed analyzed

some lavas with acids, and gives with astonishing precision the following result, viz. that a hundred parts of lava contain forty-nine of siliceous earth, thirty-five of argillaceous earth, four of calcareous earth, and twelve of iron. These experiments, however, our author observes, give us no information with regard to lavas in general. They only show the composition of the particular specimens that he tried; and even after the descriptions that he has given, we are a good deal at a loss to discover the species of lava which he subjected to analysis. "It would be as ridiculous (says M. Dolomieu) to apply this analysis to every volcanic product, as it would be to believe that the component parts of a fissile rock were the same with those of every rock composed of laminæ or thin strata." For these reasons he is of opinion, that, in order to understand the nature of lavas, we should consider not only that of volcanoes themselves, but of the bases on which they rest. Had this been done, we would have found that the volcanic fires generally exist in beds of argillaceous schistus and horn-stone; frequently in a species of porphyry, the gluten of which is intermediate betwixt horn-stone and petrosilex; containing a large quantity of schoerl, feldt-spar, and greenish quartz or chrysolite, in little rounded nodules. These substances, he tells us, would have been found in those mountains which are called primitive, and in strata buried under beds of calcareous stone; and, among other things, would have convinced us, that the fluidity of lavas does not make them lose the distinctive characters of their bases. In the mountains called *Primitive*, those rocks which

Lava. 7
By Mr Ferber.

M. Dolomieu's opinion.

Bergman's analysis of lava.

10
of the seat of volcanic fires.

Lava.

are assigned as the bases of the more common lavas are found intermixed with micaceous ones, with gneiss, granite, &c. and they generally rest on masses of granite. Hence lavas must consist of all these matters, and the fire must act upon them all whenever it meets with them. Our author has constantly observed, that volcanoes situated at the greatest distance from the centre of the chain or group of mountains on which they are established, produce lavas of a more homogeneous composition, and less varied, and which contain most iron and argillaceous earth. Those, on the contrary, placed nearer the centre, are more diversified in their products; containing substances of an infinite variety of different kinds. The seat of the fire, however, he observes, does not long continue among the granites, the inflammation being either extinguished, or returning to the centre of the schistus rocks in its neighbourhood.

11
Materials
abundant in
the earth at
great depths
shown by
volcanic
fires.

From this knowledge of the materials of which lavas are composed, we acquire also a considerable knowledge of the matters that are found in greatest quantity in the bowels of the earth. The excavations made by mines, &c. on the surface of the earth, are mere scratches in comparison of the depths of volcanic fires; and as he considers the mountains themselves as the productions of those fires, it thence follows, that by attentively examining the materials of which they are composed, we may thence determine what kind of substances are most common at these great depths in the earth.

Thus our author thinks it probable, that schoerls and porphyries, though rare on the surface, are very common in the internal parts of the earth. As an instance of the truth of his observations, our author informs us, that he was convinced, from no other circumstance but merely inspecting the lavas of Mount *Ætna*, that in some parts of the island of Sicily, there existed granites, porphyries, with schistus and argillaceous horn-stones. In this opinion he persisted, notwithstanding the generally opposite sentiments of the inhabitants themselves. He searched in vain three-fourths of the island; and at last found that all the mountains, forming the point of Sicily called *Pelorus*, contain rocks of the kind above-mentioned. He then saw that the base of these mountains was produced under Mount *Ætna* on one side, and under the Lipari islands on the other. "We must, therefore, (says he) believe, that these mountains have furnished the materials on which the volcanoes have, for thousands of years, exerted their power."

By travelling among those elevations called the *Neptunian Mountains*, or *Mons Pelorus*, he was enabled to discover the reason why the products of *Ætna* and the Lipari islands differ from one another. This, he says, is the unequal distribution of the granite and schistus rocks among them. The islands rest almost immediately on the granite, or are separated from it by a very thin stratum of argillaceous rock which contains porphyry; but the Sicilian volcano is situated on the prolongation of the schistus rock, which it must pierce before it reaches the granite; and accordingly very little of its lava seems to have granite for its basis. If the seat of the fire was still more distant from the centre of the mountains, their lavas would be more homogeneous; because the schist, which succeeds to the

horn-stone, is less various, and hardly includes any bodies foreign to its own substance. Thus the lavas, in the extinguished volcanoes of the *Val di Noto*, which lie 15 leagues to the south east of *Ætna*, contain neither granite nor porphyry; but have for their bases simple rocks, with particles of chrysolite and some schoerls.

To the granites which extend to Metazzo, opposite to Lipari, he ascribes the formation of pumice; as they contain an immense quantity of scaly and micaceous rocks, black and white, with fossil granites or *gneiss*, the basis of which is a very fusible feldt-spar; and these he supposes to be the proper materials of the pumice, having found pieces of them almost untouched in pumice-stones. There are beds of almost pure feldt-spar; to the semivitrification of which he ascribes an opaque enamel like lava mentioned in other parts of his works. Few porphyries, however, he acknowledges, are to be met with among the Neptunian mountains, though these stones abound in the lavas of *Ætna*. "They are not distant (says he) from the granites; and those I have found have neither the hardness nor perfection of those pieces which I gathered in the gullies, and which had been apparently washed out of the anterior parts of the mountain by water. But though the porphyries I saw here bear no proportion to those in the products of *Ætna*, I was sufficiently convinced of their existence, and their analogy with those of volcanoes, by discovering that the centre of these mountains contains a great number of them. Porphyries, in general, are very rare on the surface of the earth. Nature generally conceals them from us by burying them under calcareous strata, or by enclosing them in schistus rocks with which they are almost always mixed: but we are indebted to the labour of volcanoes for informing us that they are among the most common substances in the bowels of the earth; and they are never so much disguised by the subterranean fire as to be mistaken in the lavas of which they form the basis."

For an account of volcanic productions, see *MINERALOGY Index*.

The quantity of matter thrown out from volcanoes under the name of *lava* is prodigious. After the great eruption of *Ætna* in 1669, Borelli went from Pisa to Sicily to observe the effects of it. The matter thrown out at that time amounted to 93,830,750 cubical paces; so that, had it been extended in length upon the surface of the earth, it would have reached more than four times round the whole earth. All this matter, however, was not lava, but consisted also of sand, stone, gravel, &c. The lava he computed at 6,300,000 paces, which formed a river, according to our author, sometimes two miles broad; but according to others it was six or seven miles broad, and sometimes 20 or 30 yards in depth. Sir William Hamilton informs us, that the lavas of *Ætna* are very commonly 15 or 20 miles in length, six or seven in breadth, and 50 feet deep. The most considerable is scarce less than 30 miles long and 15 broad. The most considerable lavas of Vesuvius do not exceed seven miles in length. The same author, however, tells us, that the lava which issued from Vesuvius in 1767, was six miles long, two in breadth, and in most places 60 or 70 feet deep. In

one

Lava.

12
Vast quantities
of lava
thrown out.

Lava.

one place it had run along a hollow way made by currents of rain not less than 200 feet deep and 100 wide; and this vast hollow it had in one place filled up. He says, he could not have believed that so great a quantity of matter could have been thrown out in such a short time, if he had not examined the whole course of it himself. Even this quantity, however, great as it is, appears very trifling in comparison of that thrown out in Iceland in the year 1783, which covered a space of ground 90 miles in length and 42 in breadth, to the depth of more than 100 feet. Dr Van Troil, in his Letters on Iceland, tells us, that he and his companions travelled over a tract of lava upwards of 300 miles in length: and in 1728, we are told that an eruption of lava took place, which continued for two years to run into a great lake, which it almost filled up.

13
Require a
long time
to cool.

As the lavas are thrown out from the volcanoes in the highest degree of ignition, it may easily be supposed that such vast bodies will retain their heat for a long time. It would indeed be well worth observing, what length of time is required to cool a lava perfectly; as from thence we might in some measure judge how far those philosophers are in the right, who argue concerning the length of time required to cool an ignited globe of the size of our earth or larger. Sir William Hamilton tells us, that in the month of April 1771, he thrust sticks into some of the crevices of the lava which had issued from Vesuvius in October 1767, and they immediately took fire. On Mount Ætna, in 1769, he observed the lava that had been disgorged three years before to smoke in many parts. No particular observation, however, hath been made in what proportion the heat of lavas is gradually lost.

Sir William Hamilton informs us of a curious fact relating to a lava in the island called *Lacco*. Here is a cavern shut up with a door; and this cavern is made use of to cool liquors and fruit, which it does in a short time as effectually as ice. Before the door was opened, he felt the cold on his legs very sensibly; but when it was opened, the cold rushed out so as to give him pain; and within the grotto it was intolerable. He was not sensible of wind attending this cold; though upon Mount Ætna and Vesuvius, where there are caverns of this kind, the cold is evidently occasioned by a subterraneous wind: the natives call such places *ventaroli*. From old lavas there also frequently happens an eruption of noxious vapours called *mofetes*. These likewise break out from wells and subterraneous places in the neighbourhood of a volcano before an eruption. Our author tells us, that the vapour affects the nostrils, throat, and stomach, just as the spirit of hartshorn or any strong volatile salt; and would soon prove fatal if you did not immediately withdraw from it. These mofetes, he says, are at all times to be met with under the ancient lavas of Vesuvius, particularly the great eruption of 1631.

14
Cold and
noxious va-
pours pro-
duced by
old lavas.

15
Uses of
lava.

Sir William Hamilton informs us, that the lavas of Ætna and Vesuvius are much the same, but those of Ætna rather blacker and more porous than those of Vesuvius. Some kinds of lava take a fine polish, and are frequently manufactured into boxes, tables, &c. In Naples, the inhabitants commonly make use of it for paving the streets, and even the subterraneous cities of Pompeii and Herculaneum have been paved with

the same substance. A fine large cubic piece of lava is preserved in the hall of the British Museum.

Lavandula,
Lavater.

LAVANDULA, LAVENDER, a genus of plants, belonging to the didynamia class, and in the natural method ranking under the 42d order, *Verticillatae*. See BOTANY *Index*.

LAVATER, JOHN GASPARD CHRISTIAN, best known by his writings on physiognomy, was born at Zurich in Switzerland, in 1741. He was brought up a protestant minister, and entered into holy orders in 1761. He was for some time pastor of the orphans church in that city; but from the year 1778, he was deacon and pastor of St Peter's church in the same place. The eloquence of his discourses in the pulpit procured for him an early reputation, as well as the ardent zeal and Christian benevolence with which he discharged the duties of his office. Though not much conversant with books, he had a very extensive knowledge of human nature, and a most acute discernment. His theological writings in prose and verse are little known, but his works on physiognomy have extended his fame throughout every part of Europe. We are informed by himself, that he felt an early propensity to study the human face, and frequently drew such features as made a peculiar impression upon his mind; but his choice of physiognomy was fixed by the suggestion of Dr Zimmerman, who, having heard his remarks on the singular countenance of a soldier whom they saw passing by as they stood together at a window, urged him to pursue and methodise his ideas. He soon acquired a full conviction of the reality of physiognomical science, and of his own discoveries in it. His first volume on this subject appeared at Leipzig in 1776, and the 20 sections of which it was composed he modestly denominated *fragments*. With him it appeared to be an axiom, "that the powers and faculties of the mind have representative signs in the *solid* parts of the countenance." This notion he extended to all animated nature, firmly believing that internal qualities invariably denote themselves by external marks or tokens.

Two more volumes soon appeared in succession, containing a wonderful assemblage of curious observations, refined reasoning, delicate feeling, and philanthropic sentiment, with a number of engravings highly finished and singularly expressive. This work was well translated into the French and English languages, and was for some time the favourite topic of literary discussion. So much was its author admired, that no foreigner of distinction passed through Zurich without obtaining an interview with Lavater, and asking his opinion of some character from a shade or miniature. His huge volumes, however, are now seldom looked at except for the sake of the plates, and his physiognomical notions appear to be consigned to oblivion with other sciences of a chimerical nature. One of the best known of his miscellaneous publications is his *Aphorisms on Man*, which contain originality both of sentiment and expression, with deep and philosophical views of human nature.

Lavater was zealously attached to the Christian revelation, and translated Bonnet's Enquiry into the Evidences of Christianity, into the German language. This book he dedicated to the celebrated Jewish philosopher, Moses Mendelsohn, with a challenge either to refute it publicly, or profess his conviction of the truth

Lavatera,
Lavatory.

of its arguments. This challenge he afterwards confessed to have been inconsiderate, and that his zeal had misled him. His popularity at Zurich was so extremely great, that in his walks it was no uncommon thing to see the people flocking around him, and kissing his hand in token of respect. He had a most exemplary moral character, and his zeal in doing good was scarcely ever surpassed. He was mild and moderate in conversation, although naturally full of fire and sensibility; he was candid in his estimate of such as differed from him in opinion; he always rose early, and never took his breakfast till he thought he had earned it. He was the determined enemy of tyranny in every shape, being possessed of the genuine Swiss zeal for liberty. He was therefore a friend to the French revolution at its commencement; but the rapine, plunder, and bloodshed which afterwards disgraced it, made him one of its bitterest antagonists. On the day when the unfortunate city of Zurich was stormed by Massena in 1799, he received a wound in the breast from a Swiss soldier in the streets, to whom he had formerly been a benefactor. He never wholly recovered from the effects of this wound; and he brought on a train of dangerous symptoms by attending for more than an hour, in the open air, a man who was condemned to be shot as a spy. The activity and vigour of his mind, however, continued till a short time before his death, which took place on the 2d of January, 1801.

LAVATERA, a genus of plants, belonging to the polyadelphia class, and in the natural method ranking under the 37th order, *Columniferae*. See BOTANY Index.

LAVATORY, or LAVADERO, a name given to certain places in Chili and Peru, where gold is got out of earth by washing.

M. Frezier gives us the following description of the *lavatories* of Chili:—They dig deep into the earth, in such places as they have reason to expect gold in; and, in order to facilitate this digging, turn a stream of water upon the spot, loosening the earth as much as possible all the time, that the current may have the greater effect, and tear up the earth more strongly. When they are got to the earth they want, they turn off the stream, and dig dry.

The earth that they now get, is carried on mules, and discharged into a basin, made somewhat in the manner of a smith's bellows; into which a little rivulet of water runs with a great deal of rapidity, dissolving the parts of the earth, and carrying every thing away with it, excepting the particles of gold, which, by their great weight, precipitate to the bottom of the basin, and mix with fine black sand, where they are almost as much hidden as they were before in the earth.

Sometimes they find very considerable pieces in *lavatories*, particularly pieces of twenty-four ounces each. There are several *lavatories*, where they find pepitas, or pieces of virgin gold, of a prodigious size. Among others, they tell of one that weighed 512 ounces, bought by the count de la Moncloa, viceroy of Peru.

Nine or ten leagues to the east of Coquimbo, are the *lavatories* of *Andacoll*, the gold whereof is 23 carats fine.—Their works here always turn to great profit, excepting when the water fails them.—The

native maintain that the earth is creative, that is, it produces gold, continually; because, after having been washed 60 or 80 years, they find it impregnated afresh, and draw almost as much out of it as at first.

LAUBACH, a handsome and strong town of Germany, in the circle of Austria, and in Carniola, with a bishop's see, a castle, and very handsome houses. It is seated on a river of the same name, wherein are the largest crawfish in Europe. E. Long. 14. 45. N. Lat. 46. 20.

LAUD, WILLIAM, archbishop of Canterbury in the 17th century, was born at Reading in 1573, and educated in St John's college, Oxford, of which he was afterwards a fellow and grammar reader. In 1610, he went into orders. In 1611, he was elected president of St John's college; but his election being disputed, it was confirmed by his majesty. The same year he was sworn the king's chaplain. In 1621, he was nominated bishop of St David's. In 1628, he was translated to the bishopric of London. In 1630, he was elected chancellor of the university of Oxford. In 1633, he attended the king into Scotland, and was sworn a privy counsellor for that kingdom. During his stay in Scotland, he formed the resolution of bringing that church to an exact conformity with the church of England. In the same year, he succeeded Archbishop Abbot in the see of Canterbury; and soon after came out his majesty's declaration about lawful sports on Sundays, which the archbishop was charged with having revived and enlarged, and that with the vexatious prosecutions of such clergymen as refused to read it in their churches. In 1634-5, the archbishop was put into the great committee of trade and the king's revenue; on the 4th of March following, he was appointed one of the commissioners of the treasury; and on the 6th of March 1635-6, he received the staff of lord high treasurer of England. In order to prevent the printing and publishing what he thought improper books, he procured a decree to be passed in the star-chamber, on the 11th of July 1637, whereby it was enjoined that the master printers should be reduced to a certain number, and that none of them should print any books till they were licensed either by the archbishop or the bishop of London, or some of their chaplains, or by the chancellors or vice chancellors of the two universities. A new parliament being summoned, met on the 13th of April 1640; and the convocation the day following: but the commons launching out into complaints against the archbishop, and insisting upon a redress of grievances before they granted any supply, the parliament was dissolved on the 7th of May. The convocation, however, continued sitting; and made 17 canons, which were supposed to be formed under the immediate direction of the archbishop. In the beginning of the long parliament he was attacked on account of those canons: and they being condemned by the house of commons on the 16th of December 1640, "as containing many things contrary to the king's prerogative, to the fundamental laws and statutes of this realm, to the rights of parliament, to the property and liberty of the subject, and tending to sedition, and of dangerous consequence;" he was, on the 18th of December, accused by the commons of high treason, and sent to the Tower.

Being

Laubach,
Laud.

Laudanum
||
Lauder.

Being tried before the house of lords, for endeavouring to subvert the laws, and to overthrow the Protestant religion, he was found guilty, and beheaded on Tower-hill on January 10th following, in the 72d year of his age. This learned prelate, notwithstanding his being charged with a design to bring in Popery, wrote an Answer to Dr Fisher, which is esteemed one of the best pieces that has been printed against that religion. He was temperate in his diet, and regular in his private life: but his fondness for introducing new ceremonies, in which he showed a hot and indiscreet zeal, his encouraging of sports on Sundays, his illegal and cruel severity in the star-chamber and high commission courts, and the fury with which he persecuted the dissenters, and all who presumed to contradict his sentiments, exposed him to popular hatred. Besides his Answer to Fisher, he published several sermons, and other works.

LAUDANUM. See OPIUM, MATERIA MEDICA Index.

LAUDATIO, in a legal sense, was anciently the testimony delivered in court of the accused person's good behaviour and integrity of life. It resembled the custom, which prevails in our trials, of calling persons to speak to the character of the prisoner. The least number of the *laudatores* among the Romans was ten.

LAUDER, WILLIAM, a native of Scotland, was educated at the university of Edinburgh, where he finished his studies with great reputation, and acquired a considerable knowledge of the Latin tongue. In May 22. 1734, he received a testimonial from the heads of the university, certifying that he was a fit person to teach humanity in any school or college whatever. In 1739 he published at Edinburgh an edition of Johnston's Psalms. In 1742, he was recommended by Mr Patrick Cumming and Mr Colin Mac-laurin, professors of church history and mathematics, to the mastership of the grammar school at Dundee, then vacant. Whether he succeeded in his application or not, is uncertain: but a few years afterwards we find him in London, contriving to ruin the reputation of Milton; an attempt which ended in the destruction of his own. His reason for the attack probably sprung from the virulence of a violent party-spirit, which triumphed over every principle of honour and honesty. He began first to retail part of his design in the Gentleman's Magazine, 1747; and finding that his forgeries were not detected, was encouraged in 1751 to collect them, with additions, into a volume, entitled, "An Essay on Milton's Use and Imitation of the Moderns in his Paradise Lost," 8vo. The fidelity of his quotations had been doubted by several people; and the falsehood of them was soon after demonstrated by Dr Douglas, in a pamphlet, entitled, "Milton Vindicated from the Charge of Plagiarism brought against him by Lauder, and Lauder himself convicted of several Forgeries and gross Impositions on the Public: In a Letter humbly addressed to the Right Honourable the Earl of Bath, 1751," 8vo. The appearance of this Detection overwhelmed Lauder with confusion. He subscribed a confession, dictated by a learned friend, wherein he ingenuously acknowledged his offence, which he professed to have been occasioned by the injury he had received from the disappointment

of his expectations of profit from the publication of Johnston's Psalms. This misfortune he ascribed to a couplet in Mr Pope's Dunciad, Book iv. ver. 3. and from thence originated his rancour against Milton. He afterwards imputed his conduct to other motives; abused the few friends who continued to countenance him; and, finding that his character was not to be retrieved, quitted the kingdom, and went to Barbadoes, where he some time taught a school. His behaviour there was mean and delpicable; and he passed the remainder of his life in universal contempt. "He died (says Mr Nicholas) some time about the year 1771, as my friend Mr Reed was informed by the gentleman who read the funeral service over him."

LAUDICÆNI, amongst the Romans, applauders, who for reward entered the rehearsal-rooms, attended the repetition of plays, and were in waiting when orations were pronounced, in order to raise or increase the acclamation and applause.

LAUDOHN, FIELD MARSHALL, a celebrated general in the Imperial service, born in 1716, was a native of Livonia, and descended from a Scottish family. He made his first campaigns under Marshal Munich, in the war of 1738, between the Russians and Turks; and was at the taking of Oczakow, Choczim, and Stawutzchane, where the Turks were entirely defeated. Frederick the Great refused, in 1741, to take young Laudohn into his service, saying he did not like his countenance; though this monarch, who was considered as the greatest general of his age, afterwards said, that he often admired the positions of other generals, but that he had ever dreaded the battles of Laudohn. In 1756, when but just entered into the service of the house of Austria, with the rank of lieutenant-colonel, he made such a rapid progress, that within less than a year he was a general of artillery, and within three years commander in chief of the whole army. He rescued Olmutz, when besieged by the Prussians; beat the king himself at Frankfort on the Oder; at Zorn-dorf, took General Fouquet prisoner; carried Glatz and Schweidnitz by assault; and stopped the progress of Frederick in a war which might have proved fatal to the house of Austria. In 1778, when elevated to the rank of marshal, at the head of 60,000 men, he hindered Henry, brother to the king of Prussia, from joining his army to that of the king. At Dubicza, Novi, Grandisca, and Belgrade, in the late war between the emperor and the Turks, he had but to present himself before the place, and say with Cæsar, *Veni, vidi, vici*. But at his head quarters in Moravia, he was seized with a fever, in consequence of an operation he underwent for an obstruction in the urethra. His impatience under the medical applications, the impetuous ardour of his character, and the knowledge, above all, of his importance in the war, contributed to irritate his mind, and promote the violence of the fever. He resisted the application of cataplasms, before and after the incisions were made, with a fatal obstinacy, which raised the inflammation to such a height, that he expired under the accession of the fever on the 14th of July 1790, in the 74th year of his age.

LAUDS, LAUDES, the second part of the ordinary office of the breviary, said after matins; though, heretofore, it ended the office of the night.

The laudes consist principally of psalms, hymns, &c.

Laudicæni
||
Lauds.

Lavenham &c. whence they took their name, from *laus, laudis*,
 "praise."

Laughter.

LAVENHAM, or **LANHAM**, 61 miles from London, is a pleasant and pretty large town of Suffolk, on a branch of the river Bret, from whence it rises gradually to the top of a hill, where are its church, which is a very handsome Gothic structure, and in which are several ancient monuments; and a spacious market-place, encompassed with nine streets or divisions, in a very healthy free air. It had formerly a very considerable trade in blue cloth; and had three guilds or companies, with each their hall. It has still a considerable manufactory of serges, shalloons, says, stuffs, and spinning fine yarn for London; and many hundred loads of wool are delivered every year from its wool-hall. It is governed by 6 capital burghesses, who are for life, and choose the inferior officers. The church, and its steeple, which is 137 feet high, are reckoned the finest in the county. Its tenor bell, though not much more than a ton, has as deep a note as a bell of twice that weight. Here is a free school and a bridewell, part of which is a workhouse where the poor children, &c. of the parish are employed in spinning hemp, flax, and yarn; besides which, here are other considerable charities. The tenants of the manor and the other inhabitants were always exempted from serving at any court held for its hamlet. The tenure of land called *Borough English* exists here.

LAVENDER. See **LAVANDULA**, **BOTANY**, and **MATERIA MEDICA Index**.

LAVER, in scripture history, a sacred utensil placed in the court of the Jewish tabernacle, consisting of a basin, whence they drew water by cocks, for washing the hands and feet of the officiating priests, and also the entrails and legs of the victims.

LAVERNA, in antiquity, the goddess of thieves and cheats among the Romans, who honoured her with public worship, because she was supposed to favour those who wished that their designs might not be discovered. Varro says, that she had an altar near one of the gates of Rome; hence called *porta lavernalis*.

LAUGERIA, a genus of plants belonging to the pentandria class, and in the natural method ranking among those of which the order is doubtful. See **BOTANY Index**.

LAUGHTER, an affection peculiar to mankind, occasioned by something that tickles the fancy.

In laughter, the eyebrows are raised about the middle, and drawn down next the nose; the eyes are almost shut; the mouth opens and shows the teeth, the corners of the mouth being drawn back and raised up; the cheeks seem puffed up, and almost hide the eyes; the face is usually red; the nostrils are open; and the eyes wet.

Authors attribute laughter to the fifth pair of nerves, which sending branches to the eye, ear, lips, tongue, palate, and muscles of the cheek, parts of the mouth, præcordia, &c. there hence arises a sympathy, or consent, between all these parts; so that when one of them is acted upon, the others are proportionably affected. Hence a favourable thing seen, or smelt, affects the glands, and parts of the mouth; a thing seen, or heard, that is shameful, affects the cheeks with blushes; on the contrary, if it please and tickle the fancy, it affects the præcordia, and muscles of the mouth and face,

with laughter; if it cause sadness and melancholy, it likewise affects the præcordia, and demonstrates itself by causing the glands of the eyes to emit tears. Dr Willis accounts for the pleasure of kissing from the same cause; the branches of this fifth pair being spread to the lips, the præcordia, and the genital parts; whence arises a sympathy between those parts.

The affection of the mind by which laughter is produced is seemingly so very different from the other passions with which we are endowed, that it hath engaged the attention of very eminent persons to find it out.—1. Aristotle, in the fifth chapter of his Poetics, observes of comedy, that "it imitates those vices or meannesses only which partake of the ridiculous:—now the ridiculous (says he) consists of some fault or turpitude not attended with great pain, and not destructive." 2. "The passion of laughter (says Mr Hobbes) is nothing else but sudden glory arising from some sudden conception of some eminency in ourselves, by comparison with the infirmity of others, or with our own formerly. For men (continues he) laugh at the follies of themselves past, when they come suddenly to remembrance, except when we bring with them any sudden dishonour." 3. Akenfide, in the third book of his excellent poem, treats of ridicule at considerable length. He gives a detail of ridiculous characters; ignorant pretenders to learning, boastful soldiers, and lying travellers, hypocritical churchmen, conceited politicians, old women that talk of their charms and virtue, ragged philosophers who rail at riches, virtuous intent upon trifles, romantic lovers, wits wantonly satirical, fops that out of vanity appear to be diseased and profligate, dastards who are ashamed or afraid without reason, and fools who are ignorant of what they ought to know. Having finished the detail of characters, he makes some general remarks on the cause of ridicule; and explains himself more fully in a prose definition illustrated by examples. The definition, or rather description, is in these words: "That which makes objects ridiculous, is some ground of admiration or esteem connected with other more general circumstances comparatively worthless or deformed: or it is some circumstance of turpitude or deformity connected with what is in general excellent or beautiful; the inconsistent properties existing either in the objects themselves, or in the apprehension of the person to whom they relate; belonging always to the same order or class of being; implying sentiment and design, and exciting no acute or vehement commotion of the heart." 4. Hutcheson has given another account of the ludicrous quality, and seems to think that it is the contrast or opposition of dignity and meanness which occasions laughter.

All these opinions are refuted by Dr Beattie in his Essay on Laughter and Ludicrous Composition, where he has treated the subject in a masterly manner. "To provoke laughter (says he), is not essential either to wit or humour. For though that unexpected discovery of resemblance between ideas supposed dissimilar, which is called *wit*—and that comic exhibition of singular characters, sentiments, and imagery which is denominated *humour*,—do frequently raise laughter, they do not raise it always. Addison's poem to Sir Godfrey Kneller, in which the British kings are likened to heathen gods, is exquisitely witty, and yet not laughable. Pope's Essay

Laughter. Effay on Man abounds in serious wit; and examples of serious humour are not uncommon in Fielding's History of Parson Adams, and in Addison's account of Sir Roger de Coverley. Wit, when the subject is grave, and the allusions sublime, raises admiration instead of laughter: and if the comic singularities of a good man appear in circumstances of real distress, the imitation of these singularities in the epic or dramatic comedy will form a species of humour, which, if it should force a smile, will draw forth a tear at the same time. An inquiry, therefore, into the distinguishing characters of wit and humour has no necessary connection with the present subject.

"Some authors have treated of ridicule, without marking the distinction between *ridiculous* and *ludicrous* ideas. But I presume the natural order of proceeding in this inquiry, is to begin with ascertaining the nature of what is *purely ludicrous*. Things *ludicrous* and things *ridiculous* have this in common, that both excite laughter; but the former excite pure laughter, the latter excite laughter mixed with disapprobation and contempt. My design is to analyze and explain that quality in things or ideas, which makes them provoke *pure laughter*, and entitles them to the name of *ludicrous* or *laughable*.

"When certain objects, qualities, or ideas, occur to our senses, memory, or imagination, we smile or laugh at them, and expect that other men should do the same. To smile on certain occasions is not less natural, than to weep at the sight of distress or cry out when we feel pain.

"There are different kinds of laughter. As a boy, passing by night through a churchyard, sings or whistles in order to conceal his fear even from himself; so there are men, who, by forcing a smile, endeavour sometimes to hide from others, and from themselves too perhaps, their malevolence or envy. Such laughter is unnatural. The sound of it offends the ear; the features distorted by it seem horrible to the eye. A mixture of hypocrisy, malice, and cruel joy, thus displayed on the countenance, is one of the most hateful sights in nature, and transforms the "human face divine" into the visage of a fiend. Similar to this is the smile of a wicked person pleasing himself with the hope of accomplishing his evil purposes. Milton gives a striking picture of it in that well known passage:

He ceas'd; for both seem'd highly pleas'd; and Death
Grinn'd horrible a ghastly smile, to hear
His famine should be fill'd, and blest his maw
Destin'd to that good hour.—

But enough of this. Laughter that makes a man a fiend or a monster, I have no inclination to analyze. My inquiries are confined to that species of laughter which is at once natural and innocent.

"Of this there are two sorts. The laughter occasioned by tickling or gladness is different from that which arises on reading the Tale of a Tub. The former may be called *animal laughter*: the latter (if it were lawful to adopt a new word which has become very common of late) I should term *sentimental*. Smiles admit of similar divisions. Not to mention the scornful, the envious, the malevolent smile, I would only remark, that of the innocent and agreeable smile there are two sorts. The one proceeds from the risible emo-

tion, and has a tendency to break out into laughter. The other is the effect of good humour, complacency, and tender affection. This last sort of smile renders a countenance amiable in the highest degree. Homer ascribes it to Venus in an epithet (*Φιλομειδής*), which Dryden and Pope, after Waller, improperly translate *laughter-loving*; an idea that accords better with the character of a romp or hoyden, than with the goddess of love and beauty.

"Animal laughter admits of various degrees; from the gentle impulse excited in a child by moderate joy, to that terrifying and even mortal convulsion which has been known to accompany a change of fortune. This passion may, as well as joy and sorrow, be communicated by sympathy; and I know not whether the entertainment we receive from the playful tricks of kittens and other young animals may not in part be resolved into something like a fellow-feeling of their vivacity.—Animal and sentimental laughter are frequently blended; but it is easy to distinguish them. The former is often excessive; the latter never, unless heightened by the other. The latter is always pleasing, both in itself and in its cause; the former may be painful in both. But their principal difference is this:—The one always proceeds from a sentiment or emotion excited in the mind, in consequence of certain ideas or objects being presented to it, of which emotion we may be conscious even when we suppress laughter;—the other arises not from any sentiment or perception of ludicrous ideas, but from some bodily feeling, or sudden impulse on what is called the *animal spirits*, proceeding, or seeming to proceed, from the operation of causes purely material. The present inquiry regards that species that is here distinguished by the name of *sentimental laughter*.

"The pleasing emotion, arising from the view of ludicrous ideas, is known to every one by experience; but, being a simple feeling, admits not of definition. It is to be distinguished from the laughter that generally attends it, as sorrow is to be distinguished from tears; for it is often felt in a high degree by those who are remarkable for gravity of countenance. Swift seldom laughed, notwithstanding his uncommon talents in wit and humour, and the extraordinary delight he seems to have had in surveying the ridiculous side of things. Why this agreeable emotion should be accompanied with laughter as its outward sign, or sorrow express itself by tears, or fear by trembling or paleness, I cannot ultimately explain, otherwise than by saying, that such is the appointment of the Author of nature.—All I mean by this inquiry is, to determine, "What is peculiar to those things which produce laughter,—or rather, which raise in the mind that pleasing sentiment or emotion whereof laughter is the external sign.

"Philosophers have differed in their opinions concerning this matter. In Aristotle's definition quoted above, it is clear that he means to characterize, not laughable qualities in general (as some have thought), but the objects of comic ridicule only; and in this view the definition is just, however it may have been overlooked or despised by comic writers. Crimes and misfortunes are often, in modern plays, and were sometimes in the ancient, held up as objects of public merriment; but if poets had that reverence

for

Laughter. for nature which they ought to have, they would not shock the common sense of mankind by so absurd a representation. The definition from Aristotle does not, however, suit the general nature of ludicrous ideas; for it will appear by and by, that men laugh at that in which there is neither fault nor turpitude of any kind.

“The theory of Mr Hobbes would hardly have deserved notice, if Addison had not spoken of it with approbation in the 47th paper of the Spectator. He justly observes, after quoting the words of Mr Hobbes formerly mentioned, that “according to this account, when we hear a man laugh excessively, instead of saying that he is very merry, we ought to tell him that he is very proud.” It is strange, that the elegant author should be aware of this consequence, and yet admit the theory: for so good a judge of human nature could not be ignorant, that laughter is not considered as a sign of pride; persons of singular gravity being often suspected of that vice, but great laughers seldom or never. When we see a man attentive to the innocent humours of a merry company, and yet maintain a fixed solemnity of countenance, is it natural for us to think that he is the humblest, and the only humble person in the circle?

“Another writer in the Spectator, N^o 249. remarks, in confirmation of this theory, that the *vainest* part of mankind are most addicted to the passion of laughter. Now, how can this be, if the *proudest* part of mankind are also most addicted to it, unless we suppose vanity and pride to be the same thing? But they certainly are different passions. The proud man despises other men, and derives his chief pleasure from the contemplation of his own importance: the vain man stands in need of the applause of others, and cannot be happy without it. Pride is apt to be reserved and fullen; vanity is often affable, and officiously obliging. The proud man is so confident of his merit, and thinks it so obvious to all the world, that he will scarcely give himself the trouble to inform you of it: the vain man, to raise your admiration, scruples not to tell you, not only the whole truth, but even a great deal more. In the same person these two passions may, no doubt, be united; but some men are too proud to be vain, and some vain men are too conscious of their own weakness to be proud. Be all this, however, as it will, we have not as yet made any discovery of the cause of laughter: in regard to which, I apprehend, that the vain are not more intemperate than other people; and I am sure that the proud are much less so.

“Hutcheson’s account of the origin of laughter is equally unsatisfactory. Granting what he says to be true, I would observe, in the first place, what the ingenious author seems to have been aware of, that there may be a mixture of meanness and dignity where there is nothing ludicrous. A city, considered as a collection of low and lofty houses, is no laughable object. Nor was that person either ludicrous or ridiculous, whom Pope so justly characterises,

“The greatest, wisest, meanest of mankind.”

—But, secondly, cases might be mentioned, of laughter arising from a group of ideas or objects, where in there is no discernible opposition of meanness or

dignity. We are told of the dagger of Hudibras, **Laughter.** that

“It could scrape trenchers, or chip bread,
“Toast cheefe or bacon; though it were
“To bait a moule trap, ’twould not care;
“’Twould make clean shoes, or in the earth
“Set leeks and onions, and so forth.”

The humour of the passage cannot arise from the meanness of these offices compared with the dignity of the dagger, nor from any opposition of meanness and dignity in the offices themselves, they being all equally mean; and must therefore be owing to some peculiarity in the description. We laugh, when a droll mimics the solemnity of a grave person; here dignity and meanness are indeed united: but we laugh also (though not so heartily perhaps) when he mimics the peculiarities of a fellow as insignificant as himself, and displays no opposition of dignity and meanness. The levities of Sancho Pança opposed to the solemnity of his master, and compared with his own schemes of preferment, form an entertaining contrast: but some of the vagaries of that renowned squire are truly laughable, even when his preferment and his master are out of the question. Men laugh at puns; the wisest and wittiest of our species have laughed at them; Queen Elizabeth, Cicero, and Shakespeare, laughed at them; clowns and children laugh at them; and most men, at one time or other, are inclined to do the same: but in this sort of low wit, is it an opposition of meanness and dignity that entertains us? Is it not rather a mixture of sameness and diversity,—sameness in the sound, and diversity in the signification?

“In the characters mentioned by Akenfide, the author does not distinguish between what is *laughable* and what is *contemptible*; so that we have no reason to think, that he meant to specify the qualities peculiar to those things which provoke *pure laughter*; and whatever account we may make of his definition, which to those who acquiesce in the foregoing reasonings may perhaps appear not quite satisfactory, there is in the poem a passage that deserves particular notice, as it seems to contain a more exact account of the ludicrous quality than is to be found in any of the theories above mentioned. This passage we shall soon have occasion to quote.”

Our author now goes on to lay down his own theory concerning the origin of laughter, which he supposes to arise from the view of things incongruous united in the same assemblage. “However imperfect (says he) the above-mentioned theories may appear, there is none of them destitute of merit; and indeed the most fanciful philosopher seldom frames a theory without consulting nature in some of her more obvious appearances. Laughter very frequently arises from the view of dignity and meanness united in the same object; sometimes, no doubt, from the appearance of assumed inferiority, as well as of small faults and unimportant turpitudes; and sometimes, perhaps, though rarely, from that sort of pride which is described in the passage already quoted from Hobbes.

“All these accounts agree in this, that the cause of laughter is something compounded; or something that disposes the mind to form a comparison, by passing

from

Laughter. from one object or idea to another. That this is in fact the case, cannot be proved *à priori*; but this holds in all the examples hitherto given, and will be found to hold in all that are given hereafter. May it not then be laid down as a principle, That laughter arises from the view of two or more objects or ideas disposing the mind to form a comparison? According to the theory of Hobbes, this comparison would be between the ludicrous object and ourselves; according to those writers who misapply Aristotle's definition, it would seem to be formed between the ludicrous object and things or persons in general; and if we incline to Hutcheson's theory, which is the best of the three, we shall think that there is a comparison of the parts of the ludicrous object, first with one another, and secondly with ideas or things extraneous.

"Further: every appearance that is made up of parts, or that leads the mind of the beholder to form a comparison, is not ludicrous. The body of a man or woman, of a horse, a fish, or a bird, is not ludicrous, though it consists of many parts; and it may be compared to many other things without raising laughter; but the picture described in the beginning of the epistle to the Pisoes, with a man's head, a horse's neck, feathers of different birds, limbs of different beasts, and the tail of a fish, would have been thought ludicrous 1800 years ago, if we believe Horace, and in certain circumstances would no doubt be so at this day. It would seem then, that 'the parts of a laughable assemblage must be in some degree unsuitable and heterogeneous.'

"Moreover: any one of the parts of the Horatian monster, a human head, a horse's neck, the tail of a fish, or the plumage of a fowl, is not ludicrous in itself; nor would those several pieces be ludicrous, if attended to in succession, without any view to their union. For to see them disposed on the different shelves of a museum, or even on the same shelf, nobody would laugh, except, perhaps, the thought of uniting them were to occur to his fancy, or the passage of Horace to his memory. It seems to follow, that "the incongruous parts of a laughable idea or object must either be combined so as to form an assemblage, or must be supposed to be so combined."

"May we not then conclude, 'that laughter arises from the view of two or more inconsistent, unsuitable, or incongruous parts or circumstances, considered as united in one complex object or assemblage, or as acquiring a sort of mutual relation from the peculiar manner in which the mind takes notice of them?' The lines from Akenfide formerly referred to, seem to point at the same doctrine:

Where-e'er the pow'r of ridicule displays
Her quaint-ey'd visage, *some incongruous form,*
Some stubborn dissonance of things combin'd,
Strikes on the quick observer.

And to the same purpose, the learned and ingenious Dr Gerard, in his *Essay on Taste*: 'The sense of ridicule is gratified by an inconsistency and dissonance of circumstances in the same object, or in objects nearly related in the main; or by a similitude or a relation unexpected between things on the whole opposite and unlike.'

"And therefore, instead of saying, with Hutcheson,

that the cause or object of laughter is an 'opposition of dignity and meanness;' I would say, in more general terms, that it is 'an opposition of suitability or unsuitableness, or of relation and the want of relation, united, or supposed to be united, in the same assemblage.' Thus the offices ascribed to the dagger of Hudibras seem quite heterogeneous; but we discover a bond of connexion among them, when we are told that the same weapon could occasionally perform them all. Thus, even in that mimicry which displays no opposition of dignity and meanness, we perceive the actions of one man joined to the features and body of another; that is, a mixture of unsuitableness, or want of relation, arising from the difference of persons, with congruity and similitude, arising from the sameness of the actions. And here let it be observed in general, that the greater number of incongruities that are blended in the same assemblage, the more ludicrous it will probably be. If, as in Butler's resemblance of the morning to a boiled lobster, there is a mixture of dignity and meanness, as well as of likeness and dissimilitude, the effect of the contrast will be more powerful, than if only one of these oppositions had occurred in the ludicrous idea. The sublimity of Don Quixote's mind, contrasted and connected with his miserable equipage, forms a very comical exhibition; but when all this is still further connected and contrasted with Sancho Pança, the ridicule is heightened exceedingly. Had the knight of the lions been better mounted and accoutred, he would not have made us smile so often; because, the hero's mind and circumstances being more adequately matched, the whole group would have united fewer inconsistencies, and reconciled fewer incongruities. Butler has combined a still greater variety of uncouth and jarring circumstances in Ralpho and Hudibras: but the picture, though more elaborate, is less natural. Yet this argues no defect of judgement. His design was, to make his hero not only ludicrous, but contemptible; and therefore he jumbles together, in his equipage and person, a number of mean and disgusting qualities, pedantry, ignorance, nastiness, and extreme deformity. But the knight of La Mancha, though a ludicrous, was never intended for a contemptible, personage. He often moves our pity, he never forfeits our esteem; and his adventures and sentiments are generally interesting; which could not have been the case if his story had not been natural, and himself been endowed with great as well as good qualities. To have given him such a shape, and such weapons, arguments, boots, and breeches, as Butler has bestowed on his champion, would have destroyed that solemnity which is so striking a feature in Don Quixote; and Hudibras, with the manners and person of the Spanish hero, would not have been that paltry figure which the English poet meant to hold up to the laughter and contempt of his countrymen. Sir Launcelot Greaves is of Don Quixote's kindred, but a different character. Smollett's design was not to expose him to ridicule, but rather to recommend him to our pity and admiration. He has therefore given him youth, strength, and beauty, as well as courage and dignity of mind; has mounted him on a generous steed, and arrayed him in an elegant suit of armour. Yet, that the history might have a comic air, he has been careful to contrast and connect Sir

Laughter
||
Launceston.

Launcelot with a squire and other associates of very dissimilar tempers and circumstances.

“What has been said of the cause of laughter does not amount to an exact description, far less to a logical definition: there being innumerable combinations of congruity and inconsistency, of relation and contrariety, of likeness and dissimilitude, which are not ludicrous at all. If we could ascertain the peculiarities of these, we should be able to characterise with more accuracy the general nature of ludicrous combination. But before we proceed to this, it would be proper to evince, that of the present theory thus much at least is true, that though every incongruous combination is not ludicrous, every ludicrous combination is incongruous.

“It is only by a detail of facts or examples that any theory of this sort can be either established or overthrown. By such a detail, the foregoing theories have been, or may be, shown to be ill founded, or not sufficiently comprehensive. A single instance of a laughable object, which neither unites, nor is supposed to unite, incongruous ideas, would likewise show the insufficiency of the present; nor will I undertake to prove (for indeed I cannot), that no such instance can be given. A complete enumeration of ludicrous objects it would be in vain to attempt: and therefore we can never hope to ascertain, beyond the possibility of doubt, that common quality which belongs to all ludicrous ideas that are, or have been, or may be, imagined. All that can be done in a case of this kind is to prove by a variety of examples, that the theory now proposed is more comprehensive, and better founded, than any of the foregoing.” This our author afterwards shows at full length; but as the variety of examples adduced by him would take up too much room to be inserted here, and as every reader must be capable of adducing numberless instances of ludicrous cases to himself, we shall content ourselves with the above explanation of the different theories of laughter, referring those who desire further satisfaction to the treatise already quoted.

LAVINGTON EAST, a town of Wilts, four miles south of the Devizes, and 89 miles from London. It is called in our histories Stepult Lavington: but now Cheaping or Market Lavington on account of its markets, which are on Monday and Wednesday, the last a great corn market. It is supposed to have been a market town above 200 years. Here is a charity school for 36 children, who have books given them, and the girls are taught to knit and sew.

LAVINIUM, in *Ancient Geography*, a town of Latium, six miles to the east of Laurentum, according to an ancient map; so named from *Lavinia*, consort of Æneas, and daughter of King Latinus, and built by the Trojans. The first town of Roman original in Latium, and the seat of the Dii Penates, (Livy): situated near the river Numicus, or Numicius; between which and the Tiber Æneas landed, according to Virgil. Holstenius supposed the town to have stood on an eminence, now called *il Monte de Levano*.

LAUNCE. See LANCE.

LAUNCESTON, a town of Cornwall in England, seated on the river Tamar, 214 miles from London. It is also called *Dunhivid*, from its situation on a down. King Henry III. made it a free borough. It was composed before of two other bo-

roughs, viz. Dunhivid and Newport. It has been the place for choosing knights of the shire ever since the reign of King Edward I. and the assizes town ever since Richard II. till by a late act of parliament the lord chancellor or lord keeper was empowered to name any other place in the county for it; since which the summer assizes have been held at Bodmin. It was incorporated by Queen Mary in 1555. It is governed by a mayor, recorder, and eight aldermen, has a free school which was founded by Queen Elizabeth, and is a populous trading town. In the 32d of Henry VIII. an act was made for the repair of this and other decayed Cornish boroughs; and it endowed this town with the privileges of a sanctuary, though it does not appear to have used them. It had a monastery and a noble castle, which, because of its strength, was called *castle terrible*, and was given by King Richard I. to his brother, afterwards King John. Here are two charity schools for 48 children of both sexes, where the girls are taught to knit, sew, and make bonelace, and are allowed what they can earn. Leland says it was walled in his time, and one mile in compass. The lower part of its ancient castle is used for the gaol.

LAUNCH, in the sea language, signifies to put out: as, *Launch the ship*, that is, Put her out of dock: *launch ast*, or *forward*, speaking of things that are stowed in the hold, is Put them more forward; *launch ho!* is a term used when a yard is hoisted high enough, and signifies *hoist no more*. See also LANCH.

LAUNDER, in *Mineralogy*, a name given in Devonshire, and other places, to a long and shallow trough, which receives the powdered ore after it comes out of the box or coffer, which is a sort of mortar, in which it is powdered with iron pestles. The powdered ore, which is washed into the launder by the water from the coffer, is always finest nearest the grate, and coarser all the way down.

LAVOISIER, ANTOINE LAURENT, a celebrated chemical philosopher, was born at Paris on the 26th of August 1743. His father being a man of opulent circumstances, spared no cost on the education of his son, who soon gave a decided preference to the physical sciences. An extraordinary premium having been offered by the French government in the year 1764, for the best and most economical method of lighting the streets of an extensive city, our author, although at that time only 21 years of age, gained the gold medal; and his excellent memoir was published by the academy, of which he became a member on the 13th of May 1768. His attention was alternately occupied with the pretended conversion of water into earth, the analysis of the gypsum found in the vicinity of Paris, the congelation of water, the phenomena of thunder, and the aurora borealis.

By undertaking journeys with Guettard into every province of France, he was enabled to procure an immense variety of materials for a description of the mineralogical kingdom, serving as the foundation of a great work on the revolutions of the globe, two admirable sketches of which are to be seen in the memoirs of the French academy for 1772 and 1787. His whole time and fortune were dedicated to the cultivation of the sciences, nor did he seem more attached to one than to another, till an interesting event decided his choice in favour of chemistry. The discovery of gases

Launch
||
Lavoisier.

Lavoisier. gases was just made known to the learned world, by Black, Priestley, Scheele, Cavendish, and Macbride, which appeared like a new creation.

About the year 1770, Lavoisier was so struck with the grandeur and importance of the discovery, that he turned all his attention to this fountain of truths, perceiving the powerful influence which this new science would have over every physical research. He was inspired with the true spirit of inductive philosophy, and all his experiments had a direct reference to general views. He published his chemical opuscles in the year 1774, containing a history of whatever had been done before respecting the gases, and concluding with his own grand and interesting experiments. He demonstrated that metals, in calcination, derive their increased weight from the absorption of air, of which he afterwards proved that nitrous acid is composed. His chemical ingenuity was now so well known, that Turgot employed him in 1776 to inspect the manufacture of gunpowder, which he made to carry 120 toises instead of 90. In the year 1778 he discovered that all acids contain the respirable portion of the atmosphere as a constituent principle, and to this he gave the name of oxygen. This was the first grand step towards the new chemistry, which was fully completed by his confirming the discovery of the composition of water, ascertained in 1783.

His Elements of Chemistry were published in 1789, which is a beautiful model of scientific composition, elegant, clear, and logical. His celebrated system was almost universally adopted in a very few years, so full was the conviction it carried along with it to every candid, reflecting mind. The last of Lavoisier's philosophical works was on the perspiration of animals, first read to the academy on the 4th of May 1791. By a number of the nicest experiments, he found that a man in one day perspires 45 ounces; that he consumes 33 ounces of vital air, or oxygen; that 8 cubic feet of carbonic acid gas are discharged from his lungs; that the weight of water discharged from the lungs is 23 ounces, composed of 3 of hydrogen and 20 of oxygen, which interesting discoveries he directed to the improvement of medicine.

There are no fewer than 40 memoirs of Lavoisier in the volumes of the Academy of Sciences from 1772 to 1793, full of the grand phenomena of the science; such as the analysis of atmospherical air, the formation of elastic fluids, the properties of the matter of heat, the composition of acids, the decomposition of water, &c. &c. To the sciences, arts, and manufactures, he rendered the most essential services, both in a public and private capacity. After Buffon and Tillet, he was treasurer to the academy, into the accounts of which he introduced both economy and order. He was consulted by the national convention as to the most eligible means of improving the manufacture of assignats, and of augmenting the difficulties of forging them. He turned his attention also to political economy, and between 1778 and 1785, he allowed 240 arpens in the Vendomois to experimental agriculture, and increased the ordinary produce by one-half. In 1791, the constituent assembly invited him to draw up a plan for rendering more simple the collection of the taxes, which produced an excellent report, printed under the title of Territorial Riches of France.

While the horrors of Robespierre's usurpation con-

tinued, he used to observe to Lalande that he foresaw he would be deprived of all his property, but that he was extremely willing to work for his subsistence; and it is supposed that he meant to pursue the profession of apothecary, as most congenial to his studies. But the unrelenting tyrant had already fixed his doom. He suffered on the scaffold with 28 farmers-general on the 8th of May 1794, for no other crime but because he was opulent. A paper was presented to the tribunal, drawn up by Citizen Hallé, containing a description of the works, and a recapitulation of the merits, of Lavoisier, sufficient to make an impression on the most obdurate heart; but it was not even read by these men, who were the blind, stupid, and ferocious instruments of cruelty and death.

A man so rare and so extraordinary ought to have enjoyed the respect of the most ignorant, and even the most wicked. To produce the contrary, it was necessary that power should fall into the hands of a tyrant who respected none, and whose blind and sanguinary ambition sacrificed every thing to the desire of pleasing the people.

Lavoisier was tall, and possessed a countenance full of benignity, through which his genius shone conspicuous. As to his character, it was mild, humane, sociable, obliging; and he discovered an incredible degree of activity. He had great influence on account of his credit, fortune, reputation, and his office in the treasury; but all the use he made of it was to do good: yet this did not prevent jealousy on the part of others. In 1771 he married Marie-Anna-Pierette Paulze, the daughter of a farmer-general, whose excellent accomplishments formed the delight of his life, who assisted him in his labours, and even drew the figures for his last work. She had the misfortune to behold her father, husband, and intimate friends, assassinated in one day: she was herself imprisoned, and even menaced with a similar fate; but the unshaken fortitude of her mind made her rise superior to the horrors of her condition. We learn that she has since given her hand to the celebrated Count Rumford.

LAURA, in church history, a name given to a collection of little cells at some distance from each other, in which the hermits in ancient times lived together in a wilderness.

These hermits did not live in community, but each monk provided for himself in his distinct cell. The most celebrated lauras mentioned in ecclesiastical history were in Palestine: as the laura of St Euthymus, at four or five leagues distance from Jerusalem; the laura of St Saba, near the brook Cedron; the laura of the Towers, near the river Jordan, &c.

POET LAUREATE, an officer of the household of the kings of Britain, whose business consists only in composing an ode annually on his majesty's birth day, and on the new year; sometimes also, though rarely, on occasion of any remarkable victory.—Of the first institution of poets laureat, Mr Wharton has given the following account in his history of English poetry. "Great confusion has entered into this subject, on account of the degrees in grammar, which included rhetoric and versification, anciently taken in our universities, particularly at Oxford: on which occasion, a wreath of laurel was presented to the new graduate, who was afterwards usually styled *Poeta Laureatus*.

Laureate. These scholastic laureations, however, seem to have given rise to the appellation in question. I will give some instances at Oxford, which at the same time will explain the nature of the studies for which our academical philologists received their rewards. About the year 1470, one John Watſon, a ſtudent in grammar, obtained a conceſſion to be graduated and laureated in that ſcience; on condition that he compoſed one hundred Latin verſes in praiſe of the univerſity, and a Latin comedy. Another grammarian was diſtinguiſhed with the ſame badge, after having ſtipulated, that at the next public act, he would aſſix the ſame number of hexameters on the great gates of St Mary's church, that they might be ſeen by the whole univerſity. This was at that period the moſt convenient mode of publication. About the ſame time, one Maurice Byrchenſaw, a ſcholar in rhetoric, ſupplicated to be admitted to read lectures, that is, to take a degree in that faculty; and his petition was granted, with a proviſion, that he ſhould write one hundred verſes on the glory of the univerſity, and not ſuffer Ovid's Art of Love, and the Elegies of Pamphilus, to be ſtudied in auditory. Not long afterwards, one John Bulman, another rhetorician, having complied with the terms impoſed, of explaining the firſt book of Tully's Offices, and likewiſe the firſt of his Epiſtles, without any pecuniary emolument, was graduated in rhetoric; and a crown of laurel was publicly placed on his head by the hands of the chancellor of the univerſity. About the year 1489, Skelton was laureated at Oxford, and in the year 1493 was permitted to wear his laurel at Cambridge. Robert Whittington affords the laſt inſtance of a rhetorical degree at Oxford. He was a ſecular prieſt, and eminent for his various treatiſes in grammar, and for his facility in Latin poetry: having exerciſed his art many years, and ſubmitting to the cuſtomary demand of a hundred verſes, he was honoured with the laurel in the year 1512.

“With regard to the poet laureate of the kings of England, he is undoubtedly the ſame that is ſtyled the *king's verſifier*, and to whom 100 ſhillings were paid as his annual ſtipend in the year 1251. But when or how that title commenced, and whether this officer was ever ſolemnly crowned with laurel at his firſt inveſtiture, I will not pretend to determine, after the ſearches of the learned Selden on this queſtion have proved unſucceſſful. It ſeems moſt probable, that the barbarous and inglorious name of *verſifier* gradually gave way to an appellation of more elegance and dignity: or rather that at length thoſe only were in general invited to this appointment, who had received academical ſanction, and had merited a crown of laurel in the univerſities for their abilities in Latin compoſition, particularly Latin verſification. Thus the *king's laureate* was nothing more than ‘a graduated rhetorician employed in the ſervice of the king.’ That he originally wrote in Latin, appears from the ancient title *verſificator*: and may be moreover collected from the two Latin poems, which Baſton and Gulielmus, who appear to have reſpectively acted in the capacity of royal poets to Richard I. and Edward II. officially compoſed on Richard's cruſade, and Edward's ſiege of Striveling caſtle.

“Andrew Bernard, ſucceſſively poet laureate of Henry VII. and VIII. affords a ſtill ſtronger proof

that this officer was a Latin ſcholar. He was a native of Thoulouſe, and an Auguſtine monk. He was not only the king's poet laureate, as it is ſuppoſed, but his hiſtoriographer, and preceptor in grammar to Prince Arthur. He obtained many eccleſiaſtical preferments in England. All the pieces now to be found, which he wrote in the character of poet laureate, are in Latin. Theſe are, An Addreſs to Henry VIII. for the moſt auſpicious beginning of the 10th year of his reign, with an *Epithalamium* on the marriage of Francis the dauphin of France with the king's daughter; “A New Year's Gift for the year 1515; and, Verſes wiſhing proſperity to his majeſty's 13th year. He has left ſome Latin hymns; and many of his Latin proſe pieces, which he wrote in the quality of hiſtoriographer to both monarchs, are remaining.

“I am of opinion, that it was not cuſtomary for the royal laureate to write in Engliſh, till the reformation of religion had begun to diminſh the veneration for the Latin language; or, rather, till the love of novelty, and a better ſenſe of things, had baniſhed the narrow pedantries of monaſtic erudition, and taught us to cultivate our native tongue.”

LAUREL. See PRUNUS and LAURUS, BOTANY Index.

LAURELS, pieces of gold coined in the year 1619, with the king's head laureated, which gave them the name of *laurels*; the 20s. pieces whereof were marked with XX. the 10s. X. and the 5s. pieces with V.

LAURENS CASTRA. See LAURENTUM.

LAURENTALIA, or LAURENTALIA, called alſo *Larentinalia*, *Laurentales*, and *Larentales*, feaſts celebrated among the Romans on the 10th of the kalends of January, or 23d of December, in memory of Acca Laurentia, wife of the ſhepherd Faſtulus, and nurſe of Romulus and Remus.

Acca Laurentia, from whom the ſolemnity took its name, is repreſented as no leſs remarkable for the beauty of her perſon, than her laſciviousneſs; on account of which ſhe was nick-named by her neighbours *lupa*, “the wolf;” which is ſaid to have given riſe to the tradition of Romulus and Remus being ſucked by a wolf. She afterwards married a very rich man, who brought her great wealth, which, at her death, ſhe left to the Roman people; in conſideration whereof they performed to her theſe honours; though others repreſent the feaſt as held in honour of Jupiter Latiaris. See LAURENTIALIA and LARES.

LAURENTIUS, one of the firſt printers, and, according to ſome, the inventor of the art, was born at Haerlem about the year 1370, and executed ſeveral departments of magiſtracy of that city. Thoſe writers are miſtaken who aſſign to him the ſurname of *Coffet*, or aſſert that the office of *ædituus* was hereditary in his family. In a diploma of Albert of Bavaria in 1380, in which, among other citizens of Haerlem, our Laurentius's *father* is mentioned by the name of *Joannes Laurentii filius*, Beroldus is called *ædituus*, who was ſurely of another family; and in 1396 and 1398 Henricus à Lunen enjoyed that office; after whoſe reſignation, Count Albert conferring on the citizens the privilege of electing their *ædituus*, they, probably ſoon after, fixed on Laurentius: who was afterwards called *Coffet* from his office, and not from his family name, as he was deſcended from an illegitimate

Laurel
||
Laurentius

Laurentius, mate branch of the Gens Brederodia. His office was very lucrative; and that he was a man of great property, the elegance of his house may testify. That he was the *inventor* of printing, is asserted in the narrative of Junius. His first work was an *Horarium*, containing the Letters of the Alphabet, the Lord's Prayer, the Apostles Creed, and two or three short Prayers; the next was the *Speculum Salutis*, in which he introduced *pictures on wooden blocks*; then *Donatus*, the larger size; and afterwards the same work in a less size. All these were printed on *separate moveable wooden types* fastened together by threads. If it be thought improbable, that so ingenious a man should have proceeded no farther than the invention of *wooden types*; it may be answered, that he printed for profit, not for fame; and *wooden types* were not only at that time made sooner and cheaper than *metal* could be, but were sufficiently durable for the small impressions of each book he must necessarily have printed.—His press was nearly shaped like the common wine-presses.—He printed some copies of *all* his books both on paper and vellum.—It has been very erroneously supposed, that he quitted the profession, and died broken hearted: but it is certain, that he did not live to see the art brought to perfection.—He died in 1440, aged 70; and was succeeded either by his son-in-law Thomas Peter, who married his only daughter Lucia; or by their immediate descendants, Peter, Andrew and Thomas; who were old enough (even if their father was dead, as it is likely he was) to conduct the business, the eldest being at least 22 or 23. What books they printed it is not easy to determine; they having, after the example of Laurentius (more anxious for profit than for fame), neither added to their books their names, the place where they were printed, nor the date of the year. Their first essays were new editions of *Donatus* and the *Speculum*. They afterwards reprinted the latter, with a Latin translation, in which they used their grandfather's wooden pictures: and printed the book partly on *wooden blocks*, partly on *wooden separate types*, according to Mr Meerman, who has given an exact engraving of *each sort*, taken from different parts of the same book, which was published between the years 1442 and 1450. Nor did they stop here; they continued to print several editions of the *Speculum*, both in Latin and in Dutch; and many other works, particularly "Historia Alexandri Magni;" "Flavii Vegetii [for Vegetii] Renati Epitome de Re Militari;" and "Opera varia à Thomas Kempis." Of each of these Mr Meerman has given an engraved specimen. They were all printed with *separate wooden types*; and, by their great neatness, are a proof that the descendants of Laurentius were industrious in improving his invention. Kempis was printed at Haerlem in 1472, and was the last known work of Laurentius's descendants, who soon after disposed of all their materials, and probably quitted the employment; as the use of *fustil types* was about that time universally diffused through Holland by the settling of Martens at Alost, where he pursued the art with reputation for upwards of 60 years. See (*History of*) PRINTING.

LAURENTIUM, or **LAURENS CASTRA**, in *Ancient Geography*, a town of Latium, supposed to be the royal residence of those most ancient kings Latinus, Picus, and Faunus, (Virgil). Hither the emperor

Commodus retired during a pestilence. Its name was from an adjoining grove of bay trees, midway between Ostia and Antium. Supposed to have stood in the place now called *San Lorenzo*; which seems to be confirmed from the Via Laurentina leading to Rome.

LAURO, **PHILIPPO**, a celebrated painter, was born at Rome in 1623. He learned the first rudiments of the art from his father Balthasar, who was himself a good painter. He afterwards studied under Angelo Carosello, his brother-in-law; and proved so great a proficient, that in a short time he far surpassed his tutor in design, colouring, and elegance of taste. He applied himself to painting historical subjects in a small size, enriching the back grounds with lively landscapes, that afforded the eye and the judgement equal entertainment; but though his small paintings are best approved, he finished several grand compositions for altar pieces that were highly esteemed. He died in 1694; and his works are eagerly bought up at high prices all over Europe.

LAURO, or **Lauron**, in *Ancient Geography*, a town of the Hither Spain, where Cn. Pompeius, son of Pompey the Great, was defeated and slain. Now Lorigne, five leagues to the north of Liria in Valencia.

LAURUS, the **BAY TREE**, a genus of plants belonging to the enneandria class; and in the natural method ranking under the 12th order, *Holoraceæ*. See *BOTANY Index*.

LAUS, or **LAOS**, in *Ancient Geography*, a river of Italy, separating Lucania from the Bruttii, and running from east to west into the Tuscan sea; with a cognominal bay, and a town, the last of Lucania, a little above the sea; a colony from Sybaris, according to Strabo, Pliny, and Stephanus. Both town and river are now called *Laino*, in the Calabria Citra; and the bay called *Golfo della Scalea*, or *di Policastro*, two adjoining towns, is a part of the Tuscan sea, extending between the promontory Palinurus and the mouth of the Laus.

Laus Pompeia, in *Ancient Geography*, a town of Insubria, situated to the east of Milan, between the rivers Addua and Lamber. A town built by the Boii after their passing the Alps: its ancient Gaulic name is unknown. Strabo Pompeius, father of Pompey, leading thither a colony, gave it a new name, and conferred the *Jus Latii* on the ancient inhabitants who remained there. The modern Lodi is built from its ruins, at some distance off. E. Long. 10. 15. N. Lat. 45. 22.

LAUSANNE, a large, ancient, and handsome town of Switzerland, capital of the country of Vaud, and in the canton of Berne, with a famous college and bishop's see. The townhouse and the other public buildings are magnificent. It is seated between three hills near the lake of Geneva, in E. Long. 6. 35. N. Lat. 46. 30.—The town stands on an ascent, so steep that in some places the horses cannot draw up a carriage without great difficulty, and foot passengers ascend to the upper parts of the town by steps. Here is an academy for the students of the country; the professors are appointed by government; and there is a pretty good public library. The church, formerly the cathedral, is a magnificent Gothic building, standing on the most elevated part of the town. Among other sepulchres it contains that of Amadæus VIII. duke of Savoy, styled

Lauro
||
Laufanne.

Laufanne. the *Solomon* of his age; best known by the title of *Antipope Felix V.* who exhibited the singular example of a man twice abdicating the sovereignty, and retiring from regal pomp to a private station.

The same year that the country named *Pays de Vaud* was conquered from the house of Savoy, the inhabitants of *Laufanne* put themselves under the protection of the canton of *Berne*, their bishop having retired from the town. At that time its privileges were confirmed and augmented, and it is still governed by its own magistrates. The citizens of the principal street have the privilege of pronouncing sentence in criminal cases. If the criminal is found, and acknowledges himself guilty, the burghers of the street assemble; one of the magistrates pleads in his behalf, and another against him; the court of justice give their opinion upon the point of law; and the majority of citizens possessing houses in the principal street, determine the penalty. In capital cases there is no pardon, accord-

ing to the letter of the law, unless it can be obtained within 24 hours from the sovereign council of *Berne*, though it generally happens that eight days are allowed for this purpose. When the criminal is seized within the jurisdiction of the town, the fact is tried, and the burghers pronounce sentence, from which there is no appeal; but if he happens to be taken in the district of the bailiff, there is an appeal to the government of *Berne*.

LAVORI, TERRA DI, a province of Italy, in the kingdom of Naples, bounded on the west by the *Campana di Roma*, and by *Farther Abruzzo*; on the north by the *Hither Abruzzo*, and by the county of *Molissa*; on the east by *Principata Ultra*; and on the south by the *Principata Citra*. It is about 63 miles in length and 35 in breadth; and is fertile in corn, excellent vines, and other fruits. There are also several mineral springs and mines of sulphur. *Naples* is the capital town.

L A W.

PART I. OF THE NATURE OF LAWS IN GENERAL.

¹
Definition; General, and
LAW, in its most general and comprehensive sense, signifies a rule of action; and is applied indiscriminately to all kinds of action, whether animate or inanimate, rational or irrational. Thus we say, the laws of motion, of gravitation, of optics, of mechanics, as well as the laws of nature and of nations. And it is that rule of action which is prescribed by some superior, and which the inferior is bound to obey.

Thus when the Supreme Being formed the universe, and created matter out of nothing, he impressed certain principles upon that matter, from which it can never depart, and without which it would cease to be. When he put that matter into motion, he established certain laws of motion, to which all moveable bodies must conform. And, to descend from the greatest operations to the smallest, when a workman, forms a clock, or other piece of mechanism, he establishes at his own pleasure certain arbitrary laws for its direction; as, that the hand shall describe a given space in a given time; to which law as long as the work conforms, so long it continues in perfection, and answers the end of its formation.

If we farther advance, from mere inactive matter to vegetable and animal life, we shall find them still governed by laws; more numerous indeed, but equally fixed and invariable. The whole progress of plants, from the seed to the root, and from thence to the seed again; the method of animal nutrition, digestion, secretion, and all other branches of vital economy;—are not left to chance, or the will of the creature itself, but are performed in a wondrous involuntary manner, and guided by unerring rules laid down by the great Creator.

This then is the general signification of law, a rule of action dictated by some superior being:—and, in those creatures that have neither the power to think

nor to will, such laws must be invariably obeyed, so long as the creature itself subsists; for its existence depends on that obedience. But laws, in their more confined sense, and in which it is our present business to consider them, denote the rules, not of action in general, but of *human* action or conduct: that is, the ²Particular, precepts by which man, the noblest of all sublunary beings, a creature endowed with both reason and free will, is commanded to make use of those faculties in the general regulation of his behaviour.

Man, considered as a creature, must necessarily be subject to the laws of his Creator, for he is entirely a dependent being. A being, independent of any other, had no rule to pursue but such as he prescribes to himself; but a state of dependance will inevitably oblige the inferior to take the will of him on whom he depends as the rule of his conduct; not indeed in every particular, but in all those points wherein his dependance consists. This principle therefore has more or less extent and effect, in proportion as the superiority of the one and the dependance of the other is greater or less, absolute or limited. And consequently, as man depends absolutely upon his Maker for every thing, it is necessary that he should in all points conform to his Maker's will.

This will of his Maker is called the *law of nature*.³ For as God, when he created matter, and endued it with a principle of mobility, established certain rules for the perpetual direction of that motion; so, when he created man, and endued him with free will to conduct himself in all parts of life, he laid down certain immutable laws of human nature, whereby that free will is in some degree regulated and restrained, and gave him also the faculty of reason to discover the purport of those laws.

Considering the Creator only as a being of infinite power,

Of Laws
in general.

power, he was able unquestionably to have prescribed whatever laws he pleased to his creature man, however unjust or severe. But as he is also a Being of infinite wisdom, he has laid down only such laws as were founded in those relations of justice, that existed in the nature of things antecedent to any positive precept. These are the eternal immutable laws of good and evil, to which the Creator himself in all his dispensations conforms; and which he has enabled human reason to discover, so far as they are necessary for the conduct of human actions. Such, among others, are these principles: That we should live honestly, should hurt nobody, and should render to every one his due; to which three general precepts Justinian has reduced the whole doctrine of law.

But if the discovery of these first principles of the law of nature depended only upon the due exertion of right reason, and could not otherwise be obtained than by a chain of metaphysical disquisitions, mankind would have wanted some inducement to have quickened their inquiries, and the greater part of the world would have rested content in mental indolence, and ignorance its inseparable companion. As therefore the Creator is a being, not only of infinite power and wisdom, but also of infinite goodness, he has been pleased so to contrive the constitution and frame of humanity, that we should want no other prompter to inquire after and pursue the rule of right, but only our own self-love, that universal principle of action. For he has so intimately connected, so inseparably interwoven, the laws of eternal justice with the happiness of each individual, that the latter cannot be attained but by observing the former; and if the former be punctually obeyed, it cannot but induce the latter. In consequence of which mutual connexion of justice and human felicity, he has not perplexed the law of nature with a multitude of abstracted rules and precepts, referring merely to the fitness or unfitness of things, as some have vainly surmised; but has graciously reduced the rule of obedience to this one paternal precept, "that man should pursue his own happiness." This is the foundation of what we call *ethics*, or *natural law* *. For the several articles into which it is branched in our systems amount to no more than demonstrating, that this or that action tends to man's real happiness, and therefore very justly concluding, that the performance of it is a part of the law of nature; or, on the other hand, that this or that action is destructive of man's real happiness, and therefore that the law of nature forbids it.

This law of nature, being coeval with mankind, and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times: no human laws are of any validity, if contrary to this, and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original.

But in order to apply this to the particular exigencies of each individual, it is still necessary to have recourse to reason: whose office it is to discover, as was before observed, what the law of nature directs in every circumstance of life, by considering, what method will tend the most effectually to our own substantial happiness. And if our reason were always, as in our first ancestor before his transgression, clear and perfect,

unruffled by passions, unclouded by prejudice, unimpaired by disease or intemperance, the task would be pleasant and easy; we should need no other guide but this. But every man now finds the contrary in his own experience; that his reason is corrupt, and his understanding full of ignorance and error.

This has given manifold occasion for the benign interposition of Divine Providence; which, in compassion to the frailty, the imperfection, and the blindness of human reason, hath been pleased, at sundry times and in divers manners, to discover and enforce its laws by an immediate and direct revelation. The doctrines thus delivered, we call the *revealed* or *divine law*, and they are to be found only in the Holy Scriptures. These precepts, when revealed, are found upon comparison to be really a part of the original law of nature, as they tend in all their consequences to man's felicity. But we are not from thence to conclude, that the knowledge of these truths was attainable by reason in its present corrupted state; since we find, that, until they were revealed, they were hid from the wisdom of ages. As then the moral precepts of this law are indeed of the same original with those of the law of nature, so their intrinsic obligation is of equal strength and perpetuity. Yet undoubtedly the revealed law is of infinitely more authenticity than that moral system which is framed by ethical writers, and denominated the *natural law*: because one is the law of nature, expressly declared so to be by God himself; the other is only what, by the assistance of human reason, we imagine to be that law. If we could be as certain of the latter as we are of the former, both would have an equal authority: but till then they can never be put in any competition together.

Upon these two foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human laws should be suffered to contradict these. There are, it is true, a great number of indifferent points, in which both the divine law and the natural leave a man at his own liberty; but which are found necessary, for the benefit of society, to be restrained within certain limits. And herein it is that human laws have their greatest force and efficacy: for, with regard to such points as are not indifferent, human laws are only declaratory of, and act in subordination to, the former. To instance in the case of murder: this is expressly forbidden by the divine, and demonstrably by the natural, law; and from these prohibitions arises the true unlawfulness of this crime. Those human laws that annex a punishment to it, do not at all increase its moral guilt, or superadd any fresh obligation in *foro conscientie* to abstain from its perpetration. Nay, if any human law should allow or enjoin us to commit it, we are bound to transgress that human law, or else we must offend both the natural and the divine. But with regard to matters that are in themselves indifferent, and are not commanded or forbidden by those superior laws; such, for instance, as exporting of wool into foreign countries; here the inferior legislature has scope and opportunity to interpose, and to make that action unlawful which before was not so.

If man were to live in a state of nature, unconnected with other individuals, there would be no occasion for any other laws than the law of nature and the law of God. Neither could any other law possibly exist:

for

Of Laws
in general.

4
Law of Re-
velation.

* See *Morality*.

Of Laws
in general.

for a law always supposes some superior who is to make it; and in a state of nature we are all equal, without any other superior but him who is the Author of our being. But man was formed for society; and, as is demonstrated by the writers on this subject, is neither capable of living alone, nor indeed has the courage to do it. However, as it is impossible for the whole race of mankind to be united in one great society, they must necessarily divide into many; and form separate states, commonwealths, and nations, entirely independent of each other, and yet liable to a mutual intercourse. Hence arises a third kind of law to regulate this mutual intercourse, called *the law of nations*: which, as none of these states will acknowledge a superiority in the other, cannot be dictated by either; but depends entirely upon the rules of natural law, or upon mutual compacts, treaties, leagues, and agreements, between these several communities: in the construction also of which compacts we have no other rule to resort to but the law of nature; being the only one to which both communities are equally subject: and therefore the civil law very justly observes, that *quod naturalis ratio inter omnes homines constituit, vocatur jus gentium*.

5
Law of na-
tions.

6
Municipal
or civil
law.

To the consideration, then, of the law of nature, the revealed law, and the law of nations, succeeds that of the municipal or civil law; that is, the rule by which particular districts, communities, or nations, are governed; being thus defined by Justinian, "*jus civile est quod quisque sibi populus constituit*." We call it *municipal law*, in compliance with common speech; for though, strictly, that expression denotes the particular customs of one single *municipium* or free town, yet it may with sufficient propriety be applied to any one state or nation which is governed by the same laws and customs.

7
Defined.

Municipal law, thus understood, is properly defined to be "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong." Let us endeavour to explain its several properties, as they arise out of this definition.

8
Its first pro-
perty.

And, first, it is a *rule*: not a transient sudden order from a superior to or concerning a particular person; but something permanent, uniform, and universal. Therefore a particular act of the legislature to confiscate the goods of Titius, or to attain him of high treason, does not enter into the idea of a municipal law: for the operation of this act is spent upon Titius only, and has no relation to the community in general; it is rather a sentence than a law. But an act to declare that the crime of which Titius is accused shall be deemed high treason; this has permanency, uniformity, and universality, and therefore is properly a *rule*. It is also called a *rule*, to distinguish it from *advice* or *counsel*, which we are at liberty to follow or not as we see proper, and to judge upon the reasonableness or unreasonableness of the thing advised: whereas our obedience to the law depends not upon *our approbation*, but upon the *Maker's will*. Counsel is only matter of persuasion, law is matter of injunction; counsel acts only upon the willing, law upon the unwilling also.

It is also called a *rule*, to distinguish it from a *compact* or *agreement*; for a compact is a promise proceeding from us, law is a command directed to us. The

language of a compact is, "I will, or will not, do this;" that of a law is, "Thou shalt, or shalt not, do it." It is true there is an obligation which a compact carries with it, equal in point of conscience to that of a law; but then the original of the obligation is different. In compacts, we ourselves determine and promise what shall be done, before we are obliged to do it; in laws, we are obliged to act without ourselves determining or promising any thing at all. Upon these accounts law is defined to be "a rule."

Of Laws
in general.

Municipal law is also "a rule of *civil conduct*." ⁹ Second pro-
This distinguishes municipal law from the natural or ⁹ party.
revealed: the former of which is the rule of moral conduct; and the latter not only the rule of moral conduct, but also of faith. These regard man as a creature; and point out his duty to God, to himself, and to his neighbour, considered in the light of an individual. But municipal or civil law regards him also as a citizen, and bound to other duties towards his neighbour, than those of mere nature and religion: duties, which he has engaged in by enjoying the benefits of the common union; and which amount to no more, than that he do contribute, on his part, to the subsistence and peace of the society.

It is likewise "a rule *prescribed*." Because a bare ¹⁰ Third pro-
resolution, confined in the breast of the legislator, with-¹⁰ party.
out manifesting itself by some external sign, can never be properly a law. It is requisite that this resolution be notified to the people who are to obey it. But the manner in which this notification is to be made, is matter of very great indifference. It may be notified by universal tradition and long practice, which supposes a previous publication, and is the case of the common law of England and of Scotland. It may be notified *viva voce*, by officers appointed for that purpose; as is done with regard to proclamations, and such acts of parliament as are appointed to be publicly read in churches and other assemblies. It may, lastly, be notified by writing, printing, or the like; which is the general course taken with all our acts of parliament. Yet, whatever way is made use of, it is incumbent on the promulgators to do it in the most public and perspicuous manner; not like Caligula, who (according to Dio Cassius) wrote his laws in a very small character, and hung them up upon high pillars, the more effectually to ensnare the people. There is still a more unreasonable method than this, which is called making of laws *ex post facto*; when after an action (indifferent in itself) is committed, the legislator then for the first time declares it to have been a crime, and inflicts a punishment upon the person who has committed it. Here it is impossible that the party could foresee, that an action, innocent when it was done, should be afterwards converted to guilt by a subsequent law: he had therefore no cause to abstain from it; and all punishment for not abstaining must of consequence be cruel and unjust. All laws should be therefore made to commence *in futuro*, and be notified before their commencement; which is implied in the term "prescribed." But when this rule is in the usual manner notified or prescribed, it is then the subject's business to be thoroughly acquainted therewith; for if ignorance of what he might know, were admitted as a legitimate excuse, the laws would be of no effect, but might always be eluded with impunity.

But

Of Laws
in general.
11
Fourth pro-
perty.

Of Laws
in general.

But further: Municipal law is "a rule of civil conduct prescribed by the supreme power in a state." For legislature, as was before observed, is the greatest act of superiority that can be exercised by one being over another. Wherefore it is requisite to the very essence of a law, that it be made by the supreme power. Sovereignty and legislature are indeed convertible terms; one cannot subsist without the other.

This will naturally lead us into a short inquiry concerning the nature of society and civil government; and the natural inherent right that belongs to the sovereignty of a state, wherever that sovereignty be lodged, of making and enforcing laws.

12
Civil so-
ciety.

The only true and natural foundations of society are the wants and fears of individuals. Not that we can believe, with some theoretical writers, that there ever was a time when there was no such thing as society; and that, from the impulse of reason, and through a sense of their wants and weaknesses, individuals met together in a large plain, entered into an original contract, and chose the tallest man present to be their governor. This notion, of an actually existing unconnected state of nature, is too wild to be seriously admitted: and besides, it is plainly contradictory to the revealed accounts of the primitive origin of mankind, and their preservation 2000 years afterwards; both which were effected by the means of single families. These formed the first society among themselves, which every day extended its limits; and when it grew too large to subsist with convenience in that pastoral state wherein the patriarchs appear to have lived, it necessarily subdivided itself by various migrations into more. Afterwards, as agriculture increased, which employs and can maintain a much greater number of hands, migrations became less frequent; and various tribes, which had formerly separated, reunited again; sometimes by compulsion and conquest, sometimes by accident, and sometimes perhaps by compact. But though society had not its formal beginning from any convention of individuals, actuated by their wants and their fears; yet it is the sense of their weakness and imperfection that keeps mankind together, that demonstrates the necessity of this union, and that therefore is the solid and natural foundation, as well as the cement, of society. And this is what we mean by the original contract of society; which, though perhaps in no instance it has ever been formally expressed at the first institution of a state, yet in nature and reason must always be understood and implied in the very act of associating together; namely, that the whole should protect all its parts, and that every part should pay obedience to the will of the whole; or, in other words, that the community should guard the rights of each individual member, and that (in return for this protection) each individual should submit to the laws of the community; without which submission of all, it was impossible that protection could be certainly extended to any.

13
Govern-
ment.

For when society is once formed, government results of course, as necessary to preserve and to keep that society in order. Unless some superior be constituted, whose commands and decisions all the members are bound to obey, they would still remain as in a state of nature, without any judge upon earth to define their several rights, and redress their several wrongs. But

VOL. XI. Part II.

as all the members of society are naturally equal, it may be asked, In whose hands are the reins of government to be intrusted? To this the general answer is easy; but the application of it to particular cases has occasioned one half of those mischiefs which are apt to proceed from misguided political zeal. In general, all mankind will agree, that government should be reposed in such persons, in whom those qualities are most likely to be found, the perfection of which is among the attributes of him who is emphatically styled the *Supreme Being*; the three grand requisites, namely, of wisdom, of goodness, and of power: wisdom, to discern the real interest of the community; goodness, to endeavour always to pursue that real interest; and strength or power to carry this knowledge and intention into action. These are the natural foundations of sovereignty, and these are the requisites that ought to be found in every well constituted frame of government.

How the several forms of government we now see in the world at first actually began, is matter of great uncertainty, and has occasioned infinite disputes. It is not our business or intention to enter into any of them. However they began, or by what right soever they subsist, there is and must be in all of them a supreme, irresistible, absolute, uncontrolled authority, in which the *jura summi imperii*, or the rights of sovereignty, reside. And this authority is placed in those hands, wherein (according to the opinion of the founders of such respective states, either expressly given or collected from their tacit approbation) the qualities requisite for supremacy, wisdom, goodness, and power, are the most likely to be found.

The political writers of antiquity will not allow ^{Different} more than three regular forms of government: the first, ^{forms} when the sovereign power is lodged in an aggregate ^{thereof.} assembly consisting of all the members of a community, which is called a *democracy*; the second, when it is lodged in a council composed of select members, and then it is styled an *aristocracy*; the last, when it is intrusted in the hands of a single person, and then it takes the name of a *monarchy*. All other species of government, they say, are either corruptions of, or reducible to, these three.

By the sovereign power, as was before observed, is meant the making of laws; for wherever that power resides, all others must conform to and be directed by it, whatever appearance the outward form and administration of the government may put on. For it is at any time in the option of the legislature to alter that form and administration by a new edict or rule, and to put the execution of the laws into whatever hands it pleases: and all the other powers of the state must obey the legislative power in the execution of their several functions, or else the constitution is at an end.

In a democracy, where the right of making laws resides in the people at large, public virtue or goodness of intention is more likely to be found than either of the other qualities of government. Popular assemblies are frequently foolish in their contrivance, and weak in their execution; but generally mean to do the thing that is right and just, and have always a degree of patriotism or public spirit. In aristocracies there is more wisdom to be found than in the other forms of government; being composed, or intended to be com-

4 E

posed,

posed, of the most experienced citizens: but there is less honesty than in a republic, and less strength than in a monarchy. A monarchy is indeed the most powerful of any, all the sinews of government being knit and united together in the hand of the prince; but then there is imminent danger of his employing that strength to improvident or oppressive purposes.

Thus these three species of government have all of them their several perfections and imperfections. Democracies are usually the best calculated to direct the end of a law; aristocracies, to invent the means by which that end shall be obtained; and monarchies, to carry those means into execution. And the ancients, as was observed, had in general no idea of any other permanent form of government but these three: for though Cicero declares himself of opinion, "*esse optimè constitutam rempublicam, quæ ex tribus generibus illis, regali, optimo, et populari, sit modicè confusa*;" yet Tacitus treats this notion of a mixed government, formed out of them all, and partaking of the advantages of each, as a visionary whim, and one that, if effected, could never be lasting or secure.

15
British con-
stitution.

But, happily for us of this island, the British constitution has long remained, and we trust will long continue, a standing exception to the truth of this observation. For, as with us the executive power of the laws is lodged in a single person, they have all the advantages of strength and despatch that are to be found in the most absolute monarchy: and, as the legislature of the kingdom is intrusted to three distinct powers, entirely independent of each other; first, the king; secondly, the lords spiritual and temporal, which is an aristocratical assembly of persons selected for their piety, their birth, their wisdom, their valour, or their property; and, thirdly, the house of commons, freely chosen by the people from among themselves, which makes it a kind of democracy; as this aggregate body, actuated by different springs and attentive to different interests, composes the British parliament, and has the supreme disposal of every thing, no innovation can be attempted by either of the three branches, but will be withstood by one of the other two, each branch being armed with a negative power sufficient to repel any new measure which it shall think inexpedient or dangerous.

Here, then is lodged the sovereignty of the British constitution; and lodged as beneficially as is possible for society. For in no other shape could we be so certain of finding the three great qualities of government so well and so happily united. If the supreme power were lodged in any one of the three branches separately, we must be exposed to the inconveniences of either absolute monarchy, aristocracy, or democracy; and so want two of the three principal ingredients of good polity, either virtue, wisdom, or power. If it were lodged in any two of the branches; for instance, in the king and house of lords; our laws might be providently made and well executed, but they might not always have the good of the people in view: if lodged in the king and commons, we should want that circumspection and mediatory caution, which the wisdom of the peers is to afford: if the supreme rights of legislature were lodged in the two houses only, and the king had no negative upon their proceedings, they might be tempted to encroach upon the royal prerogative, or per-

haps to abolish the kingly office, and thereby weaken (if not totally destroy) the strength of the executive power. But the constitutional government of this island is so admirably tempered and compounded, that nothing can endanger or hurt it, but destroying the equilibrium of power between one branch of the legislature and the rest. For if ever it should happen, that the independence of any one of the three should be lost, or that it should become subservient to the views of either of the other two, there would soon be an end of our constitution. The legislature would be changed from that which was originally set up by the general consent and fundamental act of the society, and such a change, however effected, is, according to Mr Locke (who perhaps carries his theory too far), at once an entire dissolution of the bands of government; and the people are thereby reduced to a state of anarchy, with liberty to constitute to themselves a new legislative power.

Having thus cursorily considered the three usual species of government, and our own singular constitution selected and compounded from them all, we proceed to observe, that, as the power of making laws constitutes the supreme authority, so wherever the supreme authority in any state resides, it is the right of that authority to make laws; that is, in the words of our definition, *to prescribe the rule of civil action*. And this may be discovered from the very end and institution of civil states. For a state is a collective body, composed of a multitude of individuals, united for their safety and convenience, and intending to act together as one man. If it is therefore to act as one man, it ought to act by one uniform will. But, inasmuch as political communities are made up of many natural persons, each of whom has his particular will and inclination, these several wills cannot by any natural union be joined together, or tempered and disposed into a lasting harmony, so as to constitute and produce that one uniform will of the whole. It can therefore be no otherwise produced than by a political union; by the consent of all persons to submit their own private wills to the will of one man, or of one or more assemblies of men, to whom the supreme authority is intrusted; and this will of that one man, or assemblage of men, is in different states, according to their different constitutions, understood to be law.

Thus far as to the right of the supreme power to make laws: but farther, it is its duty likewise. For since the respective members are bound to conform themselves to the will of the state, it is expedient that they receive directions from the state declaratory of that its will. But it is impossible, in so great a multitude, to give injunctions to every particular man, relative to each particular action, therefore the state establishes general rules, for the perpetual information and direction of all persons in all points, whether of positive or negative duty: and this, in order that every man may know what to look upon as his own, what as another's; what absolute and what relative duties are required at his hands; what is to be esteemed honest, dishonest, or indifferent; what degree every man retains of his natural liberty, and what he has given up as the price of the benefits of society; and after what manner each person is to moderate the use and exercise of those rights which the state assigns him,

Of Laws in general.

Of Laws in general.

17 Second branch of the definition, illustrated.

him, in order to promote and secure the public tranquillity.

From what has been advanced, the truth of the former branch of our definition is (we trust) sufficiently evident; that "municipal law is a rule of civil conduct, prescribed by the supreme power in a state." We proceed now to the latter branch of it; that it is a rule so prescribed, "commanding what is right, and prohibiting what is wrong."

Now, in order to do this completely, it is first of all necessary that the boundaries of right and wrong be established and ascertained by law. And when this is once done, it will follow of course, that it is likewise the business of the law, considered as a rule of civil conduct, to enforce these rights, and to restrain or redress these wrongs. It remains therefore only to consider, in what manner the law is said to ascertain the boundaries of right and wrong; and the methods which it makes to command the one and prohibit the other.

For this purpose, every law may be said to consist of several parts; one, declaratory; whereby the rights to be observed, and the wrongs to be eschewed, are clearly defined and laid down: another, directory; whereby the subject is intrusted and enjoined to observe those rights, and to abstain from the commission of those wrongs: a third, remedial; whereby a method is pointed out to recover a man's private rights, or redress his private wrongs: to which may be added a fourth, usually termed the sanction or vindicatory branch of the law; whereby it is signified what evil or penalty shall be incurred by such as commit any public wrongs, and transgress or neglect their duty.

18 Declaratory part of the law.

With regard to the first of these, the declaratory part of the municipal law; this depends not so much upon the law of revelation or of nature, as upon the wisdom and will of the legislator. This doctrine, which before was slightly touched, deserves a more particular explication. Those rights, then, which God and nature have established, and are therefore called natural rights, such as are life and liberty, need not the aid of human laws to be more effectually invested in every man than they are; neither do they receive any additional strength when declared by the municipal laws to be inviolable. On the contrary, no human legislature has power to abridge or destroy them, unless the owner shall himself commit some act that amounts to a forfeiture. Neither do divine or natural duties (such as, for instance, the worship of God, the maintenance of children, and the like) receive any stronger sanction from being also declared to be duties by the law of the land. The case is the same as to crimes and misdemeanors, that are forbidden by the superior laws, and therefore styled mala in se, such as murder, theft, and perjury; which contract no additional turpitude from being declared unlawful by the inferior legislature. For that legislature in all these cases acts only, as was before observed, in subordination to the Great Lawgiver, transcribing and publishing his precepts. So that, upon the whole, the declaratory part of the municipal law has no force or operation at all, with regard to actions that are naturally and intrinsically right or wrong.

But with regard to things in themselves indifferent, the case is entirely altered. These become either right

or wrong, just or unjust, duties or misdemeanors, according as the municipal legislator sees proper, for promoting the welfare of the society, and more effectually carrying on the purposes of civil life. Thus our own common law has declared, that the goods of the wife do instantly upon marriage become the property and right of the husband; and our statute law has declared all monopolies a public offence: yet that right, and this offence, have no foundation in nature; but are merely created by the law, for the purposes of civil society. And sometimes, where the thing itself has its rise from the law of nature, the particular circumstances and mode of doing it become right or wrong, as the laws of the land shall direct. Thus, for instance, in civil duties; obedience to superiors is the doctrine of revealed as well as natural religion: but who those superiors shall be, and in what circumstances, or to what degrees they shall be obeyed, is the province of human laws to determine. And so, as to injuries or crimes, it must be left to our own legislature to decide, in what cases the seizing another's cattle shall amount to the crime of robbery; and where it shall be a justifiable action, as when a landlord takes them by way of distress for rent.

19 Directory part.

Thus much for the declaratory part of the municipal law: and the directory stands much upon the same footing; for this virtually includes the former, the declaration being usually collected from the direction. The law that says, "Thou shalt not steal," implies a declaration that stealing is a crime. And we have seen, that, in things naturally indifferent, the very essence of right and wrong depends upon the direction of the laws to do or to omit them.

20 Remedial part.

The remedial part of a law is so necessary a consequence of the two former, that laws must be very vague and imperfect without it. For in vain would rights be declared, in vain directed to be observed, if there were no method of recovering and asserting those rights when wrongfully withheld or invaded. This is what we mean properly, when we speak of the protection of the law. When, for instance, the declaratory part of the law has said, that the field or inheritance which belonged to Titius's father is vested by his death in Titius," and the directory part has "forbidden any one to enter on another's property without the leave of the owner;" if Gaius after this will presume to take possession of the land, the remedial part of the law will then interpose its office; will make Gaius restore the possession to Titius, and also pay him damages for the invasion.

With regard to the sanction of laws, or the evil that may attend the breach of public duties; it is observed, that human legislators have for the most part chosen to make the sanction of their laws rather vindicatory than remuneratory, or to consist rather in punishments than in actual particular rewards: Because, in the first place, the quiet enjoyment and protection of all our civil rights and liberties, which are the sure and general consequence of obedience to the municipal law, are in themselves the best and most valuable of all rewards: because also, were the exercise of every virtue to be enforced by the proposal of particular rewards, it were impossible for any state to furnish stock enough for so profuse a bounty; and farther, because the dread of evil is a much more forcible principle

Of Laws
in general.

principle of human actions than the prospect of good. For which reasons, though a prudent bestowing of rewards is sometimes of exquisite use, yet we find that those civil laws, which enforce and enjoin our duty, do seldom, if ever, propose any privilege or gift to such as obey the law; but do constantly come armed with a penalty denounced against transgressors, either expressly defining the nature and quantity of the punishment, or else leaving it to the discretion of the judges, and those who are intrusted with the care of putting the laws in execution.

21
Vindica-
tory part.

Of all the parts of a law the most effectual is the *vindictory*. For it is but lost labour to say, "Do this, or avoid that," unless we also declare, "This shall be the consequence of your noncompliance." We must therefore observe, that the main strength and force of a law consists in the penalty annexed to it. Herein is to be found the principal obligation of human laws.

Legislators and their laws are said to *compel* and *oblige*: not that, by any natural violence, they so constrain a man as to render it impossible for him to act otherwise than as they direct, which is the strict sense of obligation; but because, by declaring and exhibiting a penalty against offenders, they bring it to pass that no man can easily choose to transgress the law; since, by reason of the impending correction, compliance is in a high degree preferable to disobedience. And, even where rewards are proposed as well as punishments threatened, the obligation of the law seems chiefly to consist in the penalty: for rewards, in their nature, can only persuade and allure; nothing is compulsory but punishment.

It has been held true, and very justly, by the principal of our ethical writers, that human laws are binding upon men's consciences. But if that were the only or most forcible obligation, the good only would regard the laws, and the bad would set them at defiance. And, true as this principle is, it must still be understood with some restriction. It holds, we apprehend, as to *rights*; and that, when the law has determined the field to belong to Titius, it is a matter of conscience no longer to withhold or to invade it. So also in regard to *natural duties*, and such offences as are *mala in se*: here we are bound in conscience, because we are bound by superior laws, before those human laws were in being, to perform the one and abstain from the other. But in relation to those laws which enjoin only positive duties, and forbid only such things as are not *mala in se*, but *mala prohibita* merely, without any intermixture of moral guilt, annexing a penalty to noncompliance; here conscience seems to be no farther concerned, than by directing a submission to the penalty, in case of our breach of those laws: for otherwise the multitude of penal laws in a state would not only be looked upon as an impolitic, but would also be a very wicked, thing; if every such law were a snare for the conscience of the subject. But in these cases the alternative is offered to every man; "either abstain from this, or submit to such a penalty;" and his conscience will be clear whichever side of the alternative he thinks proper to embrace. Thus, by the statutes for preserving the game, a penalty is denounced against every unqualified person that kills a hare, and against every person who possesses a partridge in August. And so too, by other statutes, pecuniary pe-

Of Laws
in general.

alties are inflicted for exercising trades without serving an apprenticeship thereto, for erecting cottages without annexing four acres of land to each, for not burying the dead in woollen, for not performing statute work on the public roads, and for innumerable other positive misdemeanors. Now these prohibitory laws do not make the transgression a moral offence, or sin: the only obligation in conscience is to submit to the penalty, if levied. It must, however, be observed, that we are here speaking of laws that are simply and purely penal, where the thing forbidden or enjoined is wholly a matter of indifference, and where the penalty inflicted is an adequate compensation for the civil inconvenience supposed to rise from the offence. But where disobedience to the law involves in it also any degree of public mischief or private injury, there it falls within our former distinction, and is also an offence against conscience.

We have now gone through the definition laid down of a municipal law; and have shown that it is "a rule—of civil conduct—prescribed—by the supreme power in a state—commanding what is right, and prohibiting what is wrong:" in the explication of which we have endeavoured to interweave a few useful principles, concerning the nature of civil government, and the obligation of human laws. Before we conclude this part, it may not be amiss to add a few observations concerning the interpretation of laws.

When any doubt arose upon the construction of the Roman laws, the usage was to state the case to the emperor in writing, and take his opinion upon it. This was certainly a bad method of interpretation. To interrogate the legislature to decide particular disputes, is not only endless, but affords great room for partiality and oppression. The answers of the emperor were called his rescripts, and these had in succeeding cases the force of perpetual laws; though they ought to be carefully distinguished, by every rational civilian, from those general constitutions which had only the nature of things for their guide. The emperor Marcinus, as his historian Capitolinus informs us, had once resolved to abolish these rescripts, and retain only the general edicts: he could not bear that the hasty and crude answers of such princes as Commodus and Caracalla should be revered as laws. But Justinian thought otherwise, and he has preserved them all. In like manner the canon laws, or decretal epistles of the popes, are all of them rescripts in the strictest sense. Contrary to all true forms of reasoning, they argue from particulars to generals.

The fairest and most rational method to interpret the will of the legislator, is by exploring his intentions at the time when the law was made, by signs the most natural and probable. And these signs are either the words, the context, the subject-matter, the effects and consequence, or the spirit and reason of the law. Let us take a short view of them all.

1. *Words* are generally to be understood in their usual and most known signification; not so much regarding the propriety of grammar, as their general and popular use. Thus the law mentioned by Puffendorf, which forbade a layman to lay hands on a priest, was adjudged to extend to him who had hurt a priest with a weapon. Again: Terms of art, or technical terms, must be taken according to the acceptance of the

22
Of the in-
terpreta-
tion of
laws.

23

Of Laws
in general.

the learned in each art, trade, and science. So in the act of settlement, where the crown of England is limited "to the princess Sophia, and the heirs of her body being Protestants," it becomes necessary to call in the assistance of lawyers, to ascertain the precise idea of the words "heirs of her body;" which in a legal sense comprise only certain of her lineal descendants. Lastly, Where words are clearly repugnant in two laws, the latter law takes place of the elder; *leges posteriores priores contrarias abrogant*, is a maxim of universal law, as well as of our own constitutions. And accordingly it was laid down by a law of the twelve tables at Rome, *Quod populus postremum jussit, id jus ratum esto*.

24 2. If words happen to be still dubious, we may establish their meaning from the *context*; with which it may be of singular use to compare a word or a sentence, whenever they are ambiguous, equivocal, or intricate. Thus the *proëme*, or preamble, is often called in to help the construction of an act of parliament. Of the same nature and use is the comparison of a law with other laws that are made by the same legislator, that have some affinity with the subject, or that expressly relate to the same point. Thus, when the law of England declares murder to be felony without benefit of clergy, we must resort to the same law of England to learn what the benefit of clergy is: and, when the common law censures simoniacal contracts, it affords great light to the subject to consider what the canon law has adjudged to be simony.

25 3. As to the *subject-matter*, words are always to be understood as having a regard thereto; for that is always supposed to be in the eye of the legislator, and all his expressions directed to that end. Thus, when a law of Edward III. forbids all ecclesiastical persons to purchase provisions at Rome, it might seem to prohibit the buying of grain and other victual; but when we consider that the statute was made to repress the usurpations of the papal see, and that the nominations to benefices by the pope were called *provisions*, we shall see that the restraint is intended to be laid upon such provisions only.

26 4. As to the effects and *consequence*, the rule is, That where words bear either none, or a very absurd signification, if literally understood, we must a little deviate from the received sense of them. Therefore the Bolognian law, mentioned by Puffendorf, which enacted "that whoever drew blood in the streets should be punished with the utmost severity," was held after long debate not to extend to the surgeon who opened the vein of a person who fell down in the street with a fit.

27 5. But, lastly, The most universal and effectual way of discovering the true meaning of a law, when the words are dubious, is by considering the *reason* and *spirit* of it, or the cause which moved the legislator to enact it. For when this reason ceases, the law itself ought likewise to cease with it. An instance of this is given in a case put by Cicero, or whoever was the author of the rhetorical treatise inscribed to Herennius.

There was a law, That those who in a storm forsook the ship should forfeit all property therein, and the ship and lading should belong entirely to those who staid in it. In a dangerous tempest, all the mariners forsook the ship, except only one sick passenger, who by reason of his disease was unable to get out and escape. By chance the ship came safe to port. The sick man kept possession, and claimed the benefit of the law. Now here all the learned agree, that the sick man is not within the reason of the law; for the reason of making it was, to give encouragement to such as should venture their lives to save the vessel: but this is a merit which he could never pretend to, who neither staid in the ship upon that account, nor contributed any thing to its preservation.

From this method of interpreting laws by the reason of them, arises what we call *equity*: which is thus defined by Grotius, "the correction of that, wherein the law (by reason of its universality) is deficient." For since in laws all cases cannot be foreseen or expressed, it is necessary, that, when the general decrees of the law come to be applied to particular cases, there should be somewhere a power vested of defining those circumstances, which (had they been foreseen) the legislator himself would have expressed. And these are the cases which, according to Grotius, *lex non exactè definit, sed arbitrio boni viri permittit*.

Equity thus depending, essentially, upon the particular circumstances of each individual case, there can be no established rules and fixed precepts of equity laid down, without destroying its very essence, and reducing it to a positive law. And, on the other hand, the liberty of considering all cases in an equitable light must not be indulged too far; lest thereby we destroy all law, and leave the decision of every question entirely in the breast of the judge. And law, without equity, though hard and disagreeable, is much more desirable for the public good, than equity without law; which would make every judge a legislator, and introduce infinite confusion: as there would then be almost as many different rules of action laid down in our courts, as there are differences of capacity and sentiment in the human mind.

29 Having thus considered the nature of laws in general, we shall proceed to give a view of the particular law of our own country; 1. Of England; 2. Of Scotland. The English law, however, being too extensive to admit of detail in a body, we can only here give such a sketch of it as may be sufficient to show the connexion of its parts; but the principal of these parts themselves are explained at large, under their proper names, in the general alphabet.—A contrary method is followed with regard to the law of Scotland. This being less extensive, is given in a body, with all its parts not only in regular connection, but sufficiently explained; these parts, again, not being explained in the order of the alphabet, but marked with numerical references to their explanations in the system.

Of Laws
in general.

28

29
Plan of the
two follow-
ing parts.

PART II. THE LAW OF ENGLAND.

INTRODUCTION.

THE municipal law of England, or the rule of civil conduct prescribed to the inhabitants of that kingdom, may with sufficient propriety be divided into two kinds: the *lex non scripta*, the unwritten or common law; and the *lex scripta*, the written or statute law.

30
Common
law.

The *lex non scripta*, or unwritten law, includes not only general customs, or the common law properly so called; but also the particular customs of certain parts of the kingdom, and likewise these particular laws that are by custom observed only in certain courts and jurisdictions.

In calling these parts of the law *leges non scriptæ*, we would not be understood as if all those laws were at present merely oral, or communicated from the former ages to the present solely by word of mouth. It is true indeed, that in the profound ignorance of letters which formerly overspread the whole western world, all laws were entirely traditional; for this plain reason, that the nations among which they prevailed had but little idea of writing. Thus the British as well as the Gallic druids committed all their laws as well as learning to memory; and it is said of the primitive Saxons here, as well as their brethren on the continent, that *leges sola memoria et usu retinebant*. But, with us at present, the monuments and evidences of our legal customs are contained in the records of the several courts of justice, in books of reports and judicial decisions, and in the treatises of learned sages of the profession, preserved and handed down to us from the times of highest antiquity. However, we therefore style these parts of our law *leges non scriptæ*, because their original institution and authority are not set down in writing, as acts of parliament are; but they receive their binding power, and the force of laws, by long and immemorial usage, and by their universal reception throughout the kingdom: in like manner as Aulus Gellius defines the *jus non scriptum* to be that which is *tacito et illiterato hominum consensu et moribus expressum*.

Our ancient lawyers, and particularly Fortescue, insist with abundance of warmth, that these customs are as old as the primitive Britons, and continued down through the several mutations of government and inhabitants, to the present time, unchanged and unadulterated. This may be the case as to some. But in general, as Mr Selden in his notes observes, this assertion must be understood with many grains of allowance; and ought only to signify, as the truth seems to be, that there never was any formal exchange of one system of laws for another: though doubtless, by the intermixture of adventitious nations, the Romans, the Picts, the Saxons, the Danes, and the Normans, they must have insensibly introduced and incorporated many of their own customs with those that were before established; thereby, in all probability, improving the texture and wisdom of the whole, by the accumulated wisdom of divers particular countries. Our laws, saith Lord Bacon, are mixed as our language; and as our

language is so much the richer, the laws are the more complete.

And indeed our antiquarians and first historians do all positively assure us, that our body of laws is of this compounded nature. For they tell us, that in the time of Alfred the local customs of the several provinces of the kingdom were grown so various, that he found it expedient to compile his dome book, or *liber judicialis*, for the general use of the whole kingdom. This book is said to have been extant so late as the reign of Edward IV. but is now unfortunately lost. It contained, we may probably suppose, the principal maxims of the common law, the penalties for misdemeanors, and the forms of judicial proceedings. Thus much may at least be collected from that injunction to observe it, which we find in the laws of King Edward the Elder, the son of Alfred. *Omnibus qui reipublicæ præfunt etiam atque etiam mando, ut omnibus æquos se præbeant judices perinde ac in judiciali libro scriptum habetur: nec quiquam formident quin jus commune audacter liberèque dicant*.

But the irruption and establishment of the Danes in England, which followed soon after, introduced new customs, and caused this code of Alfred in many provinces to fall into disuse, or at least to be mixed and debased with other laws of a coarser alloy. So that, about the beginning of the 11th century there were three principal systems of laws prevailing in different districts. 1. The *Mercen Lage*, or Mercian laws, which were observed in many of the inland counties, and those bordering on the principality of Wales, the retreat of the ancient Britons; and therefore very probably intermixed with the British or Druidical customs. 2. The *West Saxon Lage*, or laws of the West Saxons, which obtained in the counties to the south and west of the island, from Kent to Devonshire. These were probably much the same with the laws of Alfred above mentioned, being the municipal law of the far most considerable part of his dominions, and particularly including Berkshire, the seat of his peculiar residence. 3. The *Dane Lage*, or Danish law, the very name of which speaks its original and composition. This was principally maintained in the rest of the midland counties, and also on the eastern coast, the part most exposed to the visits of that piratical people. As for the very northern provinces, they were at that time under a distinct government.

Out of these three laws, Roger Hoveden and Ranulphus Cestrensis inform us, King Edward the Confessor extracted one uniform law, or digest of laws, to be observed throughout the whole kingdom; though Hoveden and the author of an old manuscript chronicle assure us likewise, that this work was projected and begun by his grandfather King Edgar. And indeed a general digest of the same nature has been constantly found expedient, and therefore put in practice by other great nations, which were formed from an assemblage of little provinces, governed by peculiar customs. As in Portugal, under King Edward, about the beginning of the 15th century. In Spain, under Alonzo X. who

about

Law of
England.

about the year 1250 executed the plan of his father St Ferdinand, and collected all the provincial customs into one uniform law, in the celebrated code entitled *Las Partidas*. And in Sweden, about the same era, a universal body of common law was compiled out of the particular customs established by the laghman of every province, and entitled the *Land's Lagh*, being analogous to the common law of England.

Both these undertakings, of King Edgar and Edward the Confessor, seem to have been no more than a new edition, or fresh promulgation, of Alfred's code or dome book, with such additions and improvements as the experience of a century and a half had suggested. For Alfred is generally styled by the same historians the *legum Anglicanarum conditor*, as Edward the Confessor is the *restitutor*. These, however, are the laws which our histories so often mention under the name of the *laws of Edward the Confessor*; which our ancestors struggled so hardly to maintain, under the first princes of the Norman line; and which subsequent princes so frequently promised to keep and to restore, as the most popular act they could do, when pressed by foreign emergencies or domestic discontents. These are the laws, that so vigorously withstood the repeated attacks of the civil law; which established in the 12th century a new Roman empire over the most of the states on the continent: states that have lost, and perhaps upon that account, their political liberties; while the free constitution of England, perhaps upon the same account, has been rather improved than debased. These, in short, are the laws which gave rise and origin to that collection of maxims and customs which is now known by the name of the *common law*: A name either given to it, in contradistinction to other laws, as the statute law, the civil law, the law merchant, and the like; or, more probably, as a law common to all the realm, the *ius commune* or *folcright*, mentioned by King Edward the Elder, after the abolition of the several provincial customs, and particular laws before mentioned.

But though this is the most likely foundation of this collection of maxims and customs; yet the maxims and customs so collected, are of higher antiquity than memory or history can reach: nothing being more difficult than to ascertain the precise beginning and first spring of an ancient and long established custom. Whence it is, that in our law the goodness of a custom depends upon its having been used time out of mind; or, in the solemnity of our legal phrase, time whereof the memory of man runneth not to the contrary. This it is that gives it its weight and authority; and of this nature are the maxims and customs which compose the common law, or *lex non scripta*, of this kingdom.

This unwritten, or common law, is properly distinguishable into three kinds: 1. General customs; which are the universal rule of the whole kingdom, and form the common law in its stricter and more usual signification. 2. Particular customs; which for the most part affect only the inhabitants of particular districts. 3. Certain particular laws; which by custom are adopted and used by some particular courts, of pretty general and extensive jurisdiction.

I. As to general customs, or the common law properly so called; this is that law, by which proceedings and determinations in the king's ordinary courts of jus-

tics are guided and directed. This, for the most part, settles the course in which lands descend by inheritance; the manner and form of acquiring and transferring property; the solemnities and obligation of contracts; the rules of expounding wills, deeds, and acts of parliament; the respective remedies of civil injuries; the several species of temporal offences, with the manner and degree of punishment, and an infinite number of minute particulars, which diffuse themselves as extensively as the ordinary distribution of common justice requires. Thus, for example, that there shall be four superior courts of record, the chancery, the king's bench, the common pleas, and the exchequer;—that the eldest son alone is heir to his ancestor;—that property may be acquired and transferred by writing;—that a deed is of no validity unless sealed and delivered; that wills shall be construed more favourably, and deeds more strictly;—that money lent upon bond is recoverable by action of debt;—that breaking the public peace is an offence, and punishable by fine and imprisonment:—all these are doctrines that are not set down in any written statute or ordinance; but depend merely upon immemorial usage, that is, upon common law, for their support.

Some have divided the common law into two principal grounds or foundations: 1. Established customs; such as that, where there are three brothers, the eldest brother shall be heir to the second, in exclusion of the youngest; and, 2. Established rules and maxims; as, “that the king can do no wrong, that no man shall be bound to accuse himself,” and the like. But these seem to be one and the same thing. For the authority of these maxims rests entirely upon general reception and usage; and the only method of proving that this or that maxim is a rule of the common law, is by showing that it hath been always the custom to observe it.

But here a very natural, and very material, question arises: How are these customs or maxims to be known, and by whom is their validity to be determined? The answer is, By the judges in the several courts of justice. They are the depository of the laws; the living oracles who must decide in all cases of doubt, and who are bound by an oath to decide according to the law of the land. Their knowledge of that law is derived from experience and study; from the *viginti annorum lucubrations*, which Fortescue mentions; and from being long personally accustomed to the judicial decisions of their predecessors. And indeed these judicial decisions are the principal and most authoritative evidence, that can be given, of the existence of such a custom as shall form a part of the common law. The judgement itself, and all the proceedings previous thereto, are carefully registered and preserved under the name of *records*, in public repositories set apart for that particular purpose; and to them frequent recourse is had, when any critical question arises, in the determination of which former precedents may give light or assistance. And therefore, even so early as the Conquest, we find the *præteritorum memoria eventorum* reckoned up as one of the chief qualifications of those who were held to be *legibus patrie optime instituti*. For it is an established rule, To abide by former precedents, where the same points come again in litigation, as well to keep the scale of justice even and steady, and not liable to waver

with

Law of
England.

31
Of three
kinds.

32
First branch
of the un-
written
law:
General
customs.

Law of
England.

with every new judge's opinion; as also because the law in that case being solemnly declared and determined, what before was uncertain, and perhaps indifferent, is now become a permanent rule, which is not in the breast of any subsequent judge to alter or vary from according to his private sentiments: he being sworn to determine, not according to his own private judgement, but according to the known laws and customs of the land; not delegated to pronounce a new law, but to maintain and expound the old one. Yet this rule admits of exception, where the former determination is most evidently contrary to reason; much more if it be contrary to the divine law. But even in such cases the subsequent judges do not pretend to make a new law, but to vindicate the old one from misrepresentation. For if it be found that the former decision is manifestly absurd or unjust, it is declared, not that such a sentence was bad law, but that it was not law; that is, that it is not the established custom of the realm, as has been erroneously determined. And hence it is that our lawyers are with justice so copious in their encomiums on the reason of the common law; that they tell us, that the law is the perfection of reason, that it always intends to conform thereto, and that what is not reason is not law. Not that the particular reason of every rule in the law, can at this distance of time be always precisely assigned; but it is sufficient that there be nothing in the rule flatly contradictory to reason, and then the law will presume it to be well founded. And it hath been an ancient observation in the laws of England, that whenever a standing rule of law, of which the reason perhaps could not be remembered or discerned, hath been wantonly broke in upon by statutes or new resolutions, the wisdom of the rule hath in the end appeared from the inconveniences that have followed the innovation.

The doctrine of the law then is this: That precedents and rules must be followed, unless flatly absurd or unjust; for though their reason be not obvious at first view, yet we owe such a deference to former times as not to suppose they acted wholly without consideration. To illustrate this doctrine by examples. It has been determined, time out of mind, that a brother of the half blood shall never succeed as heir to the estate of his half brother, but it shall rather escheat to the king, or other superior lord. Now this is a positive law, fixed and established by custom; which custom is proved by judicial decisions; and therefore can never be departed from by any modern judge without a breach of his oath and the law. For herein there is nothing repugnant to natural justice; though the artificial reason of it, drawn from the feudal law, may not be quite obvious to every body. And therefore on account of a supposed hardship upon the half brother, a modern judge might wish it had been otherwise settled, yet it is not in his power to alter it. But if

any court were now to determine, that an elder brother of the half blood might enter upon and seize any lands that were purchased by his younger brother, no subsequent judges would scruple to declare that such prior determination was unjust, was unreasonable, and therefore was not law. So that the law, and the opinion of the judge, are not always convertible terms, or one and the same thing; since it sometimes may happen that the judge may mistake the law. Upon the whole, however, we may take it as a general rule, "That the decisions of courts of justice are the evidence of what is common law," in the same manner as in the civil law, what the emperor had once determined was to serve for a guide for the future.

The decisions therefore of courts are held in the highest regard, and are not only preserved as authentic records in the treasuries of the several courts, but are handed out to public view in the numerous volumes of reports which furnish the lawyers library. These reports are histories of the several cases, with a short summary of the proceedings, which are preserved at large in the record; the arguments on both sides, and the reasons the court gave for its judgement: taken down in short notes by persons present at the determination. And these serve as indexes to, and also to explain, the records; which always, in matters of consequence and nicety, the judges direct to be searched. The reports are extant in a regular series from the reign of King Edward II. inclusive; and from his time to that of Henry VIII. were taken by the prothonotaries, or chief scribes of the court, at the expence of the crown, and published annually, whence they are known under the denomination of the *year books*. And it is much to be wished that this beneficial custom had, under proper regulations, been continued to this day; for though King James I. at the instance of Lord Bacon, appointed two reporters, with a handsome stipend, for this purpose; yet that wise institution was soon neglected, and from the reign of Henry VIII. to the present time this task has been executed by many private and contemporary hands; who sometimes through haste and inaccuracy, sometimes through mistake and want of skill, have published very crude and imperfect (perhaps contradictory) accounts of one and the same determination. Some of the most valuable of the ancient reports are those published by Lord Chief Justice Coke; a man of infinite learning in his profession, though not a little infected with the pedantry and quaintness of the times he lived in, which appear strongly in all his works. However, his writings are so highly esteemed, that they are generally cited without the author's name (A).

Besides these reporters, there are also other authors, to whom great veneration and respect are paid by the students of the common law. Such are Glanvil and Bracton, Britton, and Fleta, Littleton and Fitzherbert, with

Law of
England.

(A) His reports, for instance, are styled, *κατ' ἐξοχην*, "the reports;" and in quoting them we usually say, 1 or 2 Rep. not 1 or 2 Coke's Rep. as in citing other authors. The reports of Judge Croke are also cited in a peculiar manner, by the name of those princes in whose reigns the cases reported in his three volumes were determined; viz. Queen Elizabeth, King James, King Charles I.; as well as by the number of each volume. For sometimes we call them 1, 2, and 3 Cro.; but more commonly Cro. Eliz. Cro. Jac. and Cro. Car.

Law of
England.Law of
England.

with some others of ancient date, whose treatises are cited as authority; and are evidence that cases have formerly happened in which such and such points were determined, which are now become settled and first principles. One of the last of these methodical writers in point of time, whose works are of any intrinsic authority in the courts of justice, and do not entirely depend on the strength of their quotations from older authors, is the same learned judge we have just mentioned, Sir Edward Coke; who hath written four volumes of Institutes, as he is pleased to call them, though they have little of the institutional method to warrant such a title. The first volume is a very extensive comment upon a little excellent treatise of tenures, compiled by Judge Littleton in the reign of Edward IV. This comment is a rich mine of valuable common law learning, collected and heaped together from the ancient reports and year books, but greatly defective in method. (B). The second volume is a comment upon many old acts of parliament, without any systematical order; the third, a more methodical treatise of the pleas of the crown; and the fourth, an account of the several species of courts (C).

And thus much for the first ground and chief cornerstone of the laws of England; which is generally immemorial custom, or common law, from time to time declared in the decisions of the courts of justice; which decisions are preserved among the public records, explained in the reports, and digested for general use in the authoritative writings of the venerable sages of the law.

The Roman law, as practised in the times of its liberty, paid also a great regard to custom; but not so much as our law: it only then adopting it when the written law was deficient; though the reasons alleged in the Digest will fully justify our practice in making it of equal authority with, when it is not contradicted by, the written law. "For since (says Julianus) the written law binds us for no other reason but because it is approved by the judgement of the people, therefore those laws which the people have approved without writing ought also to bind every body. For where is the difference, whether the people declare their assent to a law by suffrage, or by a uniform course of acting accordingly?" Thus did they reason while Rome had some remains of her freedom; but, when, the imperial tyranny came to be fully established, the civil laws speak a very different language. *Quod principi placuit legis habet vigorem, cum populus ei et in eum omne suum imperium et potestatem conferat*, says Ulpian. *Imperator solus et conditor et interpretis legis existimatur*, says the code. And again, *Sacrilegii instar est rescripto principis obviari*. And indeed it is one of the characteristic marks of British liberty, that the common law depends upon custom: which carries this internal evidence of freedom along with it, that it probably was introduced by the voluntary consent of the people.

VOL. XI. Part II.

II. The second branch of the unwritten laws of England are particular customs, or laws which affect only the inhabitants of particular districts.

These particular customs, or some of them, are without doubt the remains of that multitude of local customs before mentioned, out of which the common law, as it now stands, was collected at first by King Alfred, and afterwards by King Edgar and Edward the Confessor: each district mutually sacrificing some of its own special usages, in order that the whole kingdom might enjoy the benefit of one uniform and universal system of laws. But, for reasons that have been now long forgotten, particular counties, cities, towns, manors, and lordships, were very early indulged with the privilege of abiding by their own customs, in contradistinction to the rest of the nation at large: which privilege is confirmed to them by several acts of parliament.

Such is the custom of gavelkind in Kent and some other parts of the kingdom (though perhaps it was also general till the Norman conquest); which ordains among other things, that not the eldest son only of the father shall succeed to his inheritance, but all the sons alike; and that, though the ancestor be attainted and hanged, yet the heir shall succeed to his estate, without any escheat to the lord.—Such is the custom that prevails in divers ancient boroughs, and therefore called *borough English*, that the youngest son shall inherit the estate, in preference to all his elder brothers.—Such is the custom in other boroughs, that a widow shall be entitled, for her dower, to all her husband's lands; whereas at the common law she shall be endowed of one-third part only.—Such also are the special and particular customs of manors, of which every one has more or less, and which bind all the copyhold tenants that hold of the said manors.—Such likewise is the custom of holding divers inferior courts, with power of trying causes, in cities and trading towns; the right of holding which, when no royal grant can be shown, depends entirely upon immemorial and established usage.—Such, lastly, are many particular customs within the city of London, with regard to trade, apprentices, widows, orphans, and a variety of other matters. All these are contrary to the general law of the land, and are good only by special usage; though the customs of London are also confirmed by act of parliament.

To this head may most properly be referred a particular system of customs used only among one set of the king's subjects, called the *custom of merchants*, or *lex mercatoria*: which, however different from the general rules of the common law, is yet ingrafted into it, and made a part of it; being allowed, for the benefit of trade, to be of the utmost validity in all commercial transactions; for it is a maxim of law, that *cuiuslibet in sua arte credendum est*.

The rules relating to particular customs regard either

4 F

ther

34

(B) It is usually cited either by the name of Co. Litt. or as 1 Inst.

(C) These are cited as 2, 3, or 4 Inst. without any author's name. An honorary distinction, which, we observed, is paid to the works of no other writer; the generality of reports and other tracts being quoted in the name of the compiler, as 2 Ventris, 4 Leonard, 1 Siderfin, and the like.

ther the *proof*, of their existence; their *legality* when proved; or their usual method of *allowance*. And first we will consider the rules of *proof*.

As to gavelkind and borough English, the law takes particular notice of them; and there is no occasion to prove, that such customs actually exist, but only that the lands in question are subject thereto. All other private customs must be particularly pleaded; and as well the existence of such customs must be shown, as that the thing in dispute is within the customs alleged. The trial in both cases (both to show the existence of the custom, as, "That in the manor of Dale lands shall descend only to the heirs male, and never to the heirs female;" and also to show "that the lands in question are within that manor") is by a jury of twelve men, and not by the judges; except the same particular custom has been before tried, determined, and recorded, in the same court.

The customs of London differ from all others in point of trial: for if the existence of the custom be brought in question, it shall not be tried by a jury, but by a certificate from the lord mayor and aldermen by the mouth of their recorder; unless it be such a custom as the corporation is itself interested in, as a right of taking toll, &c. for then the law permits them not to certify on their own behalf.

When a custom is actually proved to exist, the next inquiry is into the legality of it; for if it is not a good custom, it ought to be no longer used. *Malus usus abolendus est*, is an established maxim of the law. To make a particular custom good, the following are necessary requisites:—

35
Rule in
establishing
customs.

1. That it have been used so long, that the memory of man runneth not to the contrary. So that if any one can show the beginning of it, it is no good custom. For which reason, no custom can prevail against an express act of parliament; since the statute itself is a proof of a time when such a custom did not exist.

2. It must have been *continued*. Any interruption would cause a temporary ceasing: the revival gives it a new beginning, which will be within time of memory, and thereupon the custom will be void. But this must be understood with regard to an interruption of the right: for an interruption of the possession only for 10 or 20 years, will not destroy the custom. As if the inhabitants of a parish have a customary right of watering their cattle at a certain pool, the custom is not destroyed, though they do not use it for 10 years; it only becomes more difficult to prove: but if the right be anyhow discontinued for a day, the custom is quite at an end.

3. It must have been *peaceable*, and acquiesced in; not subject to contention and dispute. For as customs owe their original to common consent, their being immemorially disputed, either at law or otherwise, is a proof that such consent was wanting.

4. Customs must be *reasonable*; or rather, taken negatively, they must not be unreasonable. Which is not always, as Sir Edward Coke says, to be understood of every unlearned man's reason; but of artificial and legal reason, warranted by authority of law. Upon which account a custom may be good, though the particular reason of it cannot be assigned; for it sufficeth, if no good legal reason can be assigned against it.

Thus a custom in a parish, that no man shall put his beasts into the common till the third of October, would be good; and yet it would be hard to show the reason why that day in particular is fixed upon rather than the day before or after. But a custom, that no cattle shall be put in till the lord of the manor has first put in his, is unreasonable, and therefore bad: for peradventure the lord will never put in his; and then the tenants will lose all their profits.

5. Customs ought to be *certain*. A custom, that lands shall descend to the most worthy of the owner's blood, is void; for how shall this worth be determined? but a custom to descend to the next male of the blood, exclusive of females, is certain, and therefore good. A custom to pay twopence an acre in lieu of tithes, is good; but to pay sometimes twopence and sometimes threepence, as the occupier of the land pleases, is bad for its uncertainty. Yet a custom, to pay a year's improved value for a fine on a copyhold estate, is good; though the value is a thing uncertain: for the value may at any time be ascertained; and the maxim of law is, *Id certum est, quod certum reddi potest*.

6. Customs, though established by consent, must be (when established) *compulsory*: and not left to the option of every man, whether he will use them or no. Therefore a custom, that all the inhabitants shall be rated toward the maintenance of a bridge, will be good; but a custom, that every man is to contribute thereto at his own pleasure, is idle and absurd, and indeed no custom at all.

7. Lastly, Customs must be *consistent* with each other. One custom cannot be set up in opposition to another. For if both are really customs, then both are of equal antiquity, and both established by mutual consent: which to say of contradictory customs, is absurd. Therefore, if one man prescribes that by custom he has a right to have windows looking into another's garden; the other cannot claim a right by custom to stop up or obstruct those windows: for these two contradictory customs cannot both be good, nor both stand together. He ought rather to deny the existence of the former custom.

Next, as to the *allowance* of special customs. Customs, in derogation of the common law, must be construed strictly. Thus, by the custom of gavelkind, an infant of 15 years may by one species of conveyance (called a *deed of feoffment*) convey away his lands in fee simple, or for ever. Yet this custom does not empower him to use any other conveyance, or even to lease them for seven years: for the custom must be strictly pursued. And, moreover, all special customs must submit to the king's prerogative. Therefore, if the king purchases lands of the nature of gavelkind, where all the sons inherit equally; yet, upon the king's demise, his eldest son shall succeed to those lands alone. And thus much for the second part of the *leges non scriptæ*, or those particular customs which affect particular persons or districts only.

III. The third branch of them are those peculiar laws which by custom are adopted and used only in certain peculiar courts and jurisdictions. And by these are understood the civil and canon laws.

It may seem a little improper, at first view, to rank these laws under the head of *leges non scriptæ*, or unwritten laws, seeing they are set forth by authority in their

36
Third
branch of
the unwrit-
ten law.

Law of
England.

their pandects, their codes, and their institutions; their councils, decrees, and decretals; and enforced by an immense number of expositions, decisions, and treatises of the learned in both branches of the law. But this is done after the example of Sir Matthew Hale, because it is most plain, that it is not on account of their being written laws, that either the canon law, or the civil law, have any obligation within this kingdom: neither do their force and efficacy depend upon their own intrinsic authority; which is the case of our written laws or acts of parliament. They bind not the subjects of England, because their materials were collected from popes or emperors, were digested by Justinian, or declared to be authentic by Gregory. These considerations give them no authority here: for the legislature of England doth not, nor ever did, recognize any foreign power, as superior or equal to it in this kingdom; or as having the right to give law to any the meanest of its subjects. But all the strength that either the papal or imperial laws have obtained in this realm (or indeed in any other kingdom in Europe) is only because they have been admitted and received by immemorial usage and custom in some particular cases, and some particular courts; and then they form a branch of the *leges non scriptæ*, or customary law: or else, because they are in some other cases introduced by consent of parliament, and then they owe their validity to the *leges scriptæ*, or statute law. This is expressly declared in those remarkable words of the statute 25 Hen. VIII. c. 21. addressed to the king's royal majesty.—“This your grace's realm, recognizing no superior under God but only your grace, hath been and is free from subjection to any man's laws, but only to such as have been devised, made, and ordained within this realm for the wealth of the same; or to such other as, by sufferance of your grace and your progenitors, the people of this your realm have taken at their free liberty, by their own consent, to be used among them; and have bound themselves by long use and custom to the observance of the same: not as to the observance of the laws of any foreign prince, potentate, or prelate; but as to the customary and ancient laws of this realm, originally established as laws of the same, by the said sufferance, consents, and custom; and none otherwise.”

37
Civil law.

1. By the civil law, absolutely taken, is generally understood the civil or municipal law of the Roman empire, as comprised in the Institutes, the Code, and the Digest of the emperor Justinian, and the novel constitutions of himself and some of his successors; of which it may not be amiss to give a short and general account.

The Roman law (founded first upon the regal constitutions of their ancient kings, next upon the 12 tables of the decemviri, then upon the laws or statutes enacted by the senate or people, the edicts of the prætor, and the *responsa prudentium* or opinions of learned lawyers, and lastly upon the imperial decrees or constitutions of successive emperors) had grown to so great a bulk, or, as Livy expresses it, *tam immensus aliarum super alias acervatarum legum cumulus*, that they were computed to be many camels load by an author who preceded Justinian. This was in part remedied by the collections of three private lawyers, Gregorius, Hermogenes, and Papirius; and then by the emperor Theo-

dofius the younger, by whose orders a code was compiled, A. D. 438, being a methodical collection of all the imperial constitutions then in force: which Theodosian code was the only book of civil law received as authentic in the western part of Europe, till many centuries after; and to this it is probable that the Franks and Goths might frequently pay some regard, in framing legal constitutions for their newly erected kingdoms. For Justinian commanded only in the eastern remains of the empire; and it was under his auspices, that the present body of civil law was compiled and finished by Trebonian and other lawyers, about the year 533.

This consists of, 1. The Institutes; which contain the elements or first principles of the Roman law, in four books. 2. The Digests or Pandects, in 50 books; containing the opinions and writings of eminent lawyers, digested in a systematical method. 3. A new code, or collection of imperial constitutions; the lapse of a whole century having rendered the former code of Theodosius imperfect. 4. The Novels, or new constitutions, posterior in time to the other books, and amounting to a supplement to the code: containing new decrees of successive emperors, as new questions happened to arise. These form the body of Roman law, or *corpus juris civilis*, as published about the time of Justinian: which, however, fell soon into neglect and oblivion, till about the year 1130, when a copy of the Digests was found at Amalfi in Italy; which accident, concurring with the policy of the Roman ecclesiastics, suddenly gave new vogue and authority to the civil law, introduced it into several nations, and occasioned that mighty inundation of voluminous comments, with which this system of law, more than any other, is now loaded.

2. The canon law is a body of Roman ecclesiastical law, relative to such matters as that church either has, or pretends to have, the proper jurisdiction over. This is compiled from the opinions of the ancient Latin fathers, the decrees of general councils, the decretal epistles and bulls of the holy see. All which lay in the same disorder and confusion as the Roman civil law: till, about the year 1151, one Gratian an Italian monk, animated by the discovery of Justinian's Pandects, reduced the ecclesiastical constitutions also into some method, in three books; which he entitled *Concordia discordantium canonum*, but which are generally known by the name of *Decretum Gratiani*. These reached as low as the time of Pope Alexander III. The subsequent papal decrees, to the pontificate of Gregory IX. were published in much the same method under the auspices of that pope, about the year 1230, in five books; entitled *Decretalia Gregorii noni*. A sixth book was added by Boniface VIII. about the year 1298, which is called *Sextus Decretalium*. The Clementine constitutions, or decrees of Clement V. were in like manner authenticated in 1317 by his successor John XXII; who also published 20 constitutions of his own, called *Extravagantes Joannis*: all which in some measure answer to the novels of the civil law. To these have been since added some decrees of latter popes, in five books, called *Extravagantes Communes*. And all these together, Gratian's decree, Gregory's decretals, the sixth decretal, the Clementine constitutions, and the Extravagants of John and his successors,

Law of
England.

38

39
Canon law.

Law of
England.

form the *corpus juris canonici*, or body of the Roman canon law.

Besides these pontifical collections, which during the times of popery were received as authentic in this island, as well as in other parts of Christendom, there is also a kind of national canon law, composed of legatine and provincial constitutions, and adapted only to the exigencies of this church and kingdom. The legatine constitutions were ecclesiastical laws, enacted in national synods, held under the cardinals Otho and Othobon, legates from Pope Gregory IX. and Pope Clement IV. in the reign of King Henry III. about the years 1220 and 1268. The provincial constitutions are principally the decrees of provincial synods, held under divers archbishops of Canterbury, from Stephen Langton in the reign of Henry III. to Henry Chichele in the reign of Henry V.; and adopted also by the province of York in the reign of Henry VI. At the dawn of the Reformation, in the reign of King Henry VIII. it was enacted in parliament, that a review should be had of the canon law; and till such review should be made, all canons, constitutions, ordinances and synodals provincial, being then already made, and not repugnant to the law of the land or the king's prerogative, should still be used and executed. And, as no such review has yet been perfected, upon this statute now depends the authority of the canon law in England.

As for the canons enacted by the clergy under James I. in the year 1603, and never confirmed in parliament, it has been solemnly adjudged upon the principles of law and the constitution, that where they are not merely declaratory of the ancient canon law, but are introductory of new regulations, they do not bind the laity, whatever regard the clergy may think proper to pay them.

40

There are four species of courts, in which the civil and canon laws are permitted under different restrictions to be used. 1. The courts of the archbishop and bishops, and their derivative officers; usually called *courts Christian*, (*curiæ Christianitatis*), or the *ecclesiastical courts*. 2. The military courts. 3. The courts of admiralty. 4. The courts of the two universities. In all, their reception in general, and the different degrees of that reception, are grounded entirely upon custom; corroborated in the latter instance by act of parliament, ratifying those charters which confirm the customary law of the universities. The more minute consideration of them will fall under their proper articles. It will suffice at present to remark a few

Law of
England.

particulars relative to them all, which may serve to inculcate more strongly the doctrine laid down concerning them.

1. And first, The courts of common law have the superintendency over these courts; to keep them within their jurisdictions; to determine wherein they exceed them; to restrain and prohibit such excesses; and (in case of contumacy) to punish the officer who executes, and in some cases the judge who enforces, the sentence so declared to be illegal.

2. The common law has reserved to itself the exposition of all such acts of parliament, as concern either the extent of these courts, or the matters depending before them. And therefore, if these courts either refuse to allow these acts of parliament, or will expound them in any other sense than what the common law puts upon them, the king's courts at Westminster will grant prohibitions to restrain and controul them.

3. An appeal lies from all these courts to the king, in the last resort; which proves that the jurisdiction exercised in them is derived from the crown of England, and not from any foreign potentate, or intrinsic authority of their own.—And, from these three strong marks and ensigns of superiority, it appears beyond a doubt, that the civil and canon laws, though admitted in some cases by custom in some courts, are only subordinate and *leges sub graviore lege*; and that thus admitted, restrained, altered, new-modelled, and amended, they are by no means with us a distinct independent species of laws, but are inferior branches of the customary or unwritten laws of England, properly called the *king's ecclesiastical*, the *king's military*, the *king's maritime*, or the *king's academical laws*.

Let us next proceed to the *leges scriptæ*, the written laws of the kingdom; which are statutes, acts, or edicts, made by the king's majesty, by and with the advice of the lords spiritual and temporal and commons in parliament assembled. The oldest of these now extant, and printed in our statute books, is the famous *magna charta*, as confirmed in parliament 9 Hen. III. though doubtless there were many acts before that time, the records of which are now lost, and the determinations of them perhaps at present currently received for the maxims of the old common law.

The manner of making these statutes being explained under the articles BILL and PARLIAMENT, we shall here only take notice of the different kinds of statutes; and of some general rules with regard to their construction (D).

First, As to their several kinds. Statutes are either ⁴² *general* ^{Kinds of} *statutes*.

(D) The method of citing these acts of parliament is various. Many of the ancient statutes are called after the name of the place where the parliament was held that made them; as the statutes of Merton and Marleberge, of Westminster, Gloucester, and Winchester. Others are denominated entirely from their subject; as the statutes of Wales and Ireland, the *articuli cleri*, and the *prerogativa regis*. Some are distinguished by their initial words, a method of citing very ancient; being used by the Jews, in denominating the books of the Pentateuch; by the Christian church, in distinguishing their hymns and divine offices; by the Romanists, in describing their papal bulls; and in the sort by the whole body of ancient civilians and canonists, among whom this method of citation generally prevailed, not only with regard to chapters, but inferior sections also; in imitation of all which we still call some of the old statutes by their initial words, as the statute of *Quia emptores*, and that of *Circumspecte agatis*. But the most usual method of citing them, especially since the time of Edward II. is by naming the year of the king's reign in which the statute was made, together with the chapter or particular act, according to its numeral order; as, 9 Geo. II. c. 4. For all the acts of one session,

Law of
England.Law of
England.

general or *special*, public or private. A general or public act is an universal rule that regards the whole community: and of this the courts of law are bound to take notice judicially and *ex officio*, without the statute being particularly pleaded, or formally set forth, by the party who claims an advantage under it. Special or private acts are rather exceptions than rules, being those which only operate upon particular persons and private concerns; such as the Romans entitled *senatus decreta*, in contradistinction to the *senatus consulta*, which regarded the whole community; and of these the judges are not bound to take notice, unless they be formerly shown and pleaded. Thus, to show the distinction, the statute 13 Eliz. c. 10. to prevent spiritual persons from making leases for longer terms than 21 years or three lives, is a public act; it being a rule prescribed to the whole body of spiritual persons in the nation: but an act to enable the bishop of Chester to make a lease to A. B. for 60 years, is an exception to this rule; it concerns only the parties and the bishop's successors, and is therefore a private act.

Statutes also are either *declaratory* of the common law, or *remedial* of some defects therein. Declaratory, where the old custom of the kingdom is almost fallen into disuse, or become disputable; in which case the parliament has thought proper, *in perpetuum rei testimonium*, and for avoiding all doubts and difficulties, to declare what the common law is and ever hath been. Thus the statute of treasons, 25 Edw. III. cap. 2. doth not make any new species of treasons: but only, for the benefit of the subject, declares and enumerates those several kinds of offence which before were treason at the common law. Remedial statutes are those which are made to supply such defects, and abridge such superfluities, in the common law, as arise either from the general imperfection of all human laws; from change of time and circumstances, from the mistakes and unadvised determinations of unlearned judges, or from any other cause whatsoever. And this being done, either by enlarging the common law where it was too narrow and circumscribed, or by restraining it where it was too lax and luxuriant, hath occasioned another subordinate division of remedial acts of parliament into *enlarging* and *restraining* statutes. To instance again in the case of treason. Clipping the current coin of the kingdom was an offence not sufficiently guarded against by the common law: therefore it was thought expedient by statute 5 Eliz. c. 11. to make it high treason, which it was not at the common law: so that this was an *enlarging* statute. At common law, also, spiritual corporations might lease out their estates for any term of years, till prevented by the statute 13 Eliz. before mentioned: this was therefore a *restraining* statute.

Secondly, The rules to be observed with regard to the construction of statutes are principally these which follow.

1. There are three points to be considered in the

construction of all remedial statutes; the old law, the mischief, and the remedy; that is, how the common law stood at the making of the act; what the mischief was, for which the common law did not provide; and what remedy the parliament hath provided to cure this mischief. And it is the business of the judges so to construe the act, as to suppress the mischief and advance the remedy. Let us instance again in the same restraining statute of 13 Eliz. c. 10. By the common law, ecclesiastical corporations might let as long leases as they thought proper: the mischief was, that they let long and unreasonable leases, to the impoverishment of their successors: the remedy applied by the statute was by making void all leases by ecclesiastical bodies for longer terms than three lives or 21 years. Now in the construction of this statute it is held, that leases, though for a longer term, if made by a bishop, are not void during the bishop's continuance in his see; or, if made by a dean and chapter, they are not void during the continuance of the dean; for the act was made for the benefit and protection of the successor. The mischief is therefore sufficiently suppressed by vacating them after the determination of the interest of the granters; but the leases, during their continuance, being not within the mischief, are not within the remedy.

2. A statute, which treats of things or persons of an inferior rank, cannot by any *general words* be extended to those of a superior. So a statute, treating of "deans, prebendaries, parsons, vicars, and others having spiritual promotion," is held not to extend to bishops, though they have spiritual promotion; deans being the highest persons named, and bishops being of a still higher order.

3. Penal statutes must be construed strictly. Thus the statute 1 Edw. VI. c. 12. having enacted that those who are convicted of stealing *horses* should not have the benefit of clergy, the judges conceived that this did not extend to him who should steal but one *horse*, and therefore procured a new act for that purpose in the following year. And, to come nearer to our own times, by the statute 14 Geo. II. c. 6. stealing *sheep or other cattle*, was made felony without benefit of clergy. But these general words, "or other cattle," being looked upon as much too loose to create a capital offence, the act was held to extend to nothing but mere sheep. And therefore, in the next sessions, it was found necessary to make another statute, 15 Geo. II. c. 34. extending the former to bulls, cows, oxen, steers, bullocks, heifers, calves, and lambs, by name.

4. Statutes against frauds are to be liberally and beneficially expounded. This may seem a contradiction to the last rule: most statutes against frauds being in their consequences penal. But this difference is here to be taken: where the statute acts upon the offender, and inflicts a penalty, as the pillory or a fine, it is then to be taken strictly; but when the statute acts upon the offence, by setting aside the fraudulent transaction, here

43
Construction
of
statutes.

session of parliament taken together made properly but one statute: and therefore, when two sessions have been held in one year, we usually mention stat. 1. or 2. Thus the bill of rights is cited, as 1 W. & M. st. 2. c. 2. signifying that it is the second chapter or act of the second statute, or the laws made in the second sessions of parliament held in the first year of King William and Queen Mary.

here it is to be construed liberally. Upon this footing the statute of 13 Eliz. c. 5. which voids all gifts of goods, &c. made to defraud creditors *and others*, was held to extend by the general words so a gift made to defraud the queen of a forfeiture.

5. One part of a statute must be so construed by another, that the whole may (if possible) stand: *ut res magis valeat quam pereat*. As if land be vested in the king and his heirs by act of parliament, saving the right of A; and A has at that time a lease of it for three years; here A shall hold it for his term of three years, and afterwards it shall go to the king. For this interpretation furnishes matter for every clause of the statute to work and operate upon. But,

6. A saving, totally repugnant to the body of the act, is void. If therefore an act of parliament vests land in the king and his heirs, saving the right of all persons whatsoever; or vests the land of A in the king, saving the right of A: in either of these cases the saving is totally repugnant to the body of the statute, and (if good) would render the statute of no effect or operation; and therefore the saving is void, and the land vests absolutely in the king.

7. Where the common law and a statute differ, the common law gives place to the statute; and an old statute gives place to a new one. And this upon the general principle laid down in the last section, that *leges posteriores priores contrarias abrogant*. But this is to be understood only when the latter statute is couched in negative terms, or by its matter necessarily implies a negative. As if a former act says, that a juror upon such a trial shall have twenty pounds a-year, and a new statute comes and says he shall have twenty merks; here the latter statute, though it does not express, yet necessarily implies, a negative, and virtually repeals the former. For if twenty merks be made qualification sufficient, the former statute which requires twenty pounds is at an end. But if both the acts be merely affirmative, and the substance such that both may stand together, here the latter does not repeal the former, but they shall both have a concurrent efficacy. If by a former law an offence be indictable at the quarter sessions, and a latter law makes the same offence indictable at the assizes; here the jurisdiction of the sessions is not taken away, but both have a concurrent jurisdiction, and the offender may be prosecuted at either: unless the new statute subjoins express negative words; as, that the offence shall be indictable at the assizes, *and not elsewhere*.

8. If a statute, that repeals another, is itself repealed afterwards, the first statute is hereby revived, without any formal words for that purpose. So when the statutes of 26 and 35 Henry VIII. declaring the king to be the supreme head of the church, were repealed by a statute 1 and 2 Philip and Mary, and this latter statute was afterwards repealed by an act of 1 Eliz. there needed not any express word of revival in Queen Elizabeth's statute, but these acts of King Henry were impliedly and virtually revived.

9. Acts of parliament derogatory from the power of subsequent parliaments bind not. So the statute 11 Hen. VII. c. 1. which directs, that no person for assisting a king *de facto* shall be attainted of treason by act of parliament or otherwise, is held to be good only as to common prosecutions for high treason;

but will not restrain or clog any parliamentary attainder. Because the legislator, being in truth the sovereign power, is always of equal, always of absolute authority: it acknowledges no superior upon earth, which the prior legislature must have been if its ordinances could bind the present parliament. And upon the same principle Cicero, in his letters to Atticus, treats with a proper contempt these restraining clauses, which endeavour to tie up the hand of succeeding legislatures. "When you repeal the law itself (says he), you at the same time repeal the prohibitory clause which guards against such repeal."

10. Lastly, Acts of parliament that are impossible to be performed are of no validity: and if there arise out of them collaterally any absurd consequences, manifestly contradictory to common reason, they are with regard to those collateral consequences void. We lay down the rule with these restrictions; though we know it is generally laid down more largely, that acts of parliament contrary to reason are void. But if the parliament will positively enact a thing to be done which is unreasonable, we know of no power that can controul it: and the examples usually alleged in support of this sense of the rule do none of them prove that where the main object of a statute is unreasonable, the judges are at liberty to reject it; for that were to set the judicial power above that of the legislature, which would be subversive of all government. But where some collateral matter arises out of the general words, and happens to be unreasonable; there the judges are in decency to conclude that this consequence was not foreseen by the parliament, and therefore they are at liberty to expound the statute by equity, and only *quoad hoc* disregard it. Thus if an act of parliament gives a man power to try all causes that arise within his manor of Dale; yet, if a cause should arise in which he himself is party, the act is construed not to extend to that, because it is unreasonable that any man should determine his own quarrel. But, if we could conceive it possible for the parliament to enact, that he should try as well his own causes as those of other persons, there is no court that has power to defeat the intent of the legislature, when couched in such evident and express words as leave no doubt whether it was the intent of the legislature or not.

These are the several grounds of the laws of England: over and above which, equity is also frequently called in to assist, to moderate, and to explain them. What equity is, and how impossible in its very essence to be reduced to stated rules, hath been shown above. It may be sufficient, therefore, to add in this place, that, besides the liberality of sentiment with which our common law judges interpret acts of parliament, and such rules of the unwritten law as are not of a positive kind, there are also courts of equity established for the benefit of the subject, to detect latent frauds and concealments, which the process of the courts of law is not adapted to reach; to enforce the execution of such matters of trust and confidence, as are binding in conscience, though not cognizable in a court of law; to deliver from such dangers as are owing to misfortune or oversight; and to give a more specific relief, and more adapted to the circumstances of the case, than can always be obtained by the generality of the rules of the positive or common law. This is the business of

of the courts of equity, which however are only conversant in matters of property. For the freedom of our constitution will not permit, that in criminal cases a power should be lodged in any judge to construe the law otherwise than according to the letter. This caution, while it admirably protects the public liberty, can never bear hard upon individuals. A man cannot suffer more punishment than the law assigns, but he may suffer less. The laws cannot be strained by partiality to inflict a penalty beyond what the letter will warrant; but, in cases where the letter induces any apparent hardship, the crown has the power to pardon.

The objects of the laws of England are, 1. The rights of persons. 2. The rights of things. 3. Private wrongs. 4. Public wrongs.

CHAP. I. Of the RIGHTS of PERSONS.

SECT. I. Of the Absolute Rights of Individuals.

xliv. (1.) THE objects of the *Laws* of England are, 1. *Rights*, 2. *Wrongs*.

(2.) *Rights* are the rights of *persons*, or the rights of *things*.

(3.) The rights of *persons* are such as concern, and are annexed to, the persons of men: and, when the person to whom they are due is regarded, they are called (simply) *rights*; but, when we consider the person from whom they are due, they are then denominated, *duties*.

(4.) *Persons* are either *natural*, that is, such as they are formed by nature; or *artificial*, that is, created by human policy, as bodies politic or *corporations*.

(5.) The rights of *natural* persons are, 1. *Absolute*, or such as belong to individuals. 2. *Relative*, or such as regard members of society.

(6.) The *absolute rights of individuals* regarded by the municipal laws (which pay no attention to *duties*, of the absolute kind), compose what is called political or civil *liberty*.

(7.) Political or civil *liberty* is the natural liberty of mankind, so far restrained by human laws as is necessary for the good of society.

(8.) The absolute rights or civil liberties of Englishmen, as frequently declared in parliament, are principally three: the right of *personal security*, of *personal liberty*, and of *private property*.

(9.) The right of *personal security* consists in the legal enjoyment of life, limb, body, health, and reputation.

(10.) The right of *personal liberty* consists in the free power of loco-motion, without illegal restraint or banishment.

(11.) The right of *private property* consists in every man's free use and disposal of his own lawful acquisitions, without injury or illegal diminution.

(12.) Besides these three *primary* rights, there are others which are *secondary* and subordinate; viz. (to preserve the former from unlawful attacks). 1. The constitution and power of parliaments; 2. The limitation of the king's prerogative;—and (to vindicate them when actually violated); 3. The regular administration of public justice; 4. The right of petitioning for re-

dress of grievances; 5. The right of having and using arms for self-defence.

SECT. II. Of the Parliament.

(1.) The *relations* of persons are, 1. *Public*; 2. *Private*. The *public* relations are those of *magistrates* and *people*. *Magistrates* are *superior* or *subordinate*. And of *supreme* magistrates, in England, the *parliament* is the *supreme legislative*, the *king* the *supreme executive*.

(2.) *Parliaments*, in some shape, are of as high antiquity as the Saxon government in this island; and have subsisted, in their present form, at least five hundred years.

(3.) The parliament is assembled by the king's writs, and its sitting must not be intermitted above three years.

(4.) Its constituent parts are the king's majesty, the lords spiritual and temporal, and the commons represented by their members: each of which parts has a negative, or necessary, voice in making laws.

(5.) With regard to the *general* law of parliament; its power is absolute: each house is the judge of its own privileges; and all the members of either house are entitled to the privilege of speech, of person, of their domestics, and of their lands and goods.

(6.) The *peculiar* privileges of the lords (besides their judicial capacity), are, to hunt in the king's forests; to be attended by the pages of the law; to make proxies; to enter protests; and to regulate the election of the 16 peers of North Britain.

(7.) The *peculiar* privileges of the commons are, to frame taxes for the subject; and to determine the merits of their own elections, with regard to the qualifications of the electors and elected, and the proceedings at elections themselves.

(8.) Bills are usually twice read in each house, committed, engrossed, and then read a third time; and when they have obtained the concurrence of both houses, and received the royal assent, they become *acts* of parliament.

(9.) The houses may adjourn themselves; but the king only can prorogue the parliament.

(10.) Parliaments are dissolved, 1. At the king's will. 2. By the demise of the crown, that is, within six months after. 3. By length of time, or having sat for the space of seven years.

SECT. III. Of the King and his Title.

(1.) The *supreme executive* power of this kingdom is lodged in a single person; the king or queen. xlv.

(2.) This royal person may be considered with regard to, 1. His title. 2. His royal family. 3. His councils. 4. His duties. 5. His prerogative. 6. His revenue.

(3.) With regard to his *title*; the crown of England, by the positive constitution of the kingdom, hath ever been descendible, and so continues.

(4.) The crown is descendible in a course peculiar to itself.

(5.) This course of descent is subject to limitation by parliament.

(6.) Notwithstanding such limitations, the crown retains

Law of
England
Epitomized.

retains its descendible quality, and becomes hereditary in the prince to whom it is limited.

(7.) King Egbert, King Canute, and King William I. have been successively constituted the common stocks, or ancestors, of this descent.

(8.) At the Revolution the convention of estates, or representative body of the nation, declared, that the misconduct of King James II. amounted to an abdication of the government, and that the throne was thereby *vacant*.

(9.) In consequence of this vacancy, and from a regard to the ancient line, the convention appointed the next Protestant heirs of the blood royal of King Charles I. to fill the vacant throne, in the old order of succession; with a temporary exception, or preference, to the person of King William III.

(10.) On the impending failure of the Protestant line of King Charles I. (whereby the throne might again have become vacant) the king and parliament extended the settlement of the crown to the Protestant line of King James I. viz. to the princess Sophia of Hanover, and the heirs of her body, being Protestants: And she is now the common stock, from whom the heirs of the crown must descend.

SECT. IV. *Of the King's Royal Family.*

xlvi. (1.) The king's royal *family* consists, first, of the *queen*: who is regnant, consort, or dowager.

(2.) The *queen consort* is a public person, and hath many personal prerogatives and distinct revenues.

(3.) The prince and princess of Wales, and the princess-royal, are peculiarly regarded by the law.

(4.) The other princes of the blood-royal are only entitled to precedence.

SECT. V. *Of the Councils belonging to the King.*

xlviii. (1.) The *king's councils* are, 1. The *parliament*. 2. The great council of *peers*. 3. The *judges*, for matters of law. 4. The *privy council*.

(2.) In *privy counsellors* may be considered, 1. Their creation. 2. Their qualifications. 3. Their duties. 4. Their powers. 5. Their privileges. 6. Their dissolution.

SECT. VI. *Of the King's Duties.*

xliv. (1.) The *king's duties*, are to govern his people according to law, to execute judgment in mercy, and to maintain the established religion. These are his part of the original contract between himself and the people; founded in the nature of society, and expressed in his oath at the coronation.

SECT. VII. *Of the King's Prerogative.*

l. (1.) Prerogative is that special power and pre-eminence which the king hath above other persons, and out of the ordinary course of law, in right of his regal dignity.

(2.) Such *prerogatives* are either *direct*, or *incidental*. The *incidental*, arising out of other matters, are considered as they arise: We now treat only of the *direct*.

(3.) The *direct* prerogatives regard, 1. The *king's dignity*, or royal character; 2. His *authority*, or regal power; 3. His *revenue*, or royal income.

(4.) The *king's dignity* consists in the legal attributes of, 1. Personal sovereignty. 2. Absolute perfection. 3. Political perpetuity.

(5.) In the *king's authority*, or regal power, consists the executive part of government.

(6.) In *foreign* concerns; the *king*, as the representative of the nation, has the right or *prerogative*, 1. Of sending and receiving ambassadors. 2. Of making treaties. 3. Of proclaiming war or peace. 4. Of issuing reprisals. 5. Of granting safe conducts.

(7.) In *domestic* affairs; the *king* is, first, a constituent part of the supreme legislative power; hath a negative upon all new laws; and is bound by no statute, unless specially named therein.

(8.) He is also considered as the general of the kingdom, and may raise fleets and armies, build forts, appoint havens, erect beacons, prohibit the exportation of arms and ammunition, and confine his subjects within the realm, or recall them from foreign parts.

(9.) The *king* is also the fountain of justice, and general conservator of the peace; and therefore may erect courts (where he hath a legal ubiquity), prosecute offenders, pardon crimes, and issue proclamations.

(10.) He is likewise the fountain of honour, of office, and of privilege.

(11.) He is also the arbiter of *domestic* commerce; (not of *foreign*, which is regulated by the law of merchants); and is therefore entitled to the erection of public marts, the regulation of weights and measures, and the coinage or legitimation of money.

(12.) The *king* is, lastly, the supreme head of the church; and, as such, convenes, regulates, and dissolves synods, nominates bishops, and receives appeals in all ecclesiastical causes.

SECT. VIII. *Of the King's Revenue.*

(1.) The *king's revenue* is either *ordinary* or *extraordinary*. And the *ordinary* is, 1. *Ecclesiastical*. 2. *Temporal*. li.

(2.) The *king's ecclesiastical* revenue consists in, 1. The custody of the temporalities of vacant bishoprics. 2. Corodies and pensions. 3. Extra-parochial tithes. 4. The first fruits and tenths of benefices.

(3.) The *king's ordinary temporal* revenue consists in, 1. The demesne lands of the crown. 2. The hereditary excise; being part of the consideration for the purchase of his feudal profits, and the prerogatives of purveyance and pre-emption. 3. An annual sum issuing from the duty on wine licences; being the residue of the same consideration. 4. His forests. 5. His courts of justice. 6. Royal fish. 7. Wrecks, and things jetam, flotam, and ligan. 8. Royal mines. 9. Treasure trove. 10. Waifs. 11. Estrays. 12. Forfeitures for offences, and deodands. 13. Escheats of lands. 14. Custody of idiots and lunatics.

(4.) The *king's extraordinary revenue*, consists in aids, subsidies, and supplies, granted him by the commons in parliament.

(5.) Heretofore these were usually raised by grants of the (nominal) *tenth* or *fifteenth* part of the *moveables*.

Law of
England
Epitomised.

ables in every township; or by scutages, hidages, and talliages; which were succeeded by *subsidies* assessed upon individuals, with respect to their lands and goods.

(6.) A new system of taxation took place about the time of the Revolution: our modern taxes are therefore,

1. *Annual.* 2. *Perpetual.*

(7.) The *annual taxes* are, 1. The land tax, or the ancient subsidy raised upon a new assessment. 2. The malt tax, being an annual excise on malt, mum, cyder, and perry.

(8.) The *perpetual taxes* are, 1. The customs, or tonnage and poundage of all merchandise exported or imported. 2. The excise duty, or inland imposition on a great variety of commodities. 3. The salt duty, or excise on salt. 4. The post office, or duty for the carriage of letters. 5. The stamp duty on paper, parchment, &c. 6. The duty on houses and windows. 7. The duty on licences for hackney coaches and chairs. 8. The duty on offices and pensions.

(9.) Part of this revenue is applied to pay the interest of the national debt, till the principal is discharged by parliament.

(10.) The produce of these several taxes were originally separate and *specific funds*, to answer *specific loans* upon their respective credits; but are now consolidated by parliament into three principal funds, the *aggregate, general, and South sea* funds, to answer all the debts of the nation: the public faith being also superadded, to supply deficiencies, and strengthen the security of the whole.

(11.) The surplusses of these funds, after paying the interest of the national debt, are carried together, and denominated the *sinking fund*: which, unless otherwise appropriated by parliament, is annually to be applied towards paying off some part of the principal.

(12.) But, previous to this, the *aggregate fund* is now charged with an annual sum for the *civil list*; which is the immediate proper revenue of the crown, settled by parliament on the king at his accession, for defraying the charges of civil government.

SECT. IX. *Of Subordinate Magistrates.*

(1.) Subordinate magistrates, of the most general use and authority, are, 1. *Sheriffs.* 2. *Coroners.* 3. *Justices of the Peace.* 4. *Constables.* 5. *Surveyors of the highways.* 6. *Overseers of the poor.*

(2.) The *sheriff* is the keeper of each county, annually nominated in due form by the king; and is (within his county) a judge, a conservator of the peace, a ministerial officer, and the king's bailiff.

(3.) *Coroners* are permanent officers of the crown in each county, elected by the freeholders; whose office it is to make inquiry concerning the death of the king's subjects, and certain revenues of the crown; and also, in particular cases, to supply the office of sheriff.

(4.) *Justices of the peace* are magistrates in each county, statutorily qualified, and commissioned by the king's majesty: with authority to conserve the peace; to hear and determine felonies, and other misdemeanors; and to do many other acts committed to their charge by particular statutes.

(5.) *Constables* are officers of hundreds and townships, appointed at the leet, and empowered to preserve

VOL. XI. Part II.

the peace, to keep watch and ward, and to apprehend offenders.

(6.) *Surveyors of the highways* are officers appointed annually in every parish; to remove annoyances in, and to direct the reparation of the public roads.

(7.) *Overseers of the poor* are officers appointed annually in every parish; to relieve such impotent, and employ such sturdy poor, as are *settled* in each parish,—by birth,—by parentage,—by marriage,—or by 40 days residence; accompanied with, 1. Notice. 2. Renting a tenement of ten pounds annual value. 3. Paying their assessed taxations. 4. Serving an annual office. 5. Hiring and service for a year. 6. Apprenticeship for seven years. 7. Having a sufficient estate in the parish.

SECT. X. *Of the People, whether Aliens, Denizens, or Natives.*

(1.) The *people* are either *aliens*, that is, born out of the dominions or allegiance of the crown of Great Britain; or *natives*, that is, born within it.

(2.) Allegiance is the duty of all subjects; being the reciprocal tie of the people to the prince, in return for the protection he affords them; and, in *natives*, this duty of allegiance is natural and perpetual: in *aliens*, is local and temporary only.

(3.) The rights of *natives* are also natural and perpetual: those of *aliens*, local and temporary only; unless they be made denizens by the king, or naturalized by parliament.

SECT. XI. *Of the Clergy.*

(1.) The people, whether aliens, denizens, or natives, are also either *clergy*, that is, all persons in holy orders, or in ecclesiastical offices: or *laity*, which comprehends the rest of the nation.

(2.) The *clerical* part of the nation, thus defined, are, 1. Archbishops and bishops; who are elected by their several chapters at the nomination of the crown, and afterwards confirmed and consecrated by each other. 2. Deans and chapters. 3. Archdeacons. 4. Rural deans. 5. Parsons (under which are included appropriators) and vicars; to whom there are generally requisite, holy orders, presentation, institution, and induction. 6. Curates. To which may be added, 7. Church wardens. 8. Parish clerks and sextons.

SECT. XII. *Of the Civil State.*

(1.) The *laity* are divisible into three states; *civil, military, and maritime.*

(2.) The *civil* state (which includes all the nation, except the clergy, the army, and the navy, and many individuals among them also), may be divided into the *nobility* and the *commonalty.*

(3.) The *nobility* are dukes, marquises, earls, viscounts, and barons. These had anciently duties annexed to their respective honours: they are created either by writ, that is, by summons to parliament; or by the king's letters patent, that is, by royal grant: and they enjoy many privileges exclusive of their senatorial capacity.

4 G

(4.) The

Law of
England
Epitomised.

lii.

liv.

lv.

Law of
England
Epitomised

(4.) The *commonalty* consist of knights of the garter, knights bannerets, baronets, knights of the bath, knights bachelors, esquires, gentlemen, yeomen, tradesmen, artificers, and labourers.

SECT. XIII. *Of the Military and Maritime States.*

lvi.

(1.) The *military* state, by the standing constitutional law, consists of the militia of each county, raised from among the people by lot, officered by the principal landholders, and commanded by the lord lieutenant.

(2.) The more disciplined occasional troops of the kingdom are kept on foot only from year to year by parliament; and, during that period, are governed by martial law, or arbitrary articles of war, formed at the pleasure of the crown.

(3.) The *maritime* state consists of the officers and mariners of the British navy; who are governed by express and permanent laws, or the articles of the navy, established by act of parliament.

SECT. XIV. *Of Master and Servants.*

lvii.

(1.) The *private, economical, relations*, of persons are those of, 1. *Master and servants.* 2. *Husband and wife.* 3. *Parent and child.* 4. *Guardian and ward.*

(2.) The first relation may subsist between a *master* and four species of *servants*; (for slavery is unknown to our laws): viz. 1. Menial servants; who are *hired*. 2. Apprentices; who are *bound* by indentures. 3. Labourers; who are *casually employed*. 4. Stewards, bailiffs, and factors; who are rather in a *ministerial* state.

(3.) From this relation result divers powers to the master, and emoluments to the servant.

(4.) The master hath a property in the service of his servant; and must be answerable for such acts as the servant does by his express, or implied, command.

SECT. XV. *Of Husband and Wife.*

lviii.

(1.) The second private relation is that of *marriage*; which includes the reciprocal rights and duties of *husband and wife*.

(2.) *Marriage* is duly contracted between persons, 1. *Consenting.* 2. *Free from canonical impediments*, which make it *voidable*. 3. *Free also from the civil impediments*,—of prior marriage,—of want of age—of non-consent of parents or guardians, where requisite,—and of want of reason; either of which make it totally *void*. And it must be celebrated by a clergyman in due form and place.

(3.) *Marriage* is dissolved, 1. *By death.* 2. *By divorce in the spiritual court*: not *à mensa et thoro* only, but *à vinculo matrimonii*, for canonical cause existing previous to the contract. 3. *By act of parliament*, as for adultery.

(4.) *By marriage* the husband and wife become one person in law; which unity is the principal foundation of their respective rights, duties, and disabilities.

SECT. XVI. *Of Parent and Child.*

lix.

(1.) The third, and most universal private relation, is that of *parent and child*.

(2.) *Children* are, 1. *Legitimate*; being those who are born in lawful wedlock, or within a competent time after. 2. *Bastards*, being those who are not so.

(3.) The duties of parents to *legitimate* children are, 1. *Maintenance.* 2. *Protection.* 3. *Education.*

(4.) The power of parents consists principally in correction, and consent to marriage. Both may after death be delegated by will to a guardian; and the former also, living the parent, to a tutor or master.

(5.) The duties of *legitimate* children to parents are obedience, protection, and maintenance.

(6.) The duty of parents to *bastards* is only that of maintenance.

(7.) The rights of a *bastard* are such only as he can acquire; for he is incapable of inheriting any thing.

SECT. XVII. *Of Guardian and Ward.*

(1.) The fourth private relation is that of *guardian and ward*, which is plainly derived from the last; these being, during the continuance of their relation, reciprocally subject to the same rights and duties.

(2.) *Guardians* are of divers sorts: 1. *Guardians by nature*, or the parents. 2. *Guardians for nurture*, assigned by the ecclesiastical courts. 3. *Guardians in so-cage*, assigned by the common law. 4. *Guardians by statute*, assigned by the father's will. All subject to the superintendance of the court of chancery.

(3.) *Full age* in male or female for all purposes is the age of 21 years (different ages being allowed for different purposes); till which age the person is an *infant*.

(4.) An *infant*, in respect of his tender years, hath various privileges, and various disabilities, in law; chiefly with regard to suits, crimes, estates and contracts.

SECT. XVIII. *Of Corporations.*

(1.) Bodies politic, or *corporations*, which are *artificial* persons, are established for preserving in perpetual succession certain rights; which, being conferred on *natural* persons only, would fail in process of time.

(2.) *Corporations* are, 1. *Aggregate*, consisting of many members. 2. *Sole*, consisting of one person only.

(3.) *Corporations* are also either *spiritual*, erected to perpetuate the rights of the church; or *lay*. And the lay are, 1. *Civil*; erected for many temporal purposes. 2. *Eleemosynary*; erected to perpetuate the charity of the founder.

(4.) *Corporations* are usually erected and named by virtue of the king's royal charter; but may be created by act of parliament.

(5.) The powers incident to all corporations are, 1. *To maintain perpetual succession.* 2. *To act in their corporate capacity like an individual.* 3. *To hold lands*, subject to the statutes of mortmain. 4. *To have a common seal.* 5. *To make by-laws.* Which last power, in spiritual or eleemosynary corporations, may be executed by the king or the founder.

(6.) The duty of corporations is to answer the ends of their institution.

(7.) To enforce this duty, all corporations may be *visited*: spiritual corporations by the ordinary; lay corporations by the founder, or his representatives; viz. the

Law of
England
Epitomised.

lx.

lxi.

Law of England Epitomised.

the civil by the king (who is the *fundator incipiens* of all represented in his court of king's bench; the eleemosynary by the endower (who is the *fundator perficiens* of such), or by his heirs or assigns.

(8.) Corporations may be dissolved, 1. By act of parliament. 2. By the natural death of all their members. 3. By surrender of their franchises. 4. By forfeiture of their charter.

lxii.

CHAP. II. Of the RIGHTS of THINGS.

SECT. I. Of Property in General.

lxiii.

(1.) ALL *dominion* over external objects has its original from the gift of the Creator to man in general.

(2.) The *substance* of things was, at first, common to all mankind; yet a temporary property in the *use* of them, might even then be acquired, and continued, by *occupancy*.

(3.) In process of time a permanent property was established in the *substance*, as well as the *use*, of things; which was also originally acquired by *occupancy* only.

(4.) Left this property should determine by the owner's dereliction or death, whereby the thing would again become common, societies have established *conveyances*, *wills*, and *heirships*, in order to continue the property of the first occupant: and, where by accident such property becomes discontinued or unknown, the thing usually reverts to the *sovereign* of the state, by virtue of the municipal law.

(5.) But of some things, which are incapable of permanent substantial dominion, there still subsists only the same transient usufructuary property, which originally subsisted in all things.

SECT. II. Of Real Property; and, first, of Corporeal Hereditaments.

lxiv.

(1.) In this *property*, or exclusive dominion, consist the *rights of things*; which are, 1. Things *real*. 2. Things *personal*.

(2.) In things *real* may be considered, 1. Their several *kinds*. 2. The *tenures* by which they may be holden. 3. The *estates* which may be acquired therein. 4. Their *title*, or the means of acquiring and losing them.

(3.) All the several *kinds* of things real are reducible to one of these three, viz. *lands*, *tenements*, or *hereditaments*; whereof the second includes the first, and the third includes the first and second.

(4.) *Hereditaments*, therefore, or whatever may come to be inherited (being the most comprehensive denomination of things real), are either *corporeal* or *incorporeal*.

(5.) *Corporeal* hereditaments consist wholly of *lands*, in their largest legal sense; wherein they include not only the face of the earth, but every other object of sense adjoining thereto, and subsisting either above or beneath it.

SECT. III. Of Incorporeal Hereditaments.

lxv.

(1.) Incorporeal hereditaments are rights issuing out

of things corporeal, or concerning, or annexed to, or exercisable within the same.

(2.) Incorporeal hereditaments are, 1. *Advowsons*, 2. *Tithes*. 3. *Commons*. 4. *Ways*. 5. *Offices*. 6. *Dignities*. 7. *Franchises*. 8. *Corodies* or *pensions*. 9. *Annuities*. 10. *Rents*.

(3.) An *advowson* is a right of presentation to an ecclesiastical benefice; either appendant, or in gross. This may be, 1. Presentative. 2. Collative. 3. Donative.

(4.) *Tithes* are the tenth part of the increase yearly arising from the profits and stock of lands, and the personal industry of mankind. These, by the ancient and positive law of the land, are due of common right to the parson, or (by endowment) to the vicar; unless specially discharged, 1. By real composition. 2. By prescription, either *de modo decimandi*, or *de non decimando*.

(5.) *Common* is a profit which a man hath in the land of another; being, 1. Common of pasture, which is either appendant, appurtenant, because of vicinage, or in gross. 2. Common of piscary. 3. Common of turbary. 4. Common of estovers, or botes.

(6.) *Ways* are a right of passing over another man's ground.

(7.) *Offices* are the right to exercise a public or private employment.

(8.) For *dignities*, which are titles of honour, see chap. i. sect. 12.

(9.) *Franchises* are a royal privilege, or branch of the king's prerogative, subsisting in the hands of a subject.

(10.) *Corodies* are allotments for one's sustenance; which may be converted into *pensions*, see chap. i. sect. 8.

(11.) An *annuity* is a yearly sum of money, charged upon the person, and not upon the lands of the granter.

(12.) *Rents* are a certain profit issuing yearly out of lands and tenements; and are reducible to, 1. Rent-service. 2. Rent-charge. 3. Rent-seck.

SECT. IV. Of the Feodal System.

(1.) The doctrine of *tenures* is derived from the *feodal* law; which was planted in Europe by its northern conquerors at the dissolution of the Roman empire.

(2.) Pure and *proper feuds* were parcels of land allotted by a chief to his followers, to be held on the condition of personally rendering due military service to their lord.

(3.) These were granted by investiture; were held under the bond of fealty; were inheritable only by descendants; and could not be transferred without the mutual consent of the lord and vassal.

(4.) *Improper feuds* were derived from the other; but differed from them in their original, their services and renders, their descent, and other circumstances.

(5.) The lands of England were converted into *feuds*, of the improper kind, soon after the Norman conquest; which gave rise to the grand maxim of tenure, viz. That all lands in the kingdom are *holden*, mediately or immediately, of the king.

Law of England Epitomised.

lxvi.

SECT. V. *Of the Ancient English Tenures.*

(1.) The distinction of tenures consisted in the nature of their services: as, 1. *Chivalry*, or *knight-service*; where the service was free, but uncertain. 2. *Free socage*; where the service was free, and certain. 3. *Pure villenage*; where the service was base, and uncertain. 4. *Privileged villenage*, or *villein socage*; where the service was base, but certain.

(2.) The most universal ancient tenure was that in *chivalry*, or by *knight-service*; in which the tenant of every knight's fee was bound, if called upon, to attend his lord to the wars. This was granted by livery, and perfected by homage and fealty; which usually drew after them suit of court.

(3.) The other fruits and consequences of the tenure by knight-service were, 1. Aid. 2. Relief. 3. Primer seisin. 4. Wardship. 5. Marriage. 6. Fines upon alienation. 7. Escheat.

(4.) *Grand serjeanty* differed from chivalry principally in its render, or service; and not in its fruits and consequences.

(5.) The personal service in chivalry was at length gradually changed into pecuniary assessments, which were called *scutage* by *escuage*.

(6.) These military tenures (except the services of grand serjeanty) were, at the restoration of King Charles, totally abolished, and reduced to free socage by act of parliament.

SECT. VI. *Of the Modern English Tenures.*

(1.) Free *socage* is a tenure by any free, certain, and determinate service.

(2.) This tenure, the relick of Saxon liberty, includes *petit serjeanty*, tenure in *burgage*, and *gavelkind*.

(3.) Free socage lands partake strongly of the feudal nature, as well as those in chivalry: being holden; subject to some service, at the least to fealty and suit of court; subject to relief, to wardship, and to escheat, but not to marriage; subject also formerly to aids, primer seisin, and fines for alienation.

(4.) *Pure villenage* was a precarious and slavish tenure, at the absolute will of the lord, upon uncertain services of the basest nature.

(5.) From hence, by tacit consent or encroachment, have arisen the modern *copyholds*, or tenure by copy of court-roll: in which lands may be still held at the (nominal) will of the lord, (but regulated) according to the custom of the manor.

(6.) These are subject, like socage lands, to services, relief, and escheat; and also to heriots, wardship, and fines upon descent and alienation.

(7.) *Privileged villenage*, or *villein socage*, is an exalted species of copyhold tenure, upon base, but certain, services; subsisting only in the ancient demesnes of the crown; whence the tenure is denominated the tenure in *ancient demesne*.

(8.) These copyholds of ancient demesne have divers immunities annexed to their tenure; but are still held by copy of court-roll, according to the custom of the manor, though not at the will of the lord.

(9.) *Frankalmoin* is a tenure by spiritual services at large, whereby many ecclesiastical and eleemosynary corporations now hold their lands and tenements; being of a nature distinct from tenure by divine service in certain.

SECT. VII. *Of Freehold Estates of Inheritance.*

(1.) Estates in lands, tenements, and hereditaments, are such interest as the tenant hath therein; to ascertain which, may be considered, 1. The *quantity of interest*. 2. The *time of enjoyment*. 3. The *number and connexions* of the *tenants*.

(2.) Estates, with respect to their *quantity of interest*, or duration, are either *freehold*, or *less than freehold*.

(3.) A *freehold* estate, in lands, is such as is created by livery of seisin at common law; or, in tenements of an incorporeal nature, by what is equivalent thereto.

(4.) Freehold estates are either estates of *inheritance*, or *not of inheritance*, viz. for *life* only: and *inheritances* are, 1. *Absolute*, or *fee simple*. 2. *Limited fees*.

(5.) Tenant in *fee simple* is he that hath lands, tenements, or hereditaments, to hold to him and his heirs for ever.

(6.) *Limited fees* are, 1. *Qualified*, or *base*, fees. 2. Fees *conditional* at the common law.

(7.) *Qualified* or *base* fees are those which, having a qualification subjoined thereto, are liable to be defeated when that qualification is at an end.

(8.) *Conditional* fees, at the common law, were such as were granted to the donee, and the heirs of his body, in exclusion of collateral heirs.

(9.) These were held to be fees, granted on condition that the donee had issue of his body; which condition being once performed by the birth of issue, the donee might immediately alien the land: but the statute *de donis* being made to prevent such alteration, thereupon from the division of the fee (by construction of this statute into a particular estate and a reversion, the conditional fees began to be called *fees tail*.

(10.) All tenements real, or favouring of the realty, are subject to entails.

(11.) Estates tail may be, 1. *General*, or *special*; 2. *Male*, or *female*; 3. Given in frank marriage.

(12.) Incident to estates tail are, 1. *Waste*. 2. *Dower*. 3. *Curtesy*. 4. *Bar*;—by fine, recovery, or lineal warranty with assets.

(13.) Estates tail are now, by many statutes and resolutions of the courts, almost brought back to the state of conditional fees at the common law.

SECT. VIII. *Of Freeholds, not of Inheritance.*

(1.) Freeholds, *not of inheritance*, or for *life* only, are, 1. *Conventional*, or created by the act of the parties. 2. *Legal*, or created by operation of law.

(2.) *Conventional* estates for *life* are created by an express grant for term of one's own life, or *pur autre vie*; or by a general grant, without expressing any term at all.

(3.) Incident to this, and all other estates for life, are,

Law of
England
Epitomized.Law of
England
Epitomized.

are estovers, and emblements: and to estates *per auter vie* general occupancy was also incident; as special occupancy still is, if *cestuy que vie* survives the tenant.

(4.) Legal estates for *life* are, 1. Tenancy in *tail*, after *possibility* of issue *extinct*. 2. Tenancy by the *curtesy* of England. 3. Tenancy in *dower*.

(5.) Tenancy in *tail*, after *possibility* of issue *extinct*, is where an estate is given in special tail; and, before issue had, a person dies from whose body the issue was to spring; whereupon the tenant (if surviving) becomes tenant in *tail*, after *possibility* of issue *extinct*.

(6.) This estate partakes both of the incidents to an estate tail, and those of an estate for life.

(7.) Tenancy by the *curtesy* of England is where a man's wife is seized of an estate of inheritance; and he by her has issue, born alive, which was capable of inheriting her estate; in which case he shall, upon her death, hold the tenements for his own life, as tenant by the *curtesy*.

(8.) Tenancy in *dower* is where a woman's husband is seized of an estate of inheritance, of which her issue might by any possibility have been heir; and the husband dies: the woman is thereupon entitled to *dower*, or one-third part of the lands and tenements, to hold for her natural life.

(9.) Dower is either by the common law; by special custom; *ad ostium ecclesie*; or, *ex assensu patris*.

(10.) Dower may be forfeited or barred, particularly by an estate in *jointure*.

SECT. IX. Of Estates less than Freehold.

lxxi.

(1.) Estates less than *freehold* are, 1. Estates for *years*. 2. Estates at *will*. 3. Estates at *sufferance*.

(2.) An estate for *years* is where a man, seized of lands and tenements, letteth them to another for a certain period of time, which transfers the interest of the term; and the lessee enters thereon, which gives him possession of the term, but not legal seisin of the land.

(3.) Incident to this estate are estovers; and also emblements, if it determines before the full end of the term.

(4.) An estate at *will* is where lands are let by one man to another, to hold at the will of both parties; and the lessee enters thereon.

(5.) *Copyholds* are estates held at the will of the lord, (regulated) according to the custom of the manor.

(6.) An estate at *sufferance* is where one comes into possession of land by lawful title, but keeps it afterwards without any title at all.

SECT. X. Of Estates upon Condition.

lxxii.

(1.) Estates (whether *freehold* or otherwise) may also be held upon *condition*; in which case their existence depends on the happening, or not happening, of some uncertain event.

(2.) These estates are, 1. On condition *implied*. 2. On condition *expressed*. 3. Estates in *gage*. 4. Estates by *statute*, merchant or staple. 5. Estates by *elegit*.

(3.) Estates on condition *implied* are where a grant of an estate has, from its essence and constitution, a

condition inseparably annexed to it; though none be expressed in words.

(4.) Estates on condition *expressed* are where an express qualification or provision is annexed to the grant of an estate.

(5.) On the performance of these conditions either expressed or implied (if *precedent*) the estate may be vested or enlarged; or, on the breach of them (if *subsequent*) an estate already vested may be defeated.

(6.) Estates in *gage*, in *vadio*, or in pledge, are estates granted as a security for money lent; being, 1. *In vivo vadio*, or *living gage*; where the profits of land are granted till a deb. be paid, upon which payment the granter's estate will revive. 2. *In mortuo vadio*, in *dead*, or *mort gage*; where an estate is granted, on condition to be void at a day certain, if the granter then repays the money borrowed; on failure of which, the estate becomes absolutely dead to the granter.

(7.) Estates by *statute-merchant*, or *statute-staple*, are also estates conveyed to creditors, in pursuance of certain statutes, till their profits shall discharge the debt.

(8.) Estates by *elegit* are where, in consequence of a judicial writ so called, lands are delivered by the sheriff to a plaintiff, till their profits shall satisfy a debt adjudged to be due by law.

SECT. XI. Of Estates in Possession, Remainder, and Reversion.

lxxiii.

(1.) Estates, with respect to their *time of enjoyment*, are either in immediate *possession*, or in *expectancy*; which estates in *expectancy* are created at the same time, and are parcel of the same estates, as those upon which they are expectant. These are, 1. *Remainders*. 2. *Reversions*.

(2.) A *remainder* is an estate limited to take effect, and be enjoyed, after another *particular* estate is determined.

(3.) Therefore, 1. There must be a precedent particular estate, in order to support a remainder. 2. The remainder must pass out of the granter, at the creation of the particular estate. 3. The remainder must vest in the grantee, during the continuance, or at the determination, of the particular estate.

(4.) Remainders are, 1. Vested; where the estate is fixed to remain to a *certain* person, after the particular estate is spent. 2. Contingent; where the estate is limited to take effect, either to an *uncertain* person, or upon an *uncertain* event.

(5.) An *executory devise* is such a disposition of lands, by will, that an estate shall not vest thereby at the death of the deviser, but only upon some future contingency, and without any precedent particular estate to support it.

(6.) A *reversion* is the residue of an estate left in the granter, to commence in possession after the determination of some *particular* estate granted: to which are incident fealty, and rent.

(7.) Where two estates, the one less, the other greater, the one in possession, the other in expectancy, meet together in one and the same person, and in one and the same right, the less is *merged* in the greater.

SECT.

Law of
England
Epitomized.

SECT. XII. *Of Estates, in Severalty, Joint Tenancy, Coparcenary, and Common.*

Law of
England
Epitomized.

lxiv.

(1.) Estates, with respect to the *number* and *connexions* of their *tenants*, may be held, 1. In *severalty*. 2. In *joint tenancy*. 3. In *coparcenary*. 4. In *common*.

(2.) An estate in *severalty* is where one tenant holds it in his own sole right, without any other person being joined with him.

(3.) An estate in *joint tenancy* is where an estate is granted to two or more persons; in which case the laws construes them to be *joint tenants*, unless the words of the grant expressly exclude such construction.

(4.) Joint tenants have an unity of interest, of title, of time and of possession: they are seized *per my et per tout*: and therefore upon the decease of one joint tenant, the whole interest remains to the survivor.

(5.) Joint tenancy may be dissolved, by destroying one of its four constituent unities.

(6.) An estate in *coparcenary* is where an estate of inheritance descends from the ancestor to two or more persons; who are called *parceners*, and all together make but one heir.

(7.) Parceners have an unity of interest, title, and possession; but are only seized *per my*, and not *per tout*: wherefore there is no survivorship among parceners.

(8.) Incident to this estate is the law of *hotchpot*.

(9.) Coparcenary may also be dissolved, by destroying any of its three constituent unities.

(10.) An estate in *common* is where two or more persons hold lands, possibly by distinct titles, and for distinct interests; but by unity of possession, because none knoweth his own severalty.

(11.) Tenants in common have therefore an unity of possession, (without survivorship; being seized *per my*, and not *per tout*;) but no necessary unity of title, time, or interest.

(12.) This estate may be created, 1. By dissolving the constituent unities of the two former; 2. By express limitation in a grant: and may be destroyed, 1. By uniting the several titles in one tenant; 2. By partition of the land.

SECT. XIII. *Of the Title to Things Real, in General.*

lxv.

(1.) A *title* to things real is the means whereby a man cometh to the just possession of his property.

(2.) Herein may be considered, 1. A mere or naked possession. 2. The right of possession; which is, 1st, an apparent, 2^{dly}, an actual right. 3. The mere right of property. 4. The conjunction of actual possession with both these rights; which constitutes a perfect *title*.

SECT. XIV. *Of Title by Descent.*

lxvi.

(1.) The *title* to things real may be reciprocally acquired or lost, 1. By *descent*. 2. By *purchase*.

(2.) *Descent* is the means whereby a man, on the death of his ancestor, acquires a title to the estate, in right of his representation, as his *heir* at law.

(3.) To understand the doctrine of descents, we must form a clear notion of *consanguinity*; which is the connexion, or relation, of persons descended from the same flock or common ancestor; and it is, 1. *Lineal*, where one of the kinsmen is lineally descended from the other. 2. *Collateral*, where they are lineally descended, not one from the other, but both from the same common ancestor.

(4.) The rules of descent, or *canons of inheritance*, observed by the laws of England, are these:

1st, Inheritances shall lineally descend to the issue of the person last actually seized, *in infinitum*; but shall never lineally ascend.

2^d, The male issue shall be admitted before the female.

3^d, Where there are two or more males in equal degree, the *eldest* only shall inherit; but the females *all* together.

4th, The lineal descendants, *in infinitum*, of any person deceased shall represent their ancestor; that is, shall stand in the same place as the person himself would have done, had he been living.

5th, On failure of lineal descendants, or issue, of the person last seized, the inheritance shall descend to the blood of the *first purchaser*; subject to the three preceding rules. To evidence which blood, the two following rules are established.

6th, The collateral heir of the person last seized must be his next collateral kinsman, of the *whole* blood.

7th, In collateral inheritances, the *male stocks* shall be preferred to the *female*; that is, kindred derived from the blood of the male ancestors shall be admitted before those from the blood of the female: unless where the lands have, in fact, descended from a female.

SECT. XV. *Of Title by Purchase, and first by Escheat.*

(1.) Purchase, or perquisition, is the possession of an estate which a man hath by his own act or agreement; and not by the mere act of law, or descent from any of his ancestors. This includes, 1. *Escheat*. 2. *Occupancy*. 3. *Prescription*. 4. *Forfeiture*. 5. *Alienation*.

(2.) *Escheat* is where, upon deficiency of the tenant's *inheritable blood*, the estate falls to the lord of the fee.

(3.) *Inheritable blood* is wanting to, 1. Such as are not related to the person last seized. 2. His maternal relations in paternal inheritances, and *vice versa*. 3. His kindred of the half blood. 4. Monsters. 5. Bastards. 6. Aliens, and their issue. 7. Persons attainted of treason or felony. 8. Papists, in respect of themselves only, by the statute law.

SECT. XVI. *Of Title by Occupancy.*

(1.) Occupancy is the taking possession of those things which before had no owner.

(2.) Thus, at the common law, where tenant *par auter vie* died during the life of *cestuy que vie*, he, who could first enter, might lawfully retain the possession; unless by the original grant the heir was made a *special* occupant.

(3.) The law of *derelictions* and *alluvions* has narrowed the title of occupancy.

SECT. XVII. *Of Title by Prescription.*

lxxix.

(1.) Prescription (as distinguished from *custom*) is a *personal* immemorial usage of enjoying a right in some incorporeal hereditament, by a man, and either his ancestors or those whose estate of inheritance he hath: of which the first is called *prescribing in his ancestors*, the latter in a *que estate*.

SECT. XVIII. *Of Title by Forfeiture.*

lxxx.

(1.) Forfeiture is a punishment annexed by law to some illegal act, or negligence, in the owner of things real; whereby the estate is transferred to another, who is usually the party injured.

(2.) Forfeitures are occasioned, 1. By *crimes*. 2. By *alienation*, contrary to law. 3. By *lapse*. 4. By *simony*. 5. By *nonperformance of conditions*. 6. By *waste*. 7. By *breach of copyhold customs*. 8. By *bankruptcy*.

(3.) Forfeitures for *crimes* or misdemeanors, are for, 1. Treason. 2. Felony. 3. Misprison of treason. 4. *Præmunire*. 5. Assaults on a judge, and batteries, sitting the courts. 6. Popish recusancy, &c.

(4.) *Alienations*, or conveyances, which induce a forfeiture, are, 1. Those in mortmain, made to corporations contrary to the statute law. 2. Those made to aliens. 3. Those made by particular tenants, when larger than their estates will warrant.

(5.) *Lapse* is a forfeiture of the right of presentation to a vacant church, by neglect of the patron to present within six calendar months.

(6.) *Simony* is the corrupt presentation of any one to an ecclesiastical benefice, whereby that turn becomes forfeited to the crown.

(7.) For forfeiture by *nonperformance of conditions*, see Sect. 10.

(8.) *Waste* is a spoil, or destruction, in any corporeal hereditaments, to the prejudice of him that hath the inheritance.

(9.) *Copyhold* estates may have also other peculiar causes of forfeiture, according to the custom of the manor.

(10.) *Bankruptcy* is the act of becoming a *bankrupt*; that is, a trader who secretes himself, or does certain other acts tending to defraud his creditors, see Sect. 22.

(11.) By bankruptcy all the estates of the bankrupt are transferred to the assignees of his commissioners, to be sold for the benefit of his creditors.

SECT. XIX. *Of Title by Alienation.*

lxxxi.

(1.) Alienation, conveyance, or purchase in its more limited sense, is a means of transferring real estates, wherein they are voluntarily resigned by one man, and accepted by another.

(2.) This formerly could not be done by a tenant, without *license* from his lord; nor by a lord, without *attornment* of his tenant.

(3.) All persons are *capable* of purchasing; and all that are in possession of any estates, are *capable* of conveying them: unless under peculiar disabilities by law: as being attainted, *non compos*, infants under duress, feme covert, aliens, or papists.

(4.) Alienations are made by *common assurances*; which are, 1. By *deed*, or matter in *pais*. 2. By matter of *record*. 3. By *special custom*. 4. By *devise*.

SECT. XX. *Of Alienation by Deed.*

lxxxii.

(1.) In assurances by *deed* may be considered, 1. Its *general nature*. 2. Its *several species*.

(2.) A deed, in *general*, is the solemn act of the parties; being usually a writing sealed and delivered; and it may be, 1. A deed indented, or indenture. 2. A deed poll.

(3.) The *requisites* of a deed are, 1. Sufficient *parties*, and proper *subject matter*. 2. A good and sufficient *consideration*. 3. *Writing* on paper, or parchment, duly stamped. 4. Legal and orderly *parts*: (which are usually, 1st, the premises; 2dly, the *habendum*; 3dly, the *tenendum*; 4thly, the *reddendum*; 5thly, the conditions; 6thly, the warranty, which is either lineal or collateral; 7thly, the covenants; 8thly, the conclusion, which includes the date). 5. *Reading* it, if desired. 6. *Sealing*, and, in many cases, *signing* it also. 7. *Delivery*. 8. *Attestation*.

(4.) A deed may be *avoided*, 1. By the want of any of the requisites before mentioned. 2. By subsequent matter; as, 1st, *Rature*, or alteration. 2dly, *Defacing* its seal. 3dly, *Cancelling* it. 4thly, *Disagreement* of those whose consent is necessary. 5thly, *Judgement* of a court of justice.

(5.) Of the several *species* of deeds, some serve to convey real property, some only to *charge* and *discharge* it.

(6.) Deeds which serve to convey real property, or conveyances, are either by *common law*, or by *statute*. And, of conveyances by *common law*, some are *original* or primary, others *derivative* or secondary.

(7.) *Original* conveyances are, 1. *Feoffments*. 2. *Gifts*. 3. *Grants*. 4. *Leases*. 5. *Exchanges*. 6. *Partitions*. *Derivative* are, 7. *Releases*. 8. *Confirmations*. 9. *Surrenders*. 10. *Assignments*. 11. *Defeazances*.

(8.) A *feoffment* is the transfer of any corporeal hereditament to another, perfected by *livery* of *seisin*, or delivery of bodily possession from the feoffer to the feoffee; without which no freehold estate therein can be created at common law.

(9.) A *gift* is properly the conveyance of lands in tail.

(10.) A *grant* is the regular method, by common law, of conveying *incorporeal* hereditaments.

(11.) A *lease* is the demise, granting, or letting to farm of any tenement, usually for a less term than the lessor hath therein; yet sometimes possibly for a greater; according to the regulations of the restraining and enabling statutes.

(12.) An *exchange* is the mutual conveyance of equal interests, the one in consideration of the other.

(13.) A *partition* is the division of an estate held in joint tenancy, in coparcenary, or in common, between the respective tenants; so that each may hold his distinct part in severalty.

(14.) A *release* is the discharge or conveyance of a man's right, in lands and tenements, to another that hath some former estate in possession therein.

(15.) A *confirmation* is the conveyance of an estate or right *in esse*, whereby a voidable estate is made sure, or a particular estate is increased.

(16.) A

Law of
England
Epitomised.

(16.) A *surrender* is the yielding up of an estate for life, or years, to him that hath the immediate remainder or reversion; wherein the particular estate may merge.

(17.) An *assignment* is the transfer, or making over to another, of the whole right one has in any estate; but usually in a lease, for life or years.

(18.) A *defeasance* is a collateral deed, made at the same time with the original conveyance; containing some condition, upon which the estate may be defeated.

(19.) Conveyances by *statute* depend much on the doctrine of *uses* and *trusts*: which are a confidence reposed in the *terre tenant*, or tenant of the land, that he shall permit the profits to be enjoyed, according to the directions of *cestuy que use*, or *cestuy que trust*.

(20.) The statute of uses, having transferred all uses into actual possession, (or, rather, having drawn the possession to the use,) has given birth to divers other species of conveyance: 1. A *covenant* to stand seized to use. 2. A *bargain* and *sale* enrolled. 3. A *lease* and *release*. 4. A deed to *lead* or *declare* the use of other more direct conveyances. 5. A *revocation* of uses; being the execution of a power, reserved at the creation of the use, of recalling at a future time the use or estate so creating. All which owe their present operation principally to the statute of uses.

(21.) Deeds which are used not to *convey*, but only to *charge* real property, and *discharge* it, are, 1. *Obligations*. 2. *Recognizances*. 3. *Defeasances* upon both.

SECT. XXI. Of Alienation by matter of Record.

lxxxiii.

(1.) Assurances by matter of *record* are where the sanction of some court of record is called in, to substantiate and witness the transfer of real property. These are, 1. *Private acts of parliament*. 2. The *king's grants*. 3. *Fines*. 4. *Common recoveries*.

(2.) *Private acts of parliament* are a species of assurances, calculated to give (by the transcendent authority of parliament) such reasonable powers or relief as are beyond the reach of the ordinary course of law.

(3.) The *king's grants*, contained in charters or letters patent, are all entered on record, for the dignity of the royal person, and security of the royal revenue.

(4.) A *fine* (sometimes said to be a feoffment of record) is an amicable composition and agreement of an actual, or fictitious, suit; whereby the estate in question is acknowledged to be the right of one of the parties.

(5.) The *parts* of a fine are, 1. The writ of covenant. 2. The license to agree. 3. The concord. 4. The note. 5. The foot. To which the statute hath added, 6. Proclamations.

(6.) Fines are of four kinds: *Sur cognizance de droit, come ceo que'il ad de son done*. 2. *Sur cognizance de droit tantum*. 3. *Sur concessit*. 4. *Sur done, grant, et render*; which is a double fine.

(7.) The *force* and *effect* of fines (when levied by such as have themselves any interest in the estate) are to assure the lands in question to the cognizee, by barring the respective rights of parties, privies, and strangers.

I

Law of
England
Epitomised.

(8.) A common *recovery* is by an actual, or fictitious, suit or action for land, brought against the tenant of the freehold; who thereupon vouches another, who undertakes to warrant the tenant's title: but, upon such vouchee's making default, the land is *recovered* by judgement at law against the tenant; who, in return obtains judgement against the vouchee to recover lands of equal value in recompense.

(9.) The *force* and *effect* of a recovery are to assure lands to the recoverer, by barring estates tail, and all remainders and reversions expectant thereon; provided the tenant in tail either suffers, or is vouched in, such recovery.

(10.) The *uses* of a fine or recovery may be directed by, 1. Deeds to *lead* such uses; which are made previous to the levying or suffering them. 2. Deeds to *declare* the uses; which are made subsequent.

SECT. XXII. Of Alienation by Special Custom.

(1.) Assurances by special *custom* are confined to the transfer of *copyhold* estates. lxxxiv.

(2.) This is effected by, 1. *Surrender* by the tenant into the hands of the lord to the use of another, according to the custom of the manor. 2. *Presentment*, by the tenants or homage, of such surrender. 3. *Admittance* of the surrenderee by the lord, according to the uses expressed in such surrender.

(3.) *Admittance* may also be had upon original grants to the tenant from the lord, and upon *descents* to the heir from the ancestor.

SECT. XXIII. Of Alienation by Devise.

(1.) Devise is a disposition of lands and tenements, contained in the last will and testament of the owner. lxxxv.

(2.) This was not permitted by the common law, as it stood since the conquest; but was introduced by the statute law, under Henry VIII. since made more universal by the statute of tenures under Charles II. with the introduction of additional solemnities by the statute of frauds and perjuries in the same reign.

(3.) The *construction* of all *common assurances* should be, 1. Agreeable to the intention. 2. To the words of the parties. 3. Made upon the entire deed. 4. Bearing strongest against the contractor. 5. Conformable to law. 6. Rejecting the latter of two totally repugnant clauses in a deed, and the former in a will. 7. Most favourable in a case of devise.

SECT. XXIV. Of Things Personal.

(1.) Things *personal* are comprehended under the general name of *chattels*; which includes whatever wants either the duration, or the immobility, attending things real. lxxxvi.

(2.) In these are to be considered, 1. Their *distribution*. 2. The *property* of them. 3. The *title* to that property.

(3.) As to the *distribution* of chattels, they are, 1. *Chattels real*. 2. *Chattels personal*.

(4.) *Chattels real* are such quantities of interest, in things *immoveable*, as are short of the duration of freeholds; being limited to a time certain, beyond which they cannot subsist. (See Sect. 7.)

(5.) *Chattels*

Law of
England
Epitomised

Law of
England
Epitomised.
xc.

(5.) Chattels *personal* are things *moveable*; which may be transferred from place to place, together with the person of the owner.

SECT. XXVIII. *Of Title by Custom.*

SECT. XXV. *Of Property in Things Personal.*

(1.) By *custom*, obtaining in particular places, a right may be acquired in chattels; the most usual of which customs are those relating to, 1. *Heriots*. 2. *Mortuaries*. 3. *Heir looms*.

(2.) *Heriots* are either *heriot service*, which differs little from a rent; or *heriot custom*, which is a customary tribute, of goods and chattels, payable to the lord of the fee on the decease of the owner of lands.

(3.) *Mortuaries* are a customary gift, due to the minister in many parishes, on the death of his parishioners.

(4.) *Heir looms* are such personal chattels, as descend by special custom to the heir, along with the inheritance of his ancestor.

SECT. XXIX. *Of Title by Succession, Marriage, and Juagement.*

(1.) By *succession* the right of chattels is vested in corporations *aggregate*; and likewise in such corporations *sole* as are the heads and representatives of bodies *aggregate*.

(2.) By *marriage* the chattels real and personal of the wife are vested in the husband, in the same degree of property, and with the same powers, as the wife when sole had over them; provided he reduces them to possession.

(3.) The wife also acquires, by marriage, a property in her own *paraphernalia*.

(4.) By *judgement*, consequent on a suit at law, a man may in some cases, not only *recover*, but originally *acquire*, a right to personal property. As, 1. To penalties recoverable by action popular. 2. To damages. 3. To costs of suit.

SECT. XXX. *Of Title by Gift, Grant, and Contract.*

(1.) A *gift*, or *grant*, is a voluntary conveyance of a chattel personal in possession, without any consideration or equivalent.

(2.) A *contract* is an agreement, upon sufficient consideration, to do or not to do a particular thing; and, by such contract, any personal property (either in possession or in action) may be transferred.

(3.) Contracts may either be *express* or *implied*; either *executed* or *executory*.

(4.) The *consideration* of contracts is, 1. A good consideration. 2. A valuable consideration; which is, 1. *Do, ut des*. 2. *Facio, ut facias*. 3. *Facio, ut des*. 4. *Do, ut facias*.

(5.) The most usual *species* of personal contracts are, 1. *Sale* or *exchange*. 2. *Bailment*. 3. *Hiring* or *borrowing*. 4. *Debt*.

(6.) *Sale* or *exchange* is a transmutation of property from one man to another, in consideration of some recompense in value.

(7.) *Bailment* is the delivery of goods in trust; upon a contract, *express* or *implied*, that the trust shall be faithfully performed by the bailee.

(8.) *Hiring* or *borrowing* is a contract, whereby the possession

lxxxvii. (1.) Property, in chattels personal, is either in *possession*, or in *action*.

(2.) Property in *possession*, where a man has the actual enjoyment of the thing, is, 1. *Absolute*. 2. *Qualified*.

(3.) *Absolute* property is where a man has such an exclusive right in the thing, that it cannot cease to be his, without his own act or default.

(4.) *Qualified* property is such as is not, in its nature, permanent; but may sometimes subsist, and at other times not subsist.

(5.) This may arise, 1. Where the subject is incapable of absolute ownership. 2. From the peculiar circumstances of the owners.

(6.) Property in *action*, is where a man hath not the actual *occupation* of the thing; but only a *right* to it, arising upon some contract, and recoverable by an action at law.

(7.) The property of chattels personal is liable to remainders, expectant on estates for life; to joint tenancy; and to tenancy in common.

SECT. XXVI. *Of Title to Things Personal by Occupancy.*

lxxxviii. (1.) The *title* to things personal may be acquired or lost by, 1. *Occupancy*. 2. *Prerogative*. 3. *Forfeiture*. 4. *Custom*. 5. *Succession*. 6. *Marriage*. 7. *Judgement*. 8. *Gift*, or *grant*. 9. *Contract*. 10. *Bankruptcy*. 11. *Testament*. 12. *Administration*.

(2.) *Occupancy* still gives the first occupant a right to those few things which have no legal owner, or which are incapable of permanent ownership. Such as, 1. Goods of alien enemies. 2. Things found. 3. The benefit of the elements. 4. Animals *feræ naturæ*. 5. Emblements. 6. Things gained by accession; or, 7. By confusion. 8. Literary property.

SECT. XXVII. *Of Title by Prerogative, and Forfeiture.*

lxxxix. (1.) By *prerogative* is vested in the crown, or its granters, the property of the royal revenue, (see Chap. I. Sect. 8.); and also the property of all game in the kingdom, with the right of pursuing and taking it.

(2.) By *forfeiture*, for crimes and misdemeanors, the right of goods and chattels may be transferred from one man to another; either in part or totally.

(3.) Total forfeitures of goods arise from conviction of, 1. *Treason*, and *misprision* thereof. 2. *Felony*. 3. *Excusable homicide*. 4. *Outlawry* for treason or felony. 5. *Flight*. 6. *Standing mute*. 7. *Assaults* on a judge; and *batteries*, sitting the courts. 8. *Præmunire*. 9. *Pretended prophecies*. 10. *Owling*. 11. *Reiding* abroad of artificers. 12. *Challenges* to fight, for debts at play.

Law of
England
Epitom'd.

possession of chattels is transferred for a particular time, on condition that the identical goods (or sometimes their value) be restored at the time appointed, together with (in case of *hiring*) a stipend or price for the use.

(9.) This price, being calculated to answer the hazard as well as inconvenience of lending, gives birth to the doctrine of *interest*, or *usury*, upon loans; and, consequently, to the doctrine of *bottomry* or *respondentia*, and *insurance*.

(10.) *Debt* is any contract, whereby a certain sum of *money* becomes due to the creditor. This is, 1. A debt of *record*. 2. A debt upon *special* contract. 3. A debt upon *simple* contract; which last includes paper credit, or bills of exchange, and promissory notes.

SECT. XXXI. Of Title by Bankruptcy.

xciii

(1.) Bankruptcy (as defined in Sect. 18.) is the act of becoming a bankrupt.

(2.) Herein may be considered, 1. Who may become a bankrupt. 2. The *acts* whereby he may become a bankrupt. 3. The *proceedings* on a commission of bankrupt. 4. How his *property* is transferred thereby.

(3.) Persons of full age, *using* the trade of merchandise, by buying, and selling, and seeking their livelihood thereby, are liable to become bankrupts; for debts of a sufficient amount.

(4.) A trader, who endeavours to avoid his creditors, or evade their just demands, by any of the ways specified in the several statutes of bankruptcy, doth thereby commit an *act* of bankruptcy.

(5.) The *proceedings* on a commission of bankrupt, so far as they affect the bankrupt himself, are principally by, 1. Petition. 2. Commission. 3. Declaration of bankruptcy. 4. Choice of assignees. 5. The bankrupt's surrender. 6. His examination. 7. His discovery. 8. His certificate. 9. His allowance. 10. His indemnity.

(6.) The *property* of a bankrupt's personal estate is, immediately upon the act of bankruptcy, vested by construction of law in the assignees; and they, when they have collected, distribute the whole by equal dividends among all the creditors.

SECT. XXXII. Of Title by Testament, and Administration.

xciv.

(1.) Concerning *testaments* and *administrations*, considered jointly, are to be observed, 1. Their *original* and *antiquity*. 2. *Who* may make a testament. 3. Its *nature* and *incidents*. 4. What are *executors* and *administrators*. 5. Their *office* and *duty*.

(2.) *Testaments* have subsisted in England immemorially; whereby the deceased was at liberty to dispose of his personal estate, reserving anciently to his wife and children their *reasonable part* of his effects.

(3.) The goods of *intestates* belonged anciently to the king; who granted them to the prelates to be disposed in pious uses; but, on their abuse of this trust in the times of Popery, the legislature compelled them to delegate their power to *administrators* expressly provided by law.

(4.) *All* persons may make a testament unless dis-

abled by, 1. Want of discretion. 2. Want of free will. 3. Criminal conduct.

(5.) *Testaments* are the legal declaration of a man's intentions, which he wills to be performed after his death. These are, 1. Written. 2. Nuncupative.

(6.) An *executor* is he, to whom a man by his will commits the execution thereof.

(7.) *Administrators* are, 1. *Durante minore etate* of an infant executor or administrator; or *durante absentia*; or *pendente lite*. 2. *Cum testamento annexo*; when no executor is named, or the executor refuses to act. 3. General administrators; in pursuance of the statutes of Edward III. and Henry VIII. 4. *Admitters de bonis non*; when a former executor or administrator dies without completing his trust.

(8.) The *office* and *duty* of executors (and, in many points, of administrators also) are, 1. To bury the deceased. 2. To prove the will, or take out administration. 3. To make an inventory. 4. To collect the goods and chattels. 5. To pay debts; observing the rules of priority. 6. To pay legacies, either general or specific; if they be vested, and not lapsed. 7. To distribute the undivided surplus, according to the statute of distributions.

CHAP. III. Of PRIVATE WRONGS.

SECT. I. Of the Redress of Private Wrongs, by the mere Act of the Parties.

(1.) WRONGS are the privation of *right*; and are, 1. *Private*. 2. *Public*. xcv.

(2.) *Private wrongs*, or *civil injuries*, are an infringement, or privation, of the civil rights of individuals, considered as individuals.

(3.) The *redress* of civil injuries is one principal object of the laws of England.

(4.) This *redress* is effected, 1. By the mere *act* of the parties. 2. By the mere *operation* of law. 3. By *both* together, or *suit* in courts.

(5.) *Redress*, by the mere *act* of the parties, is that which arises, 1. From the *sole* act of the party injured. 2. From the *joint* act of the parties.

(6.) Of the first sort are, 1. Defence of one's self, or relations. 2. Recaption of goods. 3. Entry on lands and tenements. 4. Abatement of nuisances. 5. Distress; for rent, for suit or service, for ameracements, for damage, or for divers statutable penalties; made of such things only as are legally distrainable;—and taken and disposed of according to the due course of law. 6. Seizing of heriots, &c.

(7.) Of the second sort are, 1. Accord. 2. Arbitration.

SECT. II. Of Redress by the mere Operation of Law.

Redress, effected by the mere *operation* of law, is, 1. In the case of *retainer*; where a creditor is executor or administrator, and is thereupon allowed to retain his own debt. 2. In the case of *remitter*; where one, who has a *good* title to lands, &c. comes into possession by a *bad* one, and is thereupon remitted to his ancient good title, which protects his ill-acquired possession. xcvi.

SECT.

Law of
England
Epitomised.

SECT. III. *Of Courts in General.*

xcvii.

(1.) Redress, that is effected by the *act* both of law and of the *parties*, is by *suit* or *action* in the *courts* of justice.

(2.) Herein may be considered, 1. The *courts* themselves. 2. The *cognizance* of wrongs or injuries therein. And, of *courts*, 1. Their *nature* and *incidents*. 2. Their several *species*.

(3.) A *court* is a place wherein justice is judicially administered, by officers delegated by the crown; being a court either of record, or not of record.

(4.) *Incident* to all courts are a plaintiff, defendant, and judge: and, with us, there are also usually attorneys; and advocates or counsel, viz. either barristers or serjeants at law.

SECT. IV. *Of the Public Courts of Common Law and Equity.*

xcviii.

(1.) Courts of justice, with regard to their several *species*, are, 1. Of a *public*, or general, jurisdiction throughout the realm. 2. Of a *private*, or special, jurisdiction.

(2.) *Public* courts of justice are, 1. The courts of *common law* and *equity*. 2. The *ecclesiastical* courts. 3. The *military* courts. 4. The *maritime* courts.

(3.) The general and public courts of *common law* and *equity* are, 1. The court of piepoudre. 2. The court-baron. 3. The hundred court. 4. The county court. 5. The court of common pleas. 6. The court of king's bench. 7. The court of exchequer. 8. The court of chancery. (Which two last are courts of *equity* as well as *law*). 9. The courts of exchequer chamber. 10. The house of peers. To which may be added, as auxiliaries, 11. The courts of assize and *nisi prius*.

SECT. V. *Of Courts Ecclesiastical, Military, and Maritime.*

xcix.

(1.) Ecclesiastical courts, (which were separated from the *temporal* by William the Conqueror), or courts *Christian*, are, 1. The courts of the archdeacon. 2. The court of the bishop's consistory. 3. The court of arches. 4. The court of peculiars. 5. The prerogative court. 6. The court of delegates. 7. The court of review.

(2.) The only permanent *military* court is that of chivalry; the courts martial, annually established by act of parliament, being only temporary.

(3.) *Maritime* courts are, 1. The court of admiralty and vice-admiralty. 2. The court of delegates. 3. The lords of the privy council, and others, authorized by the king's commission, for appeals in prize-causes.

SECT. VI. *Of Courts of a Special Jurisdiction.*

ci.

Courts of a special or private jurisdiction are, 1. The forest courts; including the courts of attachments, regard, *swienmot*, and justice feat. 2. The

court of commissioners of sewers. 3. The court of policies of assurance. 4. The court of the marshall's and the palace court. 5. The courts of the principality of Wales. 6. The court of the duchy chamber of Lancaster. 7. The courts of the counties palatine, and other royal franchises. 8. The *stannery* courts. 9. The courts of London, and other corporations:—To which may be referred the courts of requests or courts of conscience; and the modern regulations of certain courts baron and county courts. 10. The courts of the two universities.

Law of
England
Epitomised.

SECT. VII. *Of the Cognizance of Private Wrongs.*

(1.) All private wrongs or civil injuries are *cognizable* either in the courts *ecclesiastical*, *military*, *maritime*, or those of *common law*.

(2.) Injuries cognizable in the *ecclesiastical* courts are, 1. *Pecuniary*. 2. *Matrimonial*. 3. *Testamentary*.

(3.) *Pecuniary* injuries, here cognizable, are, 1. *Subtraction* of tithes. For which the remedy is by suit to compel their payment, or an equivalent; and also their double value. 2. *Non-payment* of ecclesiastical dues. Remedy: by suit for payment. 3. *Spoliation*. Remedy: by suit for restitution. 4. *Dilapidations*. Remedy: by suit for damages. 5. *Non-repair* of the church, &c.; and *non payment* of church-rates. Remedy: by suit to compel them.

(4.) *Matrimonial* injuries are, 1. *Facilitation* of marriage. Remedy: by suit for perpetual silence. 2. *Subtraction* of conjugal rights. Remedy: by suit for restitution. 3. *Inability* for the marriage state. Remedy; by suit for divorce. 4. *Refusal* of decent maintenance to the wife. Remedy: by suit for alimony.

(5.) *Testamentary* injuries are, 1. *Disputing* the validity of wills. Remedy: by suit to establish them. 2. *Obstructing* of administrations. Remedy: by suit for the granting them. 3. *Subtraction* of legacies. Remedy: by suit for the payment.

(6.) The course of proceedings herein is much conformed to the civil and canon law: but their only compulsive process is that of excommunication; which is enforced by the temporal writ of *significavit*, or *de excommunicato capiendo*.

(7.) Civil injuries, cognizable in the court *military*, or court of chivalry, are, 1. Injuries in point of *honour*. Remedy: by suit for honourable amends. 2. *Encroachments* in coat armour, &c. Remedy: by suit to remove them. The proceedings are in a summary method.

(8.) Civil injuries cognizable in the courts *maritime*, are injuries, in their nature, of common law cognizance, but arising wholly upon the sea, and not within the precincts of any county. The proceedings are herein also much conformed to the civil law.

(9.) All other injuries are cognizable only in the courts of *common law*: of which in the remainder of this chapter.

(10.) Two of them are, however, commisable by these and other inferior courts, viz. 1. *Refusal*, or *neglect*, of justice. Remedies: by writ of *procedendo*, or *mandamus*. 2. *Encroachment* of jurisdiction. Remedy: by writ of prohibition.

Law of
England
Epitomized.

SECT. VIII. *Of Wrongs and their Remedies, respecting the Rights of Persons.*

cii. (1.) In treating of the cognizance of injuries by the courts of *common law*, may be considered, 1. The *injuries* themselves, and their respective *remedies*. 2. The *pursuit* of those remedies in the several courts.

(2.) *Injuries* between subject and subject, cognizable by the courts of *common law*, are in general remedied by putting the party injured into possession of that right whereof he is unjustly deprived.

(3.) This is effected, 1. By *delivery* of the thing detained to the rightful owner. 2. Where that remedy is either impossible or inadequate, by giving the party injured a *satisfaction* in damages.

(4.) The instruments, by which these remedies may be obtained, are *suits* or *actions*; which are defined to be the legal demand of one's right: and these are, 1. *Personal*. 2. *Real*. 3. *Mixed*.

(5.) *Injuries* (whereof some are with, others without, *force*) are, 1. *Injuries* to the rights of *persons*. 2. *Injuries* to the rights of *property*. And the former are, 1. *Injuries* to the *absolute*, 2. *Injuries* to the *relative*, rights of persons.

(6.) The *absolute* rights of individuals are, 1. *Personal security*. 2. *Personal liberty*. 3. *Private property*: (See Chap. I. Sect. 1.) To which the injuries must be correspondent.

(7.) *Injuries* to *personal security* are, 1. Against a man's *life*. 2. Against his *limbs*. 3. Against his *body*. 4. Against his *health*. 5. Against his *reputation*.—The first must be referred to the next chapter.

(8.) *Injuries* to the *limbs* and *body* are, 1. *Threats*. 2. *Affault*. 3. *Battery*. 4. *Wounding*. 5. *Mayhem*. Remedy: by action of trespass, *vi et armis*; for damages.

(9.) *Injuries* to *health*, by any unwholesome practices, are remedied by a special action of trespass, on the case; for damages.

(10.) *Injuries* to *reputation* are, 1. *Slanderous* and *malicious words*. Remedy: by action on the case; for damages. 2. *Libels*. Remedy: the same. 3. *Malicious prosecutions*. Remedy: by action of conspiracy, or on the case; for damages.

(11.) The sole injury to *personal liberty* is *false imprisonment*. Remedies: 1. By writ of *habeas corpus*; 2dly, *Odio et atia*; 3dly, *Homine replegiando*; 4thly, *Habeas corpus*; to remove the wrong. 2. By action of trespass; to recover damages.

(12.) For injuries to *private property*, see the next section.

(13.) *Injuries* to *relatives* rights affect, 1. *Husbands*. 2. *Parents*. 3. *Guardians*. 4. *Masters*.

(14.) *Injuries* to a *husband* are, 1. *Abduction*, or taking away his wife. Remedy: by action of trespass, *de uxore rapta et abducta*; to recover possession of his wife, and damages. 2. *Criminal conversation* with her. Remedy: by action on the case; for damages. 3. *Beating* her. Remedy: by action on the case, *per quod consortium amisit*; for damages.

(15.) The only injury to a *parent* or *guardian* is the *abduction* of their children or wards. Remedy: by action of trespass, *de filiis, vel custodiis, raptis vel abductis*; to recover possession of them, and damages.

(16.) *Injuries* to a *master* are, 1. *Retaining* his servants. Remedy: by action on the case; for damages. 2. *Beating* them. Remedy: by action on the case, *per quod servitium amisit*; for damages.

Law of
England
Epitomized.

SECT. IX. *Of Injuries to Personal Property.*

(1.) *Injuries* to the rights of *property* are either to those of *personal* or *real* property.

(2.) *Personal property* is either in *possession* or in *action*.

(3.) *Injuries* to *personal property* in possession are, 1. By *dispossession*. 2. By *damage*, while the owner remains in possession.

(4.) *Dispossession* may be effected, 1. By an unlawful *taking*. 2. By an unlawful *detaining*.

(5.) For the unlawful *taking* of goods and chattels *personal*, the remedy is, 1. *Actual restitution*, which (in case of a wrongful distress) is obtained by action of replevin. 3. *Satisfaction* in damages: 1st, in case of *rescous*, by action of *rescous*, poundbreach, or on the case; 2dly, in case of other unlawful takings, by action of trespass or trover.

(6.) For the unlawful *detaining* of goods lawfully taken, the remedy is also, 1. *Actual restitution*; by action of replevin or detinue. 2. *Satisfaction* in damages; by action on the case, for trover and conversion.

(7.) For *damage* to *personal property*, while in the owner's possession, the remedy is in damages; by action of trespass *vi et armis*, in case the act be immediately injurious; or by action of trespass on the case, to redress consequential damage.

(8.) *Injuries* to *personal property*, in *action*, arise by breach of *contracts*, 1. *Express*. 2. *Implied*.

(9.) Breaches of *express* contracts are, 1. By *non-performance* of debts. Remedy: 1st, Specific payment recoverable by action of debt. 2dly, Damages for non-payment; recoverable by action on the case. 2. By *non-performance* of covenants. Remedy: by action of covenant, 1st, to recover damages, in covenants *personal*; 2dly, to compel performance, in covenants *real*. 3. By *non-performance* of promises, or *assumpsits*. Remedy: by action on the case; for damages.

(10.) *Implied* contracts are such as arise, 1. From the nature and constitution of *government*. 2. From *reason* and the construction of law.

(11.) Breaches of contracts, implied in the nature of *government*, are by the *nonpayment* of money which the laws have directed to be paid. Remedy: by action of debt (which, in such cases is frequently a *popular* frequently a *qui tam* action); to compel the specific payment;—or, sometimes, by action on the case; for damages.

(12.) Breaches of contracts, implied in *reason* and construction of law, are by the *non-performance* of legal presumptive *assumpsits*: for which the remedy is in damages; by an action on the case on the implied *assumpsits*, 1. Of a *quantum meruit*. 2. Of a *quantum valebat*. 3. Of money expended for another. 4. Of receiving money to another's use. 5. Of an *in simulo computassent*, on an account stated (the remedy on an account unstated being by action of account). 6. Of performing one's duty, in any employment, with integrity, diligence, and skill. In some of which cases an

ciii.

an

Law of
Eng and
E. itomif d.

an action of deceit (on the case, in nature of deceit) will lie.

Remedy, in both cases: by a mere writ of *right*, the highest writ in the law.

Law of
England
E. itomif d.

SECT. X. *Of Injuries to Real Property; and, first, of Dispossession, or Ouster, of the Freehold.*

SECT. XI. *Of Dispossession, or Ouster, of Chattels real.*

civ.

(1.) Injuries affecting *real* property are, 1. *Ouster*, 2. *Trespafs*. 3. *Nuisances*. 4. *Waste*. 5. *Subtraction*. 6. *Disturbance*.

(2.) *Ouster* is the amotion of possession; and is, 1. From *freeholds*. 2. From *chattels* real.

(3.) *Ouster* from *freeholds* is effected by, 1. *Abatement*. 2. *Intrusion*. 3. *Disseisin*. 4. *Discontinuance*. 5. *De forcement*.

(4.) *Abatement* is the entry of a stranger, after the death of the ancestor, before the heir.

(5.) *Intrusion* is the entry of a stranger, after a particular estate of freehold is determined, before him in remainder or reversion.

(6.) *Disseisin* is a wrongful putting out of him that is seised of the freehold.

(7.) *Discontinuance* is where tenant in tail, or the husband of tenant in fee, makes a larger estate of the land than the law alloweth.

(8.) *De forcement* is any other detainer of the freehold from him that hath the property, but who never had the possession.

(9.) The universal remedy for all these is restitution or delivery of possession; and, sometimes, damages for the detention. This is effected, 1. By mere *entry*. 2. By action *possessory*. 3. By writ of *right*.

(10.) Mere *entry*, on lands, by him who hath the apparent right of possession, will (if *peaceable*) divest the mere *possession* of a wrongdoer. But *forcible* entries are remedied by immediate restitution, to be given by a justice of the peace.

(11.) Where the wrongdoer hath not only mere possession, but also an *apparent* right of possession, this may be divested by him who hath the *actual* right of possession, by means of the *possessory* actions of *writ of entry* or *assize*.

(12.) A writ of *entry* is a real action, which improves the title of the tenant, by showing the unlawful means under which he gained or continues possession. And it may be brought either against the wrongdoer himself, or in the degrees called the *per*, the *per* and *cui*, and the *post*.

(13.) An *assize* is a real action, which proves the title of the demandant, by showing his own or his ancestor's possession. And it may be brought either to remedy abatements; viz. the assize of *mort d'ancestor*, &c.: Or to remedy recent disseisins; viz. the assize of *novel disseisin*.

(14.) Where the wrongdoer hath gained the actual right of *possession*, he who hath the right of *property* can only be remedied by a writ of *right*, or some writ of a similar nature. As, 1. Where such right of possession is gained by the *discontinuance* of tenant in tail. Remedy, for the right of property: by writ of *formedon*. 2. Where gained by *recovery* in a possessory action, had against tenants of particular estates by their own default. Remedy: by writ of *quod ei de forceat*. 3. Where gained by *recovery* in a possessory action, had upon the merits. 4. Where gained by the *statute* of *limitations*.

cv.

(1.) *Ouster* from *chattels* real is, 1. From estates by *statute* and *elegit*. 2. From an estate for *years*.

(2.) *Ouster* from estates by *statute* or *elegit*, is effected by a kind of *disseisin*. Remedy: restitution, and damages; by assize of *novel disseisin*.

(3.) *Ouster* from an estate for years, is effected by a like disseisin, or *ejectment*. Remedy: restitution, and damages, 1. By writ of *ejectione firmæ*. 1. By writ of *quare ejecit infra terminum*.

(4.) A writ of *ejectione firmæ*, or action of trespass in ejectment, lieth where lands, &c. are let for a term of years, and the lessee is ousted or ejected from his term; in which case he shall recover possession of his term, and damages.

(5.) This is now the usual method of trying titles to land, instead of an action real: viz. By 1. The claimant's making an actual (or supposed) lease upon the land to the plaintiff. 2. The plaintiff's actual (or supposed) entry thereupon. 3. His actual (or supposed) ouster and ejectment by the defendant. For which injury this action is brought either against the tenant, or (more usually) against some casual or fictitious ejector; in whose stead the tenant may be admitted defendant, on condition that the lease, entry, and ouster, be confessed, and that nothing else be disputed but the merits of the title claimed by the lessor of the plaintiff.

(6.) A writ of *quare ejecit infra terminum* is an action of a similar nature; only not brought against the wrongdoer or ejector himself, but such as are in possession under his title.

SECT. XII. *Of Trespafs.*

Trespafs is an entry upon, and damage done to, another's lands, by one's self, or one's cattle; without any lawful authority, or cause of justification: which is called a *breach of his clofs*. Remedy: damages; by action of trespass, *quare clausum fregit*; besides that of distress, damage feasant. But, unless the title to the land came chiefly in question, or the trespass was wilful or malicious, the plaintiff (if the damages be under forty shillings) shall recover no more costs than damages.

cvii.

SECT. XIII. *Of Nuisance.*

(1.) Nuisance, or annoyance, is any thing that worketh damage or inconvenience: and it is either a *public* and *common* nuisance, of which in the next chapter; or, a *private* nuisance, which is any thing done to the hurt or annoyance of, 1. The corporeal; 2. The incorporeal, hereditaments of another.

(2.) The remedies for a private nuisance (besides that of abatement) are, 1. Damages; by action on the case; (which also lies for special prejudice by a public nuisance). 2. Removal thereof, and damages; by assize of nuisance. 3. Like removal, and damages; by writ of *Quod permittat prosternere*.

cviii.

SECT.

SECT. XIV. *Of Waste.*

(1.) Waste is a spoil and destruction in lands and tenements, to the injury of him who hath, 1. An immediate interest (as, by right of common) in the lands. 2. The remainder of reversion of the inheritance.

(2.) The remedies, for a commoner, are restitution, and damages; by assize of common: Or damages only; by action on the case.

(3.) The remedy, for him in remainder, or reversion, is, 1. Preventive: by writ of *estrepement* at law, or injunction out of chancery; to stay waste. 2. Corrective: by action of waste; to recover the place wasted, and damages.

SECT. XV. *Of Subtraction.*

(1.) Subtraction is when one, who owes services to another, withdraws or neglects to perform them. This may be, 1. Of rents, and other services, due by *tenure*. 2. Of those due by *custom*.

(2.) For subtraction of rents and services, due by *tenure*, the remedy is, 1. By distress; to compel the payment or performance. 2. By action of debt. 3. By assize. 4. By writ of *de consuetudinibus et serviciis*;—to compel the payment. 5. By writ of *cessavit*;—and, 6. By writ of right *sur disclaimer*;—to recover the land itself.

(3.) To remedy the oppression of the land, the law has also given, 1. The writ of *Ne injustè vexes*: 2. The writ of *mesne*.

(4.) For subtraction of services, due by *custom*, the remedy is, 1. By writ of *Secuta ad molendinum, furnum torrale, &c.* to compel the performance, and recover damages. 2. By action on the case; for damages only.

SECT. XVI. *Of Disturbance.*

(1.) Disturbance is the hindering, or disquieting, the owners of an incorporeal hereditament, in their regular and lawful enjoyment of it.

(2.) Disturbances are, 1. Of *franchises*. 2. Of *commons*. 3. Of *ways*. 4. Of *tenure*. 5. Of *patronage*.

(3.) Disturbance of *franchises* is remedied by a special action on the cases; for damages.

(4.) Disturbance of *common*, is, 1. *Intercommoning* without right. Remedy: damage; by an action of the case, or of trespass: besides distress, damage feasant; to compel satisfaction. 2. *Surcharging* the common. Remedies: distress, damage feasant; to compel satisfaction: action on the case; for damages: or, writ of admeasurement of pasture; to apportion the common. and writ of *de secunda superoneratione*; for the supernumerary cattle, and damages. 3. *Enclosure*, or obstruction. Remedies: restitution of the common and damages; by assize of *novel disseisin*, and by writ of *quod admittat*: or, damages only; by action on the case.

(5.) Disturbance of *ways*, is the obstruction, 1. Of a way in gross, by the owner of the land. 2. Of a way appendant, by a stranger. Remedy, for both: damages; by action on the case.

(6.) Disturbance of *tenure*, by driving away tenants, is remedied by a special action on the case; for damages.

(7.) Disturbance of *patronage*, is the hinderance of a patron to present his clerk to a benefice; whereof *usurpation*, within six months is now become a species.

(8.) Disturbers may be, 1. The pseudo-patron, by wrongful presentation. 2. His clerk, by demanding institution. 3. The ordinary, by refusing the clerk of the true patron.

(9.) The remedies are, 1. By assize of *darrein presentment*; 2. By writ of *quare impedit*;—to compel institution and recover damages: Consequent to which are the writs of *quare incumbravit*, and *quare non admittit*; for subsequent damages. 3. By writ of right of advowson; to compel institution, or establish the permanent right.

SECT. XVII. *Of Injuries Proceeding from, or Affecting, the Crown.*

(1.) Injuries to which the crown is a party are, 1. Where the crown is the aggressor. 2. Where the crown is the sufferer.

(2.) The crown is the aggressor, whenever it is in possession of any property to which the subject hath a right.

(3.) This is remedied, 1. By *petition of right*; where the right is grounded on facts disclosed in the petition itself. 2. By *monstrans de droit*; where the claim is grounded on facts, already appearing on record. The effect of both which is to remove the hands (or possession) of the king.

(4.) Where the crown is the sufferer, the king's remedies are, 1. By such common law actions as are consistent with the royal dignity. 2. By *inquest of office*, to recover possession: which, when found, gives the king his right by solemn matter of record; but may afterwards be *traversed* by the subject. 3. By writ of *scire facias*, to repeal the king's patent or grant. 4. By *information of intrusion*, to give damages for any trespass on the lands of the crown; or of *debt*, to recover moneys due upon contract, or forfeited by the breach of any penal statute; or sometimes (in the latter case) by information *in rem*: all filed in the exchequer *ex officio* by the king's attorney general. 5. By writ of *quo warranto*, or information in the nature of such writ; to seize into the king's hands any franchise usurped by the subject, or to oust an usurper from any public office. 6. By writ of *mandamus*, unless cause; to admit or restore any person entitled to a franchise or office: to which, if a false cause be returned, the remedy is by *traverse*, or by action on the case for damages; and, in consequence, a peremptory *mandamus*, or writ of restitution.

SECT. XVIII. *Of the Pursuit of Remedies by Action; and, First, of the Original Writ.*

(1.) The pursuit of the several remedies furnished by the laws of England, is, 1. By *action* in the courts of *common law*. 2. By *proceedings* in the courts of *equity*.

(2.) Of an *action* in the court of *common pleas* (originally

originally the proper court for prosecuting civil suits) the orderly parts are, 1. The *original writ*. 2. The *process*. 3. The *pleadings*. 4. The *issue* or *demurrer*. 5. The *trial*. 6. The *judgement*. 7. The proceedings in nature of *appeal*. 8. The *execution*.

(3.) The *original writ* is the beginning or foundation of a suit, and is either *optional* (called a *precipe*), commanding the defendant to do something in certain, or otherwise show cause to the contrary; or *peremptory* (called a *si fecerit te securum*), commanding, upon security given by the plaintiff, the defendant to appear in court, to show wherefore he hath injured the plaintiff: both issuing out of chancery under the king's great seal, and returnable in bank during term time.

SECT. XIX. Of Process.

cxiii. (1.) Process is the means of compelling the defendant to appear in court.

(2.) This includes, 1. *Summons*. 2. The writ of attachment, or *pone*; which is sometimes the first or original process. 3. The writ of *distingas*, or distress infinite. 4. The writs of *capias ad respondendum*, and *testatum capias*: or, instead of these, in the king's bench, the bill of Middlesex, and writ of *latitat*:—and, in the exchequer, the writ of *quo minus*. 5. The *alias* and *pluries* writs. 6. The *exigent*, or writ of *exigi facias*, proclamations, and outlawry. 7. *Appearance*, and common bail. 8. The *arrest*. 9. *Special bail*, first to the sheriff, and then to the action.

SECT. XX. Of Pleadings.

cxiv. Pleadings are the mutual altercations of the plaintiff and defendant in writing; under which are comprised, 1. The declaration of court; (wherein, incidentally, of the *visne*, *non suit*, *retraxit*, and discontinuance.) 2. The defence, claim of cognizance, imparlance, view, oyer, aid-prayer, voucher, or age. 3. The plea; which is either a *dilatory* plea (1st, to the jurisdiction; 2^{dly}, in disability of the plaintiff; 3^{dly}, in abatement), or it is a plea to the action; sometimes confessing the action either in whole or in part; (wherein of a tender, paying money into court, and set off): but usually denying the complaint, by pleading either, 1st, the general issue: or, 2^{dly}, a special bar (wherein of justifications, the statutes of limitation, &c.) 4. *Replication*, *rejoinder*, *surrejoinder*, *rebutter*, *surrebutter*, &c. Therein of *estoppels*, *colour*, *duplicitly*, *departure*, *new assignment*, *protestation*, *averment*, and other incidents of pleading.

SECT. XXI. Of Issue and Demurrer.

cxv. (1.) Issue is where the parties, in a course of pleadings, come to a point affirmed on one side and denied on the other; which, if it be a matter of law, is called a *demurrer*; if it be a matter of fact, still it retains the name of an issue, of fact.

(2.) *Continuance* is the detaining of the parties in court from time to time, by giving them a day certain to appear upon. And, if any new matter arises since the last continuance or adjournment, the defendant may take advantage of it, even after demurrer or issue, by alleging it in a plea *puis darrein continuance*.

(3.) The determination in an issue of law, or demurrer, is by the opinion of the judges of the court which is afterwards entered on record.

Law of England Epitomised.

SECT. XXII. Of the Several Species of Trial.

(1.) Trial is the examination of the matter of fact put in issue. cxvi.

(2.) The species of trial are, 1. By the *record*. 2. By *inspection*. 3. By *certificate*. 4. By *witnesses*. 5. By *wager of battel*. 6. By *wager of law*. 7. By *jury*.

(3.) Trial by the *record* is had, when the existence of such record is the point in issue.

(4.) Trial by *inspection* or *examination* is had by the court, principally when the matter in issue is the evident object of the senses.

(5.) Trial by *certificate* is had in those cases, where such certificate must have been conclusive to a jury.

(6.) Trial by *witnesses* (the regular method in the civil law) is only used on a writ of dower, when the death of the husband is in issue.

(7.) Trial by *wager of battel*, in civil cases, is only had on a writ of right; but, in lieu thereof, the tenant may have at his option, the trial by the *grand assize*.

(8.) Trial by *wager of law* is only had, where the matter in issue may be supposed to have been privily transacted between the parties themselves, without the intervention of other witnesses.

SECT. XXIII. Of the Trial by Jury.

(1.) Trial by jury is, 1. *Extraordinary*; as, by the grand assize, in writs of right; and by the grand jury, in writs of attaint. 2. *Ordinary*. cxvii.

(2.) The method and process of the *ordinary* trial by jury is, 1. The writ of *venire facias* to the sheriff, coroners, or elisors; with the subsequent compulsive process of *habeas corpora*, or *distingas*. 2. The carrying down of the record to the court of *nisi prius*. 3. The sheriff's return; or panel of, 1st, special; 2^{dly}, common jurors. 4. The challenges; 1st, to the array; 2^{dly}, to the polls of the jurors; either *propter honoris respectum*, *propter defectum*, *propter affectum*, (which is sometimes a principal challenge, sometimes to the favour), or *propter delictum*. 5. The *tales de circumstantibus*. 6. The oath of the jury. 7. The evidence; which is either by proofs, 1st, written; 2^{dly}, parole:—or, by the private knowledge of the jurors. 6. The verdict; which may be, 1st, privy; 2^{dly}, public; 3^{dly}, special.

SECT. XXIV. Of Judgement and its Incidents.

(1.) Whatever is transacted at the trial in the court of *nisi prius*, is added to the record under the name of a *poslea*: consequent upon which is the *judgement*. cxviii.

(2.) Judgement may be *arrested* or *stayed* for causes, 1. *Extrinsic*, or *dehors* the record; as in the case of *new trials*. 2. *Intrinsic*, or within it; as where the declaration varies from the writ, or the verdict from the pleadings, and issue; or where the case, laid in the declaration, is not sufficient to support the action in point of law.

(3.) Where the issue is immaterial or insufficient, the court may award a *repleader*.

(4.)

Law of
England
Epitomised.

(4.) *Judgement* is the sentence of the law, pronounced by the court, upon the matter contained in the record.

(5.) Judgements are, 1. Interlocutory; which are incomplete till perfected by a writ of inquiry. 2. Final.

(6.) *Costs*, or expences of suit, are now the necessary consequence of obtaining judgement.

SECT. XXV. Of Proceedings, in the Nature of Appeals.

cxix.

(1.) Proceedings, in the nature of *appeals* from judgement, are, 1. A writ of *attaint*; to impeach the verdict of a jury; which of late has been superseded by new trials. 2. A writ of *audita querela*; to discharge a judgement by matter that has since happened. 3. A writ of *error*, from one court of record to another; to correct judgements, erroneous in point of law, and not helped by the statutes of amendment and jeofails.

(2.) Writs of error lie, 1. To the court of *king's bench*, from all inferior courts of record; from the court of *common pleas* at Westminster; and from the court of *king's bench* in Ireland. 2. To the courts of *exchequer chamber*, from the law side of the courts of *exchequer*; and from proceedings in the court of *king's bench* by bill. 3. To the house of *peers*, from proceedings in the court of *king's bench* by original, and on writs of error; and from the several courts of *exchequer chamber*.

SECT. XXVI. Of Execution.

cxx.

Execution is the putting in force of the sentence or judgement of the law. Which is effected, 1. Where possession of any hereditament is recovered: by writ of *habere facias seisinam, possessionem, &c.* 2. Where any thing is awarded to be done or rendered, by a special writ for that purpose: as, by writ of abatement, in case of nuisance; *retorna habendo* and *capias in witheram*, in replevin; *distringas* and *scire facias*, in detinue. 3. Where money only is recovered; by writ of, 1st, *Capias ad satisfaciendum*, against the *body* of the defendant; or in default thereof, *scire facias* against his bail. 2dly, *Fieri facias*, against his *goods* and *chattels*. 3dly, *Levari facias*, against his *goods* and the *profits* of his lands. 4thly, *Elegit*, against his *goods*, and the *possession* of his lands. 5thly, *Extendi facias*, and other process, on statutes, recognizances, &c. against his *body, lands, and goods*.

SECT. XXVII. Of Proceedings in the Courts of Equity.

cxxi.

(1.) Matters of equity which belong to the peculiar jurisdiction of the court of *chancery*, are, 1. The guardianship of infants. 2. The custody of idiots and lunatics. 3. The superintendance of charities. 4. Commissions of bankrupt.

(2.) The court of *exchequer* and the duchy court of *Lancaster*, have also some peculiar causes, in which the interest of the king is more immediately concerned.

(3.) *Equity* is the true sense and sound interpretation of the rules of law; and, as such, is equally attended to by the judges of the courts both of common law and equity.

Law of
England
Epitomised.

(4.) The essential differences, whereby the English courts of equity are distinguished from the courts of law, are, 1. The mode of *proof*, by a discovery on the oath of the party; which gives a jurisdiction in matters of account, and fraud. 2. The mode of *trial*; by depositions taken in any part of the world. 3. The mode of *relief*; by giving a more specific and extensive remedy than can be had in the courts of law; as, by carrying agreements into execution, staying waste or other injuries by injunction, directing the sale of encumbered lands, &c. 4. The true construction of *securities* for money, by considering them merely as a pledge. 5. The execution of *trusts*, or second uses, in a manner analogous to the law of legal estates.

(5.) The proceedings in the court of chancery (to which those in the exchequer, &c. very nearly conform) are, 1. Bill. 2. Writ of *subpoena*; and, perhaps, injunction. 3. Process of contempt; viz. (ordinarily) attachment, attachment with proclamations, commission of rebellion, serjeant at arms, and sequestrations. 4. Appearance. 5. Demurrer. 6. Plea. 7. Answer. 8. Exceptions; amendments; cross; or supplemental bills; bills of revivor, interpleader, &c. 9. Replication. 10. Issue. 11. Depositions, taken upon interrogatories; and subsequent publication thereof. 12. Hearing. 13. Interlocutory decree; feigned issue, and trial; reference to the master, and report; &c. 14. Final decree. 15. Rehearing, or bill of review. 16. Appeal to parliament.

CHAP. IV. Of PUBLIC WRONGS.

SECT. I. Of the Nature of Crimes, and their Punishment.

cxii.

(1.) IN treating of *public wrongs* may be considered, 1. The general nature of crimes and punishments. 2. The persons capable of committing crimes. 3. Their several degrees of guilt. 4. The several species of crimes, and their respective punishments. 5. The means of prevention. 6. The method of punishment.

(2.) A *crime*, or *misdeemeanor*, is an act committed, or omitted, in violation of a public law either forbidding or commanding it.

(3.) Crimes are distinguished from civil injuries, in that they are a breach and violation of the *public rights*, due to the whole community, considered as a community.

(4.) *Punishments* may be considered with regard to, 1. The power; 2. The end; 3. The measure;—of their infliction.

(5.) The power, or right, of inflicting human punishments for *natural crimes*, or such as are *mala in se*, was by the law of nature vested in every individual: but, by the fundamental contract of society, is now transferred to the sovereign power; in which also is vested, by the same contract, the right of punishing *positive offences*, or such as are *mala prohibita*.

(6.) The end of human punishments is to prevent future offences; 1. By amending the offender himself. 2. By deterring others through his example. 3. By depriving him of the power to do future mischief.

(7.) The measure of human punishments must be determined by the wisdom of the sovereign power, and not

Law of England Epitomised.

not by any uniform universal rule: though that wisdom may be regulated, and assisted, by certain general, equitable, principles.

Law of England Epitomised.

SECT. II. *Of the Persons capable of Committing Crimes.*

cxiv. (1.) All persons are *capable* of committing crimes, unless there be in them a *defect of will*: for, to constitute a legal crime, there must be both a vitious will, and a vitious act.

(2.) The will does not concur with the act, 1. Where there is a defect of *understanding*. 2. Where no will is *exerted*. 3. Where the act is *constrained* by force and violence.

(3.) A vitious will may therefore be wanting, in the cases of, 1. *Infancy*. 2. *Idiocy*, or *lunacy*. 3. *Drunkenness*; which doth not, however, excuse. 4. *Misfortune*. 5. *Ignorance*, or *mistake of fact*. 6. *Compulsion*, or *necessity*; which is, 1st, that of civil subjection; 2dly, that of dures *per minas*; 3dly, that of choosing the least pernicious of two evils, where one is unavoidable; 4thly, that of want, or hunger; which is no legitimate excuse.

(4.) The king, from his excellence and dignity, is also incapable of doing wrong.

SECT. III. *Of Principals and Accessories.*

cxv. (1.) The different *degrees* of guilt in criminals are, 1. *As principals*. 2. *As accessories*.

(2.) A *principal* in a crime is, 1. He who commits the fact. 2. He who is present at, aiding, and abetting, the commission.

(3.) An *accessory* is he who doth not commit the fact, nor is present at the commission; but is in some sort concerned therein, either *before* or *after*.

(4.) *Accessories* can only be in petit treason, and felony: in high treason, and misdemeanors, all are principals.

(5.) An *accessory, before* the fact, is one who, being absent when the crime is committed, hath procured, counselled, or commanded, another to commit it.

(6.) An *accessory after* the fact, is where a person, knowing a felony to have been committed, receives, relieves, comforts, or assists, the felon. Such *accessory* is usually entitled to the benefit of clergy; where the principal, and *accessory before* the fact, are excluded from it.

SECT. IV. *Of Offences against God and Religion.*

cxvi. (1.) Crimes and misdemeanors cognizable by the laws of England are such as more immediately offend, 1. *GOD*, and his holy *religion*. 2. The law of *nations*. 3. The *king*, and his *government*. 4. The *public*, or *commonwealth*. 5. *Individuals*.

(2.) Crimes more immediately offending *GOD* and *religion* are, 1. *Apostacy*. For which the penalty is incapacity, and imprisonment. 2. *Heresy*. Penalty, for one species thereof: the same. 3. Offences against the established *church*:—Either, by *reviling* its ordinances. Penalties: fine; deprivation; imprisonment; forfeiture.—Or, by *nonconformity* to its worship;

Vol. XI. Part II.

1st, Through total *irreligion*. Penalty: fine, 2dly, Through Protestant *dissenting*. Penalty: suspended by the toleration act. 3dly, Through *Popery*, either in professors of the popish religion, popish recusants, convict, or popish priests. Penalties: incapacity; double taxes; imprisonment; fines; forfeitures; abjuration of the realm; judgement of felony, without clergy; and judgement of high treason. 4. *Blasphemy*. Penalty: fine, imprisonment, and corporal punishment. 5. *Profane swearing and cursing*. Penalty: fine, or house of correction. 6. *Witchcraft*; or, at least, the pretence thereto. Penalty: imprisonment, and pillory. 7. *Religious impostures*. Penalty: fine, imprisonment, and corporal punishment. 8. *Simony*. Penalties: forfeiture of double value; incapacity. 9. *Sabbath-breaking*. Penalty: fine. 10. *Drunkenness*. Penalty: fine or flocks. 11. *Lewdness*. Penalties: fine; imprisonment; house of correction.

SECT. V. *Of Offences against the Law of Nations.*

(1.) The *law of nations* is a system of rules, deducible by natural reason, and established by universal consent, to regulate the intercourse between independent states.

(2.) In England, the *law of nations* is adopted in its full extent, as part of the law of the land.

(3.) Offences against this law are principally incident to whole states or nations; but, when committed by private subjects, are then the objects of the municipal law.

(4.) Crimes against the law of *nations*, animadverted on by the laws of England, are, 1. Violation of *safe conducts*. 2. Infringement of the rights of *embassadors*. Penalty, in both: arbitrary. 3. *Piracy*. Penalty: judgement of felony, without clergy.

SECT. VI. *Of High Treason.*

(1.) Crimes and misdemeanors more peculiarly offending the king and his government are, 1. *High treason*. 2. *Felonies* injurious to the prerogative. 3. *Præmunire*. 4. Other *misprisons* and *contempts*.

(2.) *High treason* may, according to the statute of Edward III. be committed, 1. By *compassing* or *imagining* the death of the king, or queen-consort, or their eldest son and heir: demonstrated by some overt act. 2. By *violating* the king's companion, his eldest daughter, or the wife of his eldest son. 3. By some overt act of *levying* war against the king in his realm. 4. By *adherence* to the king's enemies. 5. By *counterfeiting* the king's great or privy seal. 6. By *counterfeiting* the king's money, or importing counterfeit money. 7. By *killing* the chancellor, treasurer, or king's justices, in the execution of their offices.

(3.) *High treasons*, created by subsequent statutes, are such as relate, 1. To *Papists*: as, the repeated defence of the pope's jurisdiction; the coming from beyond sea of a natural born popish priest; the renouncing of allegiance, and reconciliation to the pope or other foreign power. 2. To the *coinage*, or other signatures of the king: as, counterfeiting (or, importing and uttering counterfeit) foreign coin, here current; forging the sign-manual, privy signet, or privy seal; falsifying, &c. the current coin. 3. To the

Law of
England
Epitomised.

Protestant succession; as, corresponding with, or remitting to, the late Pretender's sons; endeavouring to impede the succession; writing or printing in defence of any pretender's title, or in derogation of the act of settlement, or of the power of parliament to limit the descent of the crown.

(4.) The *punishment* of high treason, in *males*, is (generally) to be, 1. Drawn. 2. Hanged. 3. Embowelled alive. 4. Beheaded. 5. Quartered. 6. The head and quarters to be at the king's disposal. But, in treasons relating to the coin, only to be drawn, and hanged till dead. *Females*, in both cases, are to be drawn, and burned alive.

SECT. VII. Of Felonies injurious to the King's Prerogative.

cxix.

(1.) Felony is that offence which occasions the total forfeiture of lands or goods, at common law; now usually also punishable with death, by hanging; unless through the benefit of clergy.

(2.) *Felonies* injurious to the king's prerogative (of which some are within, others without clergy) are, 1. Such as relate to the *coin*: as, the wilful uttering of counterfeit money, &c.; (to which head some inferior misdemeanors affecting the coinage may be also referred). 2. Conspiring or attempting to kill a *privy counsellor*. 3. Serving *foreign* states, or enlisting soldiers for *foreign* service. 4. Embezzling the king's *armour* or *stores*. 5. *Desertion* from the king's *armies* by land or sea.

SECT. VIII. Of Præmunire.

cxix.

(1.) Præmunire, in its original sense, is the offence of adhering to the temporal power of the pope, in derogation of the regal authority. Penalty: outlawry, forfeiture, and imprisonment: which hath since been extended to some offences of a different nature.

(2.) Among these are, 1. Importing Popish trinkets. 2. Contributing to the maintenance of Popish seminaries abroad, or Popish priests in England. 3. Molesting the possessors of abbey lands. 4. Acting as broker in an usurious contract, for more than ten per cent. 5. Obtaining any stay of proceedings in suits for monopolies. 6. Obtaining an exclusive patent for gunpowder or arms. 7. Exertion of purveyance or pre-emption. 8. Asserting a legislative authority in both or either house of parliament. 9. Sending any subject a prisoner beyond sea. 10. Refusing the oaths of allegiance and supremacy. 11. Preaching, teaching, or advised speaking, in defence of the right of any pretender to the crown, or in derogation of the power of parliament to limit the succession. 12. Treating of other matters by the assembly of peers of Scotland, convened for electing their representatives in parliament. 13. Unwarrantable undertakings by unlawful subscriptions to public funds.

SECT. IX. Of Misprisions and Contempts affecting the King and Government.

cxxi.

(1.) Misprisions and *contempts* are all such high offences as are under the degree of capital.

(2.) These are, 1. *Negative*, in concealing what ought

to be revealed. 2. *Positive*, in committing what ought not to be done.

(3.) *Negative* misprisions are, 1. Misprision of *treason*. Penalty: forfeiture and imprisonment. 2. Misprision of *felony*. Penalty: fine and imprisonment. 3. Concealment of *treasure trove*. Penalty: fine and imprisonment.

(4.) *Positive* misprisions or high misdemeanors and contempts, are, 1. *Mal-administration* of public trusts, which includes the crime of *peculation*. Usual penalties: banishment; fines; imprisonment; disability. 2. Contempts against the king's *prerogative*. Penalty: fine, and imprisonment. 3. Contempt against his *person* and *government*. Penalty: fine, imprisonment, and infamous corporal punishment. 4. Contempts against his *title*. Penalties: fine, and imprisonment; or fine, and disability. 5. Contempts against his *palaces*, or *courts* of justice. Penalties: fine; imprisonment; corporal punishment; loss of right hand; forfeiture.

SECT. X. Of Offences against Public Justice.

(1.) Crimes especially affecting the *commonwealth* are offences, 1. Against the public *justice*. 2. Against the public *peace*. 3. Against the public *trade*. 4. Against the public *health*. 5. Against the public *police* or *economy*.

(2.) Offences against the public *justice*, are, 1. *Embezzling* or *vacating* records, and *personating* others in courts of justice. Penalty: judgement of felony, usually without clergy. 2. *Compelling* prisoners to become *approvers*. Penalty: judgement of felony. 3. *Obstructing* the execution of process. 4. *Escapes*. 5. *Breach* of prison. 6. *Rescue*. Which four may (according to the circumstances) be either felonies, or misdemeanors punishable by fine and imprisonment. 7. *Returning* from *transportation*. This is felony, without clergy. 8. Taking *rewards* to *help* one to his stolen goods. Penalty: the same as for the theft. 9. *Receiving* stolen goods. Penalties: transportation; fine; and imprisonment.—10. *Theft*. 11. Common *barbetry* and suing in a feigned name. 12. *Maintenance*. 13. *Champerty*. Penalty, in these four: fine, and imprisonment. 14. *Compounding* prosecutions on penal statutes. Penalty: fine, pillory, and disability. 15. *Conspiracy*; and threats of accusation in order to extort money, &c. Penalties: the villainous judgement; fine; imprisonment; pillory; whipping, transportation. 16. *Perjury*, and subornation thereof. Penalties: infamy; imprisonment; fine, or pillory; and, sometimes, transportation or house of correction. 17. *Bribery*. Penalty: fine, and imprisonment. 18. *Embarras*. Penalty: infamy, fine, and imprisonment. 19. *False verdict*. Penalty: the judgement in attain. 20. *Negligence* of public officers, &c. Penalty: fine, and forfeiture of the office. 21. *Oppression* by magistrates. 22. *Extortion* of officers. Penalty, in both: imprisonment, fine, and sometimes forfeiture of the office.

SECT. XI. Of Offences against the Public Peace.

Offences against the public *peace*, are, 1. *Riotous assemblies* to the number of twelve. 2. Appearing armed,

Law of
England
Epitomised.

cxixii.

cxixiii.

Law of
England
Epitomied.

armed, or hunting in *disguise*. 3. *Threatening*, or *demanding* any valuable thing by letter.—All these are felonies, without clergy. 4. Destroying of *turnpikes*, &c. Penalties: whipping; imprisonment; judgement of felony, with and without clergy. 5. *Assrays*. 6. *Riots, routs, and unlawful assemblies*. 7. Tumultuous *petitioning*. 8. *Forcible entry*, and *detainer*. Penalty, in all four: fine, and imprisonment. 9. Going unusually *armed*. Penalty: forfeiture of arms, and imprisonment. 10. Spreading *false news*. Penalty: fine, and imprisonment. 11. Pretended *prophecies*. Penalties: fine; imprisonment; and forfeiture. 12. *Challenges to fight*. Penalty: fine, imprisonment, and sometimes forfeiture. 13. *Libels*. Penalty: fine, imprisonment, and corporal punishment.

SECT. XII. *Of Offences against Public Trade.*

cxxxiv.

Offences against the public *trade*, are, 1. *Owling*. Penalties: fine; forfeiture; imprisonment, loss of left hand; transportation; judgement of felony. 2. *Smuggling*. Penalties: fines; loss of goods; judgement of felony, without clergy. 3. *Fraudulent bankruptcy*. Penalty: judgement of felony without clergy. 4. *Usury*. Penalty: fine, and imprisonment. 5. *Cheating*. Penalties: fine; imprisonment; pillory; tumbrel; whipping, or other corporal punishment, transportation. 6. *Forestalling*. 7. *Regrating*. 8. *Engrossing*. Penalties, for all three: loss of goods; fine; imprisonment; pillory. 9. *Monopolies and combinations* to raise the price of commodities. Penalties: fines; imprisonment; pillory; loss of ear; infamy; and, sometimes the pains of *praemunire*. 10. Exercising a *trade*, not having served as an apprentice. Penalty: fine. 11. Transporting, or residing abroad of *artificers*. Penalties: fine; imprisonment; forfeiture; incapacity; becoming aliens.

SECT. XIII. *Of Offences against the Public Health, and Public Police or Economy.*

cxxxv.

(1.) Offences against the public *health*, are, 1. *Irregularity*, in the time of the *plague*, or of *quarantine*. Penalties: whipping; judgement of felony, with and without clergy. 2. Selling *unwholesome provisions*. Penalties: amercement; pillory; fine; imprisonment; abjuration of the town.

(2.) Offences against the public *police and economy* or domestic order of the kingdom, are, 1. Those relating to *clandestine and irregular marriages*. Penalties: judgement of felony, with and without clergy. 2. *Bigamy*, or (more properly) *polygamy*. Penalty: judgement of felony. 3. *Wandering*, by *soldiers or mariners*. 4. *Remaining in England*, by *Egyptians*; or being in their *fellowship* one month. Both these are felonies, without clergy. 3. *Common nuisances*, 1st, By annoyances or purprestures in highways, bridges, and rivers; 2dly, By offensive trades and manufactures; 3dly, By disorderly houses; 4thly, By lotteries; 5thly, By cottages; 6thly, By fireworks; 7thly, By evelldropping. Penalty: in all fine. 8thly, By common scolding. Penalty: the cucking stool. 6. *Idleness, disorder, vagrancy, and incorrigible roguery*. Penalties: imprisonment; whipping; judgement of felony. 7. *Luxury*, in diet. Penalty, discretionary. 8. *Gaming*. Penalties:

to gentlemen, fine; to others, fine and imprisonment; to cheating gamesters, fine, infamy, and the corporal pains of perjury. 9. *Destroying the game*. Penalties: fines, and corporal punishment.

Law of
England
Epitomied.SECT. XIV. *Of Homicide.*

(1.) Crimes especially affecting *individuals*, are, 1. Against their *persons*. 2. Against their *habitations*. 3. Against their *property*.

(2.) Crimes against the *persons* of individuals, are, 1. By *homicide*, or destroying life. 2. By other *corporal injuries*.

(3.) *Homicide* is, 1. *Justifiable*. 2. *Excusable*. 3. *Felonious*.

(4.) *Homicide* is *justifiable*. 1. By necessity, and command of law. 2. By permission of law; 1st, For the furtherance of public justice; 2dly, For prevention of some forcible felony.

(5.) *Homicide* is *excusable*. 1. *Per infortunium*, or by misadventure. 2. *Se defendendo* or in self-defence, by chance-medley. Penalty, in both: forfeiture of goods; which however is pardoned of course.

(6.) *Felonious homicide* is the killing of a human creature without justification or excuse. This is, 1. Killing *one's self*. 2. Killing *another*.

(7.) Killing *one's self*, or *self-murder*, is where one deliberately, or by any unlawful malicious act, puts an end to his own life. This is felony; punished by ignominious burial, and forfeiture of goods and chattels.

(8.) Killing *another* is, 1. *Man slaughter*. 2. *Murder*.

(9.) *Man slaughter* is the unlawful killing of another, without malice, express or implied. This is either, 1. Voluntary, upon a sudden heat. 2. Involuntary, in the commission of some unlawful act. Both are felony, but within clergy; except in the case of *stabbing*.

(10.) *Murder* is when a person, of sound memory and discretion, unlawfully killeth any reasonable creature, in being, and under the king's peace; with malice aforethought, either express or implied. This is felony, without clergy; punished with speedy death, and hanging in chains, or dissection.

(11.) *Petit treason* (being an aggravated degree of *murder*) is where the servant kills his master, the wife her husband, or the ecclesiastic his superior. Penalty: in men, to be drawn and hanged; in women, to be drawn and burned.

SECT. XV. *Of Offences against the Persons of Individuals.*

Crimes affecting the *persons* of individuals, by other corporal injuries not amounting to homicide, are, 1. *Mayhem*; and also *striking* at another. Penalties: fine; imprisonment; judgement of felony, without clergy. 2. *Forcible abduction*, and *marriage or defilement*; of an heiress; which is felony: also, *stealing*, and *deflowering or marrying*, any woman child under the age of *sixteen* years; for which the penalty is imprisonment, fine, and temporary forfeiture of her lands. 3. *Rape*, and also *carnal knowledge*, of a woman child under the age of *ten* years. 4. *Buggery*, with man or beast. Both these are felonies, without clergy. 5. *Assault*. 6. *Battery*; especially of clergymen. 7. *Wounding*. Penalties, in all three: fine; imprisonment; and other corporal

Law of
England
Epitomised.

poral punishment. 8. *False imprisonment*. Penalties: fine; imprisonment; and (in some atrocious cases) the pains of *præmunire*, and incapacity of office or pardon. 9. *Kidnapping*, or forcibly stealing away the king's subjects. Penalty: fine; imprisonment; and pillory.

SECT. XVI. *Of Offences against the Habitations of Individuals.*

ccxxviii. (1.) Crimes, affecting the *habitations* of individuals are, 1. *Arson*. 2. *Burglary*.

(2.) *Arson* is the malicious and wilful burning of the house, or out-house, of another man. This is felony: in some cases within, in others without, clergy.

(3.) *Burglary* is the breaking and entering, by night, into a mansion house: with intent to commit a felony. This is felony, without clergy.

SECT. XVII. *Of Offences against Private Property.*

ccxxix. (1.) Crimes affecting the private *property* of individuals are, 1. *Larciny*. 2. Malicious *mischiefs*. 3. *Forgery*.

(2.) *Larciny* is, 1. *Simple*. 2. *Mixed* or *compound*.

(3.) *Simple larciny* is the felonious taking, and carrying away, of the personal goods of another. And it is, 1. *Grand larciny*; being above the value of twelve pence. Which is felony; in some cases within, in others without, clergy. 2. *Petit larciny*; to the value of twelve pence or under. Which is also felony, but not capital; being punished with whipping, or transportation.

(4.) *Mixed*, or *compound*, larciny, is that wherein the taking is accompanied with the aggravation of being, 1. From the *house*. 2. From the *person*.

(5.) Larcinies from the *house*, by day or night, are felonies without clergy, when they are, 1. Larcinies, above *twelve pence*, from a church; or by breaking a tent or booth in a market or fair, by day or night, the owner or his family being therein;—or by breaking a dwelling house by day, any person being therein;—or from a dwelling house by day, without breaking, any person therein being put in fear;—or from a dwelling house by night, without breaking, the owner, or his family being therein and put in fear. 2. Larcinies, of *five shillings*, by breaking the dwelling house, shop, or warehouse by day, though no person be therein;—or, by privately stealing in any shop, warehouse, coach-house, or stable, by day or night, without breaking, and though no person be therein. 3. Larcinies, of *forty shillings*, from a dwelling house or its out-houses, without breaking, and though no person be therein.

(6.) Larciny from the *person* is, 1. By *privately stealing*, from the person of another, above the value of twelve pence. 2. By *robbery*; or the felonious and forcible taking, from the person of another, in or near the highway, goods or money of any value, by putting him in fear. These are both felonies without clergy. An attempt to rob is also felony.

(7.) Malicious *mischiefs*, by destroying dykes, goods, cattle, ships, garments, fish ponds, trees, woods, churches, chapels, meeting-houses, houses, out-houses, corn, hay, straw, sea or river banks, hop-binds, coal-mines (or engines thereunto belonging); or any fences for enclo-

tures by act of parliament, is felony; and, in most cases, without benefit of clergy.

(8.) *Forgery* is the fraudulent making or alteration of a writing, in prejudice of another's right. Penalties: fine; imprisonment; pillory; loss of nose and ears; forfeiture; judgement of felony, without clergy.

SECT. XVIII. *Of the Means of Preventing Offences.*

(1.) Crimes and misdemeanors may be *prevented*, by compelling suspected persons to give *security*: which is effected by binding them in a conditional recognizance to the king, taken in court, or by a magistrate. cxl.

(2.) These recognizances may be conditioned, 1. To keep the *peace*. 2. To be of *good behaviour*.

(3.) They may be taken by any justice or conservator of the peace, at his own discretion; or, at the request of such as are entitled to demand the same.

(4.) All persons, who have given sufficient cause to apprehend an intended breach of the peace, may be bound over to keep the *peace*; and all those, that be not of good fame, may be bound to the *good behaviour*; and may, upon refusal in either case, be committed to gaol.

SECT. XIX. *Of Courts of Criminal Jurisdiction.*

(1.) In the method of *punishment* may be considered, 1. The several *courts* of criminal jurisdiction. 2. The several *proceedings* therein. cxli.

(2.) The criminal *courts* are, 1. Those of a *public* and general jurisdiction throughout the realm. 2. Those of a *private* and special jurisdiction.

(3.) *Public* criminal courts are, 1. The high court of parliament; which proceeds by impeachment. 2. The court of the lord high steward; and the court of the king in full parliament: for the trial of capitally indicted peers. 3. The court of king's bench. 4. The court of chivalry. 5. The court of admiralty, under the king's commission. 6. The courts of oyer and terminer, and general gaol delivery. 7. The court of quarter sessions of the peace. 8. The sheriff's tourn. 9. The court leet. 10. The court of the coroner. 11. The court of the clerk of the market.

(4.) *Private* criminal courts are, 1. The court of the lord steward, &c. by statute of Henry VII. 2. The court of the lord steward, &c. by statute of Henry VIII. 3. The university courts.

SECT. XX. *Of Summary Convictions.*

(1.) Proceedings in criminal courts are, 1. *Summary*. 2. *Regular*. cxlii.

(2.) *Summary* proceedings are such, whereby a man may be convicted of divers offences, without any formal process or jury, at the discretion of the judge or judges appointed by act of parliament, or common law.

(3.) Such are, 1. Trials of offences and frauds against the laws of *excise* and other branches of the king's *revenue*. 2. Convictions before *justices* of the *peace* upon a variety of minute offences, chiefly against the

Law of
England
Epitomised.

Law of England Epitomised.

the public police. 3. *Attachments* for contempt to the superior courts of justice.

king's person or government: or, 2. Filed by the master of the crown office (with leave of the court of king's bench) at the relation of some private subject for other gross and notorious misdemeanors. All differing from indictments in this; that they are exhibited by the informer, or the king's officer; and not on the oath of a grand jury.

Law of England Epitomised.

SECT. XXI. *Of Arrests.*

cxliii. (1.) Regular proceedings in the courts of common law, are, 1. *Arrest*. 2. *Commitment and bail*. 3. *Prosecution*. 4. *Process*. 5. *Arraignment*, and its incidents. 6. *Plea and issue*. 7. *Trial and conviction*. 8. *Clergy*. 9. *Judgement*, and its consequences. 10. *Reversal of judgement*. 11. *Reprieve or pardon*. 12. *Execution*.

(2.) An *arrest* is the apprehending, or restraining, of one's person; in order to be forthcoming to answer a crime whereof one is accused or suspected.

(3.) This may be done, 1. By warrant. 2. By an officer, without warrant. 3. By a private person, without warrant. 4. By hue and cry.

SECT. XXII. *Of Commitment and Bail.*

cxliv. (1.) Commitment is the confinement of one's person in prison, for safe custody, by warrant from proper authority; unless, in bailable offences, he puts in sufficient *bail*, or security for his future appearance.

(2.) The magistrate is bound to take reasonable bail, if offered; unless the offender be not bailable.

(3.) Such are, 1. Persons accused of treason; or, 2. Of murder; or, 3. Of manslaughter, by indictment; or if the prisoner was clearly the slayer. 4. Prison breakers, when committed for felony. 5. Outlaws. 6. Those who have abjured the realm. 7. Approvers, and appellees. 8. Persons taken with the mainour. 9. Persons accused of arson. 10. Excommunicated persons.

(4.) The magistrate may, at his discretion, admit to bail, or otherwise, persons not of good fame, charged with other felonies, whether as principals or as accessories.

(5.) If they be of good fame, he is bound to admit them to bail.

(6.) The court of king's bench, or its judges in time of vacation, may bail in any case whatsoever.

SECT. XXIII. *Of the Several Modes of Prosecution.*

cxlv. (1.) Prosecution, or the manner of accusing offenders, is either by a previous finding of a grand jury; as, 1. By *presentment*. 2. By *indictment*. Or, without such finding. 3. By *information*. 4. By *appeal*.

(2.) A *presentment* is the notice taken by a grand jury of any offence, from their own knowledge or observation.

(3.) An *indictment* is a written accusation of one or more persons of a crime or misdemeanor, preferred to, and presented on oath by, a grand jury; expressing with sufficient certainty, the person, time, place, and offence.

(4.) An *information* is, 1. At the suit of the king and a subject, upon penal statutes. 2. At the suit of the king only. Either, 1. Filed by the attorney general *ex officio*, for such misdemeanors as affect the

(5.) An *appeal* is an accusation or suit, brought by one private subject against another, for larceny, rape, mayhem, arson, or homicide: which the king cannot discharge or pardon, but the party alone can release.

SECT. XXIV. *Of Process upon an Indictment.*

(1.) Process to bring in an offender, when indicted in his absence, is, in misdemeanors, by *venire facias*, distress infinite, and *capias*: in capital crimes, by *capias* only: and, in both, by outlawry.

(2.) During this stage of proceedings, the indictment may be removed into the court of king's bench from any inferior jurisdiction, by writ of *certiorari facias*: and cognizance must be claimed in places of exclusive jurisdiction.

SECT. XXV. *Of Arraignment, and its Incidents.*

(1.) Arraignment is the calling of the prisoner to the bar of the court, to answer the matter of the indictment.

(2.) Incident hereunto are, 1. The standing mute of the prisoner: for which, in petit treason, and felonies of death, he shall undergo the *peine fort et dure*. 2. His confession; which is either *simple*, or by way of *approvement*.

SECT. XXVI. *Of Plea, and its Issue.*

(1.) The *plea*, or defensive matter alleged by the prisoner, may be, 1. A plea to the jurisdiction. 2. A demurrer in point of law. 3. A plea in abatement. 4. A special plea in bar; which is, 1st, *Auterfois acquit*; 2dly, *Auterfois convict*; 3dly, *Auterfois attain*; 4thly, A pardon. 5. The general issue, not guilty.

(2.) Hereupon *issue* is joined by the clerk of the arraigns, on behalf of the king.

SECT. XXVII. *Of Trial, and Conviction.*

(1.) Trials of offences, by the laws of England, were and are, 1. By *ordeal*, of either fire or water. 2. By the *corsned*. Both these have been long abolished. 3. By *battel*, in appeals and improvements. 4. By the *peers* of Great Britain. 5. By *jury*.

(2.) The method and process of trial by *jury* is, 1. The impannelling of the jury. 2. Challenges; 1st, for cause; 2dly, peremptory. 3. *Tales de circumstantibus*. 4. The oath of the jury. 5. The evidence. 6. The verdict, either general or special.

(3.) *Conviction* is when the prisoner pleads, or is found guilty: whereupon, in felonies, the prosecutor is entitled to, 1. His expences. 2. Restitution of his goods.

SECT. XXVIII. *Of the Benefit of Clergy.*

cl.

(1.) Clergy, or the benefit thereof, was originally derived from the usurped jurisdiction of the Popish ecclesiastics; but hath since been new-modelled by several statutes.

(2.) It is an exemption of the clergy from any other secular punishment for felony, than imprisonment for a year, at the court's discretion; and it is extended likewise, absolutely, to lay peers, for the first offence; and to all lay-commoners, for the first offence also, upon condition of branding, imprisonment, or transportation.

(3.) All felonies are entitled to the benefit of clergy, except such as are now ousted by particular statutes.

(4.) Felons, on receiving the benefit of clergy, (though they forfeit their goods to the crown), are discharged of all clergyable felonies before committed, and restored in all capacities and credits.

SECT. XXIX. *Of Judgement, and its Consequences.*

cli.

(1.) Judgement (unless any matter be offered in arrest thereof) follows upon conviction; being the pronouncing of that punishment which is expressly ordained by law.

(2.) *Attainder* of a criminal is the immediate consequence, 1. Of having judgement of death pronounced upon him. 2. Of outlawry for a capital offence.

(3.) The consequences of attainder are, 1. *Forfeiture* to the king. 2. *Corruption of blood.*

(4.) *Forfeiture* to the king is, 1. Of real estates, upon attainder;—in high treason, absolutely, till the death of the late Pretender's sons;—in felonies, for the king's year, day, and waste;—in misprision of treason, assaults on a judge, or battery fitting the courts; during the life of the offender. 2. Of personal estates, upon conviction; in all treason, misprision of treason, felony, excusable homicide, petit larceny, standing mute upon arraignment, the above-named contempts of the king's courts, and flight.

(5.) *Corruption of blood* is an utter extinction of all inheritable quality therein: so that, after the king's forfeiture is first satisfied, the criminal's lands escheat to

the lord of the fee; and he can never afterwards inherit, be inherited, or have any inheritance derived through him.

SECT. XXX. *Of Reversal of Judgement.*

(1.) Judgements, and their consequences, may be avoided, 1. By *falsifying*, or *reversing*, the attainder. 2. By *reprieve*, or *pardon*.

(2.) Attainders may be *falsified*, or *reversed*. 1. Without a writ of error; for matter *dehors* the record. 2. By writ of error; for mistakes in the judgement, or record. 3. By act of parliament; for favour.

(3.) When an *outlawry* is reversed, the party is restored to the same plight as if he had appeared upon the *capias*. When a *judgement*, on conviction, is reversed, the party stands as if never accused.

SECT. XXXI. *Of Reprieve, and Pardon.*

(1.) A reprieve is a temporary suspension of the judgement, 1. *Ex arbitrio judicis*. 2. *Ex necessitate legis*; for pregnancy, insanity, or the trial of identity of person, which must always be tried *instanter*.

(2.) A pardon is a permanent avoider of the judgement by the king's majesty, in offences against his crown and dignity; drawn in due form of law, allowed in open court, and thereby making the offender a new man.

(3.) The king cannot pardon, 1. Imprisonment of the subject beyond the seas. 2. Offences prosecuted by appeal. 3. Common nuisances. 4. Offences against popular or penal statutes, after information brought by a subject. Nor is his pardon pleadable to an impeachment by the commons in parliament.

SECT. XXXII. *Of Execution.*

(1.) Execution is the completion of human punishment, and must be strictly performed in the manner which the law directs.

(2.) The warrant for execution is sometimes under the hand and seal of the judge; sometimes by writ from the king; sometimes by rule of court; but commonly by the judges signing the calendar of prisoners, with their separate judgements in the margin.

PART III. THE LAW OF SCOTLAND.

GENERAL OBSERVATIONS.

clv.
Municipal
law.

1. THE municipal law of Scotland, as of most other countries, consists partly of statutory or written law, which has the express authority of the legislative power; partly of customary or unwritten law, which derives force from its presumed or tacit consent.

Statutory
law.
Acts of par-
liament.

2. Under our statutory or written law is comprehended, (1.) Our acts of parliament: not only those which were made in the reign of James I. of Scotland, and from thence down to our union with England in 1707, but such of the British statutes enacted since the Union as concerned this part of the united kingdom.

3. The remains of our ancient written law were published by Sir John Skene, clerk register, in the beginning of the last century, by license of parliament. The books of *Regiam Majestatem*, to which the whole collection owes its title, seem to be a system of Scots law, written by a private lawyer at the command of David I.; and though no express confirmation of that treatise by the legislature appears, yet it is admitted to have been the ancient law of our kingdom by express statutes. The borough laws, which were also enacted by the same King David, and the statutes of William, Alexander II. David II. and the three Roberts, are universally allowed to be genuine. Our parliaments have once and again appointed commissions to revise and amend

Law of
Scotland.

amend the *Regiam Majestatem*, and the other ancient books of our law, and to make their report: but as no report appears to have been made, nor consequently any ratification by parliament, none of these remains are received, as of proper authority, in our courts; yet they are of excellent use in proving and illustrating our most ancient customs.

Acts of fe-
derunt.

4. Our written law comprehends, (2.) The acts of *federunt*, which are ordinances for regulating the forms of proceeding before the court of session in the administration of justice, made by the judges, who have a delegated power from the legislature for that purpose. Some of these acts dip upon matter of right, which declare what the judges apprehend to be the law of Scotland, and what they are to observe afterwards as a rule of judgement.

Authority
of the civil
and canon
laws.

5. The civil, or Roman and canon laws, though they are not perhaps to be deemed proper parts of our written law, have undoubtedly had the greatest influence in Scotland. The powers exercised by our sovereigns and judges have been justified upon no other ground, than that they were conformable to the civil or canon laws; and a special statute was judged necessary, upon the Reformation, to rescind such of their constitutions as were repugnant to the Protestant doctrine. From that period, the canon law has been little respected, except in questions of tithes, patronages, and some few more articles of ecclesiastical right: but the Roman continues to have great authority in all cases where it is not derogated from by statute or custom, and where the genius of our law suffers us to apply it.

Customary
or common
law.

6. Our unwritten or customary law, is that which without being expressly enacted by statute, derives its force from the tacit consent of king and people; which consent is presumed from the ancient custom of the community. Custom, as it is equally founded in the will of the lawgiver with written law, has therefore the same effects: hence, as one statute may be explained or repealed by another, so a statute may be explained by the uniform practice of the community, and even go into disuse by a posterior contrary custom. But this power of custom to derogate from prior statutes is generally confined by lawyers to statutes concerning private right, and does not extend to those which regard public policy.

Decisions of
the session.

7. An uniform tract of the judgements or decisions of the court of session is commonly considered as part of our customary law; and without doubt, where a particular custom is thereby fixed or proved, such custom of itself constitutes law: but decisions, though they bind the parties litigating, have not, in their own nature, the authority of law in similar cases; yet, where they continue uniform, great weight is justly laid on them. Neither can the judgements of the house of peers of Great Britain reach farther than to the parties in the appeal, since in these the peers act as judges, not as lawgivers.

Judgements
of the house
of peers.Promulga-
tion of laws.

8. Though the laws of nature are sufficiently published by the internal suggestion of natural light, civil laws cannot be considered as a rule for the conduct of life, till they are notified to those whose conduct they are to regulate. The *Scots* acts of parliament were, by our most ancient custom, proclaimed in all the different shires, boroughs, and baron courts, of the kingdom.

Law of
Scotland.

But after our statutes came to be printed, that custom was gradually neglected; and at last, the publication of our laws, at the market-cross of Edinburgh, was declared sufficient; and they became obligatory 40 days thereafter. British statutes are deemed sufficiently notified, without formal promulgation; either because the printing is truly a publication; or because every subject is, by a maxim of the English law, party to them, as being present in parliament, either by himself or his representative. After a law is published, no pretence of ignorance can excuse the breach of it.

9. As laws are given for the rule of our conduct, they can regulate future cases only; for past actions, being out of our power, can admit of no rule. Declaratory laws form no exception to this; for a statute, where it is declaratory of a former law, does no more than interpret its meaning; and it is included in the notion of interpretation, that it must draw back to the date of the law interpreted.

10. By the rules of interpreting statute law received in Scotland, an argument may be used from the title to the act itself, *à rubro ad nigrum*; at least, where the rubric has either been originally framed, or afterwards adopted by the legislature. The preamble or narrative, which recites the inconveniences that had arisen from the former law; and the causes inducing the enactment, may also lead a judge to the general meaning of the statute. But the chief weight is to be laid on the statutory words.

11. Laws, being directed to the unlearned as well as the learned, ought to be construed in their most obvious meaning, and not explained away by subtle distinctions; and no law is to suffer a figurative interpretation, where the proper sense of the words is as commodious, and equally fitted to the subject of the statute. Laws ought to be explained so as to exclude absurdities, and in the sense which appears most agreeable to former laws, to the intention of the lawgiver, and to the general frame and structure of the constitution. In prohibitory laws, where the right of acting is taken from a person, solely for the private advantage of another, the consent of him, in whose behalf the law was made, shall support the act done in breach of it; but the consent of parties immediately interested has no effect in matters which regard the public utility of a state. Where the words of a statute are capable but of one meaning, the statute must be observed, however hard it may bear on particular persons. Nevertheless, as no human system of laws can comprehend all possible cases, more may sometimes be meant by the lawgiver than is expressed; and hence certain statutes, where extension is not plainly excluded, may be extended beyond the letter, to similar and omitted cases: others are to be confined to the statutory words.

12. A strict interpretation is to be applied, (1.) To correctory statutes, which repeal or restrict former laws; and to statutes which enact heavy penalties, or restrain the natural liberties of mankind. (2.) Laws, made on occasion of present exigencies in a state, ought not to be drawn to similar cases, after the pressure is over. (3.) Where statutes establish certain solemnities as requisite to deeds, such solemnities are not suppleable by equivalents; for solemnities lose their nature, when they are not performed specifically. (4.) A statute, which enumerates special cases, is, with difficulty, to be extended

Strict.

Law of
Scotland.

tended to cases not expressed; but, where a law does not descend to particulars, there is greater reason to extend it to similar cases. (5.) Statutes, which carry a dispensation or privilege to particular persons or societies, suffer a strict interpretation; because they derogate from the general law, and imply a burden upon the rest of the community. But at no rate can a privilege be explained to the prejudice of those in whose behalf it was granted. As the only foundation of customary law is usage, which consists in fact, such law can go no farther than the particular usage has gone.

Ample.

13. All statutes, concerning matters specially favoured by law, receive an ample interpretation; as laws for the encouragement of commerce, or of any useful public undertaking, for making effectual the wills of dying persons, for restraining fraud, for the security of creditors, &c. A statute, though its subject matter should not be a favourite of the law, may be extended to similar cases, which did not exist when the statute was made; and for which, therefore, it was not in the lawgiver's power to provide.

14. Every statute, however unfavourable, must receive the interpretation necessary to give it effect: and, on the other hand, in the extension of favourable laws, scope must not be given to the imagination, in discovering remote resemblances; the extension must be limited to the cases immediately similar. Where there is ground to conclude that the legislature has omitted a case out of the statute purposely, the statute cannot be extended to that case, let it be ever so similar to the cases expressed.

15. The objects of the laws of Scotland, according to Mr Erskine, one of the latest writers on the subject, are, Persons, Things, and Actions.

CHAP. I. Of PERSONS.

AMONG persons, judges, who are invested with jurisdiction, deserve the first consideration.

SECT. I. Of Jurisdiction and Judges in General.

civi.
Jurisdiction.

Jurisdiction is a power conferred upon a judge or magistrate, to take cognizance of and decide causes according to law, and to carry his sentences into execution. That tract of ground, or district, within which a judge has the right of jurisdiction, is called his *territory*: and every act of jurisdiction exercised by a judge without his territory, either by pronouncing sentence, or carrying it into execution, is null.

King the
fountain of
jurisdiction.

2. The supreme power, which has the right of enacting laws, falls naturally to have the right of erecting courts, and appointing judges, who may apply these laws to particular cases: but, in Scotland, this right has been always intrusted with the crown, as having the executive power of the state.

Distinctions
of jurisdic-
tion.

3. Jurisdiction is either supreme, inferior, or mixed. That jurisdiction is supreme, from which there lies no appeal to a higher court. Inferior courts are those whose sentences are subject to the review of the supreme courts, and whose jurisdiction is confined to a particular territory. Mixed jurisdiction participates of the nature both of the supreme and inferior: thus the judge of the high court of admiralty, and the com-

missaries of Edinburgh, have an universal jurisdiction over Scotland, and they can review the decrees of inferior admirals and commissaries: but since their own decrees are subject to the review of the courts of session or justiciary, they are, in that respect, inferior courts.

Law of
Scotland.

4. Jurisdiction is either civil or criminal: by the first, questions of private right are decided; by the other, crimes are punished. But, in all jurisdiction, though merely civil, there is a power inherent in the judge to punish either corporally, or by a pecuniary fine, those who offend during the proceedings of the court, or who shall afterwards obstruct the execution of the sentence.

5. Jurisdiction is either privative or cumulative. Privative jurisdiction, is that which belongs only to one court, to the exclusion of all others. Cumulative, otherwise called *concurrent*, is that which may be exercised by any one of two or more courts, in the same cause. In civil cumulative jurisdiction, the private pursuer has the right of election before which of the courts he shall sue; but as, in criminal questions which are prosecuted by a public officer of court, a collision of jurisdiction might happen, through each of the judges claiming the exercise of their right, that judge, by whose warrant the delinquent is first cited or apprehended (which is the first step of jurisdiction), acquires thereby (*jure præventionis*) the exclusive right of judging the cause.

6. All rights of jurisdiction, being originally granted in consideration of the fitness of the grantee, were therefore personal, and died with himself. But, upon the introduction of the feudal system, certain jurisdictions were annexed to lands, and descended to heirs, as well as the lands to which they were annexed; but now all heritable jurisdictions, except those of admiralty and a small pittance reserved to barons, are either abolished, or resumed and annexed to the crown.

7. Jurisdiction is either proper or delegated. Proper jurisdiction, is that which belongs to a judge or magistrate himself, in virtue of his office. Delegated, is that which is communicated by the judge to another who acts in his name, called a *depute* or *deputy*. Where a deputy appoints one under him, he is called *substitute*. No grant of jurisdiction, which is an office requiring personal qualifications, can be delegated by the grantee to another, without an express power in the grant.

8. Civil jurisdiction is founded, 1. *Ratione domicilii*, Civil jurisdic-
if the defender has his domicile within the judge's ter-
ritory. A domicile is the dwelling place where a per-
son lives with an intention to remain; and custom has
fixed it as rule, that residence for 40 days founds ju-
isdiction. If one has no fixed dwelling place, e. g. a
soldier, or a travelling merchant, a personal citation
against him within the territory is sufficient to found
the judge's jurisdiction over him, even in civil que-
stions. As the defender is not obliged to appear be-
fore a court to which he is not subject, the pursuer must
follow the defender's domicile.

9. It is founded, 2. *Ratione rei sitæ*, if the subject
in question lie within the territory. If that subject be
immoveable, the judge, whose jurisdiction is founded
in this way, is the sole judge competent, excluding the
judge of the domicile.

10. Where

10. Where one, who has not his domicile within the territory, is to be sued before an inferior court, *ratione rei sitæ*, the court of session must be applied to, whose jurisdiction is universal, and who, of course, grants letters of supplement to cite the defender to appear before the inferior judge. Where the party to be sued resides in another kingdom, and has an estate in this, the court of session is the only proper court, as the *commune forum* to all persons residing abroad; and the defender, if his estate be heritable, is considered as lawfully summoned to that court, by a citation at the market cross of Edinburgh, and pier and shore of Leith: but where a stranger, not a native of Scotland, has only a moveable estate in this kingdom, he is deemed to be so little subject to the jurisdiction of our courts, that action cannot be brought against him till his effects be first attached by an arrestment *jurisdictionis fundandæ causa*; which is laid on by a warrant issuing from the supreme courts of session, or admiralty, or from that within whose territory the subject is situated, at the suit of the creditor.

11. A judge may, in special cases, arrest or secure the persons of such as have neither domicile nor estate within his territory, even for civil debts. Thus, on the border between Scotland and England, warrants are granted of course by the judge-ordinary of either side, against those who have their domicile upon the opposite side, for arresting their persons, till they give caution *judicio fisci*; and even the persons of citizens or natives may be so secured, where there is just reason to suspect that they are *in meditatione fugæ*, i. e. that they intend suddenly to withdraw from the kingdom; upon which suspicion, the creditor who applies for the warrant must make oath. An inhabitant of a borough-royal, who has furnished one who lives without the borough in meat, clothes, or other merchandize, and who has no security for it but his own account book, may arrest his debtor, till he give security *judicio fisci*.

12. A judge may be declined, i. e. his jurisdiction disowned judicially, 1. *Ratione causæ*, from his incompetency to the special cause brought before him. 2. *Ratione suspecti judicis*; where either the judge himself, or his near kinsman, has an interest in the suit. No judge can vote in the cause of his father, brother, or son, either by consanguinity or affinity; nor in the cause of his uncle or nephew by consanguinity. 3. *Ratione privilegii*; where the party is by privilege exempted from their jurisdiction.

13. Prorogated jurisdiction (*jurisdictionio in consentienter*) is that which is, by the consent of parties, conferred upon a judge, who without such consent, would be incompetent. Where a judge is incompetent, every step he takes must be null, till his jurisdiction be made competent by the party's actual submission to it. It is otherwise where the judge is competent, but may be declined by the party upon privilege.

14. In order to prorogation, the judge must have jurisdiction, such as may be prorogated. Hence, prorogation cannot be admitted where the judge's jurisdiction is excluded by statute. Yet where the cause is of the same nature with those to which the judge is competent, though law may have confined his jurisdiction within a certain sum, parties may prorogate it above that sum unless where prorogation is prohibited. Prorogation is not admitted in the king's causes; for the

interest of the crown cannot be hurt by the negligence of its officers.

15. All judges must at their admission swear, 1. The oath of allegiance, and subscribe the assurance; 2. The oath of abjuration; 3. The oath of supremacy; lastly, The oath *de fidei administratione*.

16. A party who has either properly declined the jurisdiction of the judge before whom he had been cited, or who thinks himself aggrieved by any proceedings in the cause, may, before decree, apply to the court of session to issue letters of advocation for calling the action from before the inferior court to themselves. The grounds, therefore, upon which a party may pray for letters of advocation, are incompetency and iniquity. Under incompetency, is comprehended not only defect of jurisdiction, but all the grounds of declining a jurisdiction, in itself competent, arising either from suspicion of the judge, or privilege in the parties. A judge is said to commit iniquity, when he either delays justice, or pronounces sentence, in the exercise of his jurisdiction, contrary to law.

17. That the court of session may not waste their time in trifles, no cause for a sum below twelve pounds sterling can be advocated to the court of session from the inferior judge competent: but if an inferior judge shall proceed upon a cause to which he is incompetent, the cause may be carried from him by advocation, let the subject be ever so inconsiderable.

SECT. II. Of the Supreme Judges and Courts of Scotland.

1. The king, who is the fountain of jurisdiction, might by our constitution have judged in all causes, either in his own person, or by those whom he was pleased to vest with jurisdiction.

2. The parliament of Scotland, as our court of last resort, had the right of reviewing the sentences of all our supreme courts.

3. By the treaty of Union, 1707, the parliaments of Scotland and England are united into one parliament of Great Britain. From this period, the British house of peers, as coming in place of the Scots parliament, is become our court of the last resort, to which appeals lie from all the supreme courts of Scotland: but that court has no original jurisdiction in civil matters in which they judge only upon appeal. By art. 22. of that treaty, the Scots share of the representation in the house of peers is fixed to 16 Scots peers elective; and in the house of commons, to 45 commoners, of which 30 are elected by the freeholders of counties, and 15 by the royal boroughs. The Scots privy council was also thereupon abolished, and sunk into that of Great Britain, which for the future is declared to have no other powers than the English privy council had at the time of the union.

4. A court was erected in 1425, consisting of certain persons to be named by the king, out of the three estates of parliament, which was vested with the jurisdiction formerly lodged in the council, and got the name of the *session*, because it was ordained to hold annually a certain number of sessions at the places to be specially appointed by the king. This court had a jurisdiction, cumulative with the judge ordinary, in spuilzies, and other possessory actions, and in debts;

Law of Scotland.

Letters of supplement.

Arrestment of strangers.

Grounds of declination.

Prorogated jurisdiction.

Law of Scotland.

Oaths of judges.

Letters of advocation.

Advocation how limited.

civii. King,

of Great Britain.

Court of session.

Law of
Scotland.

but they had no cognizance in questions of property of heritable subjects. No appeal lay from its judgements to the parliament. The judges of this court served by rotation, and were changed from time to time, after having sat 40 days; and became so negligent in the administration of justice, that it was at last thought necessary to transfer the jurisdiction of this court to a council to be named by the king, called the *daily council*.

College of
justice.

5. The present model of the court of session, or college of justice, was formed in the reign of James V. The judges thereof, who were vested with an universal civil jurisdiction, consisted originally of seven churchmen, seven laymen, and a president, whom it behoved to be a prelate; but spiritual judges were in 1584 partly, and in 1640 totally, prohibited. The judges of session have been always received by warrants from the crown. Anciently his majesty seems to have transferred to the court itself the right of choosing their own president; and in a sederunt recorded June 26. 1593, the king condescended to present to the lords, upon every vacancy in the bench, a list of three persons, out of which they were to choose one. But his majesty soon resumed the exercise of both rights, which continued with the crown till the usurpation; when it was ordained that the king should name the judges of the session, by the advice of parliament. After the Restoration, the nomination was again declared to be solely in the sovereign.

Judges, by
whom na-
med.

Their qua-
lifications
and trial.

6. Though judges may, in the general case, be named at the age of 21 years, the lords of session must be at least 25. No person can be named lord of session, who has not served as an advocate or principal clerk of session for five years, or as a writer to the signet for ten: and in the case of a writer to the signet, he must undergo the ordinary trials upon the Roman law, and be found qualified two years before he can be named. Upon a vacancy in the bench, the king presents the successor by a letter addressed to the lords, wherein he requires them to try and admit the person presented. The powers given to them to reject the presentee upon trial are taken away, and a bare liberty to remonstrate substituted in its place.

7. Besides the 15 ordinary judges, the king was allowed to name three or four lords of his great council, who might sit and vote with them. These extraordinary lords were suppressed in the reign of Geo. I.

Privileges
of the col-
lege of ju-
stice.

8. The appellation of the *college of justice* is not confined to the judges, who are distinguished by the name of *senators*; but comprehends advocates, clerks of session, writers to the signet, and others, as described, *Act S.* 23d Feb. 1687. Where, therefore, the college of justice is entitled to any privilege, it extends to all the members of the college. They are exempted from watching, warding, and other services within borough; and from the payment of ministers stipends, and of all customs, &c. imposed upon goods carried to or from the city of Edinburgh. Part of these privileges and immunities were lately called in question by the city of Edinburgh; but they were found by the court of session (affirmed upon appeal) to be in full force.

Jurisdiction
of the ses-
sion.

9. Though the jurisdiction of the session be properly limited to civil causes, the judges have always sustained themselves as competent to the crime of falsehood.

Where the falsehood deserves death or dememoration, they, after finding the crime proved, remit the criminal to the court of justiciary. Special statute has given to the court of session jurisdiction in contraventions of law-burrows, deforcements, and breach of arrestment; and they have been in use to judge in battery *pendente lite*, and in usury.

Law of
Scotland.

10. In certain civil causes, the jurisdiction of the session is exclusive of all inferior jurisdictions; as in declarators of property, and other competitions of heritable rights, proving of the tenor, *cessiones bonorum*, restitution of minors, reductions of decrees or of writings, sales of the estates of minors or bankrupts, &c. In a second class of causes, their jurisdiction can be only exercised in the way of review, after the cause is brought from the inferior court; as in maritime and consistorial causes, which must be pursued in the first instance before the admiral or commissary; and in actions, below twelve pounds sterling, which must be commenced before the judge ordinary. In all civil actions, which fall under neither of these classes, the jurisdiction of the session is concurrent, even in the first instance, with that of the judge ordinary. The session may proceed as a court of equity by the rules of conscience, in abating the rigour of law, and giving aid in proper cases to such as in a court of law can have no remedy: and this power is inherent in the supreme court of every country, where separate courts are not established for law and for equity.

This court formerly met upon the 12th day of June and rose upon the 11th day of August for the summer session; but now, in consequence of an act passed in the session of parliament 1790, it meets on the 12th of May and rises on the 11th of July for the summer session; the winter sederunt still remaining as formerly, viz. from the 12th of November to the 11th of March inclusive.

11. The supreme criminal judge was styled the Justiciary Justiciar; and he had anciently an universal civil jurisdiction, even in matters of heritage. He was obliged to hold two justice courts or ayres yearly at Edinburgh or Peebles, where all the freeholders of the kingdom were obliged to attend. Besides this universal court, special justice ayres were held in all the different shires in the kingdom twice in the year. These last having gone into disuse, eight deputies were appointed, two for every quarter of the kingdom, who should make their circuits over the whole in April and October.

12. The office of deputies was suppressed in 1672; and five lords of session were added, as commissioners of justiciary, to the justice general and justice clerk. The justice general, if present, is constant president of the court, and in his absence the justice clerk. The kingdom is divided into three districts, and two of the judges are appointed to hold circuits in certain boroughs of each district twice in the year; one judge may proceed to business in the absence of his colleague. In trials before this court the evidence was always taken down in writing till the act 23d Geo. III. was passed; by which the judges may try and determine all causes by the verdict of an assize upon examining the witnesses *viva voce*, without reducing the testimony into writing, unless it shall appear more expedient to proceed in
the

Law of
Scotland.

the former way, which they have it in their power to do. This act was at first temporary, but is now made perpetual by 27th Geo. III. cap. 18.

13. By an old statute, the crimes of robbery, rape, murder and wilful fire-raising (the four pleas of the crown), are said to be reserved to the king's court of justiciary; but the only crime in which, *de praxi*, the jurisdiction of justiciary became at last exclusive of all inferior criminal jurisdiction, was that of high treason. The court of justiciary, when sitting at Edinburgh, has a power of advocating causes from all inferior criminal judges, and of suspending their sentences.

14. The circuit court can also judge in all criminal causes which do not infer death or demeritation, upon appeal from any inferior court within their district; and has a supreme civil jurisdiction, by way of appeal, in all causes not exceeding twelve pounds sterling, in which their decrees are not subject to review; but no appeal is to lie to the circuit, till the cause be finally determined in the inferior court.

Court of
exchequer.

15. The court of exchequer, as the king's chamberlain court, judged in all questions of the revenue. In pursuance of the treaty of Union, that court was abolished, and a new court erected, consisting of the lord high treasurer of Great Britain, and a chief baron, with four other barons of exchequer; which barons are to be made of serjeants at law, English barristers, or Scots advocates of five years standing. This court has a privative jurisdiction conferred upon it, as to the duties of customs, excise, or other revenues appertaining to the king or prince of Scotland, and as to all honours and estates that may accrue to the crown; in which matters, they are to judge by the forms of proceeding used in the English court of exchequer, under the following limitations: That no debt due to the crown shall affect the debtor's real estate in any other manner than such estate may be affected by the laws of Scotland, and that the validity of the crown's titles to any honours or lands shall continue to be tried by the court of session. The barons have the powers of the Scots court transferred to them, of passing the accounts of sheriffs, or other officers who have the execution of writs issuing from, or returnable to, the court of exchequer, and of receiving resignations, and passing signatures of charters, gifts of casualties, &c. But though all these must pass in exchequer, it is the court of session only who can judge of their preference after they are completed.

Admiralty
court.

16. The jurisdiction of the admiral in maritime causes was of old concurrent with that of the session. The high admiral is declared the king's justice general upon the seas, on fresh water within flood mark, and in all harbours and creeks. His civil jurisdiction extends to all maritime causes: and so comprehends questions of charter parties, freights, salvages, bottomries, &c. He exercises this supreme jurisdiction by a delegate, the judge of the high court of admiralty; and he may also name inferior deputies, whose jurisdiction is limited to particular districts, and whose sentences are subject to the review of the high court. In causes which are declared to fall under the admiral's cognizance, his jurisdiction is sole; inasmuch, that the session itself, though it may review his decrees by suspension or reduction, cannot carry a maritime question from him by advocacy. The admiral has acquired, by usage, a ju-

isdiction in mercantile causes, even where they are not strictly maritime, cumulative with that of the judge ordinary.

Law of
Scotland.

17. All our supreme courts have seals or signets, proper to their several jurisdictions. The courts of session and justiciary used formerly the same signet, which was called the king's, because the writs issuing from them run in the king's name; and though the justiciary got at last a separate signet for itself, yet that of the session still retains the appellation of the *king's signet*. In this office are sealed summonses for citation, letters of executorial diligence, or for staying or prohibiting of diligence, and generally whatever passes by the warrant of the session, and is to be executed by the officers of the court. All these must, before sealing, be signed by the writers or clerks of the signet: But letters of diligence, where they are granted in a depending process, merely for probation, though they pass by the signet, must be subscribed by a clerk of session. The clerks of the signet also prepare and subscribe all signatures of charters, or other royal grants, which pass in exchequer.

SECT. III. *Of inferior Judges and Courts of Scotland.*

1. Sheriff (from *reeve* governor, and *sheer* to cut or divide) is the judge ordinary constituted by the crown over a particular division or county. The sheriff's jurisdiction, both civil and criminal, was, in ancient times, nearly as ample within his own territory as that of the supreme courts of session and justiciary was over the whole kingdom.

clviii.

2. His civil jurisdiction now extends to all actions upon contracts, or other personal obligations; forthcoming, poindings of the ground, mails and duties; and to all possessory actions, as removings, ejections, spuilzies, &c.; to all brieves issuing from the chancery, as of inquest, terce, division, tutory, &c.; and even to adjudications of land estates, when proceeding on the renunciation of the apparent heir. His present criminal jurisdiction extends to certain capital crimes, as theft, and even murder, though it be one of the pleas of the crown; and he is competent to most questions of public police, and has a cumulative jurisdiction with justices of the peace in all riots and breaches of the peace.

3. Sheriffs have a ministerial power, in virtue of which they return juries, in order to a trial of causes that require juries. The writs for electing members of parliament have been, since the union, directed to the sheriffs, who, after they are executed, return them to the crown office from whence they issued. They also execute writs issuing from the court of exchequer; and in general, take care of all estates, duties, or casualties that fall to the crown within their territory, for which they must account to the exchequer.

4. A lord of regality was a magistrate who had a grant of lands from the sovereign, with royal jurisdiction annexed thereto. His civil jurisdiction was equal to that of a sheriff; his criminal extended to the four pleas of the crown. He had a right to repledge or reclaim all criminals, subject to his jurisdiction, from any other competent court, though it were the justiciary itself, to his own. He had also right, according to the most common opinion, to the single escheat of all de-

Law of
Scotland.

nounced persons residing within his jurisdiction, even though such privilege had not been expressed in the grant of regality.

Stewart.

5. The steward was the magistrate appointed by the king over such regality lands as happened to fall to the crown by forfeiture, &c. and therefore the steward's jurisdiction was equal to that of a regality. The two stewartries of Kirkcudbright, and of Orkney and Zetland, make shires and counties by themselves, and send each a representative to parliament.

Baillie.

6. Where lands not erected into a regality fell into the king's hands, he appointed a baillie over them, whose jurisdiction was equal to that of a sheriff.

7. By the late jurisdiction act, 20 Geo. II. all heritable regalities and baileries, and all such heritable sheriffships and stewartries as were only parts of a shire, are dissolved; and the powers formerly vested in them are made to devolve upon such of the king's courts as these powers would have belonged to if the jurisdictions dissolved had never been granted. All sheriffships and stewartries that were no part of a shire, where they had been granted, either heritably or for life, are resumed and annexed to the crown. No high sheriff or steward can hereafter judge personally in any cause. One sheriff or steward-depute is to be appointed by the king in every shire, who must be an advocate of three years standing; and whose office as sheriff or steward-depute is now by 28 Geo. II. held *ad vitam aut culpam*.

Prince of
Scotland.

8. The appanage, or patrimony, of the prince of Scotland, has been long erected into a regality jurisdiction, called the Principality. It is personal to the king's eldest son, upon whose death or succession it returns to the crown. The prince has, or may have, his own chancery, from which his writs issue, and may name his own chamberlain and other officers for receiving and managing his revenue. The vassals of the prince are entitled to elect, or to be elected, members of parliament for counties, equally with those who hold of the crown.

9. Justices of the peace are magistrates named by the sovereign over the several counties of the kingdom, for the special purpose of preserving the public peace. Anciently their power reached little farther than to bind over disorderly persons for their appearance before the privy council or justiciary; afterwards they were authorized to judge in breaches of the peace, and in most of the laws concerning public policy. They may compel workmen or labourers to serve for a reasonable fee, and they can condemn masters in the wages due to their servants. They have power to judge in questions of highways, and to call out the tenants with their cottars and servants to perform six days work yearly for upholding them. It has been lately, however, found by the court of session, that justices have no jurisdiction whatever in common actions for debt. So that it now seems fixed, that they are incompetent in such actions, except where they are declared competent by special statute.

10. Since the union, our justices of the peace, over and above the powers committed to them by the laws of Scotland, are authorized to exercise whatever belong to the office of an English justice, in relation to the public peace. From that time, the Scots and the English commissions have run in the same style, which contains powers to inquire into and judge

in all capital crimes, witchcraft, felonies, and several others specially enumerated; with this limitation subjoined, *of which justices of the peace may lawfully inquire*. Two justices can constitute a court. Special statute has given the cognizance of several matters of excise to the justices, in which their sentences are final. As to which, and the powers thereby vested in them, the reader must of necessity be referred to the excise laws; it not falling within the plan of this work, to enter into so very minute a detail as that would prove.

11. A borough is a body corporate, made up of the inhabitants of a certain tract of ground, erected by the sovereign, with jurisdiction annexed to it. Boroughs are erected, either to be holden of the sovereign himself, which is the general case of royal boroughs; or of the superior of the lands erected, as boroughs of regality and barony. Boroughs royal have power, by their charters, to choose annually certain office bearers or magistrates; and in boroughs of regality and barony, the nomination of magistrates is, by their charter, lodged sometimes in the inhabitants, sometimes in the superior. Bailies of boroughs have jurisdiction in matters of debt, services, and questions of possession betwixt the inhabitants. Their criminal jurisdiction extends to petty riots, and reckless fire-raising. The dean of guild is that magistrate of a royal borough who is head of the merchant company; he has the cognizance of mercantile causes within borough; and the inspection of buildings, that they encroach neither on private property, nor on the public streets; and he may direct insufficient houses to be pulled down. His jurisdiction has no dependence on the court of the borough, or baillie court.

12. A baron, in the large sense of that word, is one who holds his lands immediately of the crown; and, as such, had, by our ancient constitution, right to a seat in parliament, however small his freehold might have been. The lesser barons were exempted from the burden of attending the service of parliament. This exemption grew insensibly into an utter disability in all the lesser barons from sitting in parliament, without election by the county; though no statute is to be found expressly excluding them.

13. To constitute a baron in the strict law sense, his lands must have been erected, or at least confirmed, by the king *in liberam baroniam*; and such baron had a certain jurisdiction, both civil and criminal, which he might have exercised, either in his own person, or by his baillie.

14. By the late jurisdiction act, the civil jurisdiction of a baron is reduced to the power of recovering from his vassals and tenants, the rents of his lands, and of condemning them in mill services; and of judging in causes where the debt and damages do not exceed 40s. sterling. His criminal jurisdiction is, by the same statute, limited to assaults, batteries, and other smaller offences, which may be punished by a fine not exceeding 20s. sterling, or by setting the offender in the stocks in the day time not above three hours; the fine to be levied by pointing, or one month's imprisonment. The jurisdiction formerly competent to proprietors of mines, and coal or salt works, over their workmen, is reserved; and also that which was competent to proprietors who had the right of fairs or markets,

Law of
Scotland.

Boroughs.

Barons.

Law of
Scotland.

Law of
Scotland.

markets, for correcting the disorders that might happen during their continuance; provided they shall exercise no jurisdiction inferring the loss of life or demeritation.

within which they exercised the pastoral office of bishop, presbyter, or other church officer. The regular clergy had no cure of souls; but were tied down to residence in their abbeys, priories, or other monasteries: and they got the name of *regular*, from the rules of mortification to which they were bound, according to the institution of their several orders. Upon the vacancy of any benefice, whether secular or regular, commendators were frequently appointed to levy the fruits, as factors or stewards during the vacancy. The pope alone could give the higher benefices *in commendam*; and at last, from the plenitude of his power, he came to name commendators for life, and without any obligation to account. After the Reformation, several abbeys and priories were given by James VI. *in perpetuam commendam*, to laics.

Constabularies.

15. The high constable of Scotland had no fixed territorial jurisdiction, but followed the court; and had, jointly with the marischal, the cognizance of all crimes committed within two leagues of it. All other constabularies were dependent on him: these had castles, and sometimes boroughs, subject to their jurisdiction, as Dundee, Montrose, &c. and among other powers, now little known, they had the right of exercising criminal jurisdiction within their respective territories during the continuance of fairs. By the late jurisdiction act, all jurisdictions of constabulary are dissolved, except that of high constable.

3. Upon abolishing the pope's authority, the regular clergy were totally suppressed; and in place of all the different degrees which distinguished the secular clergy, we had at first only parochial presbyters or ministers and superintendants, who had the oversight of the church within a certain district; soon thereafter the church government became episcopal by archbishops, bishops, &c.; and after some intermediate turns, is now Presbyterian by kirk sessions, presbyteries, synods, and general assemblies.

Lyon king
at arms.

16. The office of the Lyon king of arms was chiefly ministerial, to denounce war, proclaim peace, carry public messages, &c. But he has also a right of jurisdiction, whereby he can punish all who usurp arms contrary to the law of arms, and deprive or suspend messengers, heralds, or pursuivants, (who are officers named by himself); but he has no cognizance of the damage arising to the private party through the messenger's fault. Messengers are subservient to the supreme courts of Session and Justiciary; and their proper business is to execute all the king's letters either in civil or criminal causes. They must find caution for the proper discharge of their duty *qua* messengers; and in case of any malversation, or neglect, by which damage arises to their employers, their sureties may be recurred upon for indemnification. These sureties, however, are not answerable for the conduct of the messenger in any other capacity but *qua* such; and therefore, if a messenger is authorized to uplift payment from a debtor, and fails to account to his employer, the cautioner is not liable; his obligation extending only to the regular and proper duties of the office in executing the diligence, or the like.

4. Prelate, in our statutes, signifies a bishop, abbot, or other dignified clergyman, who in virtue of his office had a seat in parliament. Every bishop had his chapter, which consisted of a certain number of the ministers of the diocese, by whose assistance he managed the affairs of the church within that district. The nomination of bishops to vacant sees has been in the crown since 1540, though under the appearance of continuing the ancient right of election, which was in the chapter. The confirmation by the crown under the great seal, of the chapter's election, conferred a right to the spirituality of the benefice; and a second grant upon the consecration of the bishop-elect, gave a title to the temporality; but this second grant fell soon into disuse.

Sentence
money.

17. Our judges had, for a long time, no other salaries or appointments than what arose from the sentences they pronounced. Our criminal judges applied to their own use the fines or issues of their several courts; and regalities had a right to the single escheat of all persons denounced, who resided within their jurisdiction; and our civil judges got a certain proportion of the sum contained in the decree pronounced. But these were all prohibited upon regular salaries being settled upon them.

5. He who founded or endowed a church was entitled to the right of patronage thereof, or *advocatio ecclesie*; whereby, among other privileges, he might present a churchman to the cure, in case of a vacancy. The presentee, after he was received into the church, had a right to the benefice *proprio jure*; and if the church was parochial, he was called a *parson*. The pope claimed the right of patronage of every kirk to which no third party could show a special title; and, since the Reformation, the crown, as coming in place of the pope, is considered as universal patron, where no right of patronage appears in a subject. Where two churches are united, which had different patrons, each patron presents by turns.

Patronage.

SECT. V. Of Ecclesiastical Persons.

clix.
The pope.

1. The pope, or bishop of Rome, was long acknowledged, over the western part of Christendom, for the head of the Christian church. The papal jurisdiction was abolished in Scotland anno 1560. The king was, by act 1669, declared to have supreme authority over all persons, and in all causes ecclesiastical; but this act was repealed by 1690, as inconsistent with Presbyterian church government, which was then upon the point of being established.

6. Gentlemen of estates frequently founded colleges or collegiate churches; the head of which got the name of *provost*, under whom were certain prebendaries, or canons, who had their several stalls in the church, where they sung masses. Others of lesser fortunes founded chaplainries, which were donations granted for the singing of masses for deceased friends at particular altars in a church. Though all these were suppressed upon the Reformation, their founders continued pa-

Clergy.

2. Before the reformation from Popery, the clergy was divided into secular and regular. The secular had a particular tract of ground given them in charge,

trons

Law of
Scotland.

trons of the endowments; out of which they were allowed to provide burfars, to be educated in any of the univerfities.

7. Where a fund is gifted for the establishment of a fecond minifter in a parifh where the cure is thought too heavy for one, the patronage of fuch benefice does not belong to the donor, but to him who was patron of the church, unlefs either where the donor has reserved to himfelf the right of patronage in the donation, or where he and his fucceffors have been in the conftant ufe of prefenting the fecond minifter, without challenge from the patron. The right of prefenting incumbents was by 1690, c. 23. taken from patrons, and vefted in the heritors and elders of the parifh, upon payment to be made by the heritors to the patron of 600 merks; but it was again reftored to patrons, 10 An. c. 12. with the exception of the prefentation fold in purfiance of the former act.

Patrons.

8. Patrons were not fimply adminiftrators of the church; for they held the fruits of the vacant benefice as their own for fome time after the Reformation. But that right is now no more than a truft in the patron, who muft apply them to pious ufes within the parifh, at the fight of the heritors, yearly as they fall due. If he fail, he lofes his right of adminiftering the vacant ftipend for that and the next vacancy. The king, who is exempted from this rule, may apply the vacant ftipend of his churches to any pious ufe, though not within the parifh. If one fhould be ordained to a church, in oppofition to the prefentee, the patron, whofe civil right cannot be affected by any fentence of a church court, may retain the ftipend as vacant. Patrons are to this day entitled to a feat and burial place in the churches of which they are patrons, and to the right of all the teinds of the parifh not heritably difpofed.

9. That kirks may not continue too long vacant, the patron muft prefent to the prefbytery (formerly to the bifhop) a fit perfon for fupplying the cure, within fix months from his knowledge of the vacancy, otherwife the right of prefentation accrues to the prefbytery *jure devoluto*. Upon prefentation by the patron, the bifhop collated or conferred the benefice upon the prefentee by a writing, in which he appointed certain minifters of the diocefe to induce or inftitute him into the church; which induction completed his right, and was performed by their placing him in the pulpit, and delivering to him the Bible and keys of the church. The bifhop collated to the churches of which himfelf was patron, *pleno jure*, or without prefentation: which he alfo did in menfal churches, whofe patronages were funk, by the churches being appropriated to him, as part of his patrimony. Since the Revolution, a judicial act of admiffion by the prefbytery, proceeding either upon a prefentation, or upon a call from the heritors and elders, or upon their own *jus devolutum*, completes the minifter's right to the benefice.

Provisions
for the re-
formed
clergy.

10. Soon after the Reformation, the Popifh churchmen were prevailed upon to refign in the fovereign's hands a third of their benefices; which was appropriated, in the firft place, for the fubfiftence of the reformed clergy. To make this fund effectual, particular localities were affigned in every benefice, to the extent of a third, called the *affumption of thirds*; and for the farther fupport of minifters, Queen Mary made a grant

in their favour of all the fmall benefices not exceeding 300 merks. Bifhops, by the act which reftored them to the whole of their benefices, were obliged to maintain the minifters within their diocefes, out of the thirds; and in like manner, the laic titulars, who got grants of the teinds, became bound, by their acceptation thereof, to provide the kirks within their erections in competent ftipends.

Law of
Scotland.

11. But all thofe expedients for the maintenance of the clergy having proved ineffectual, a commiffion of parliament was appointed in the reign of James VI. for planting kirks, and modifying ftipends to minifters out of the teinds; and afterwards feveral other commiffions were appointed, with the more ample powers of dividing large parifhes, erecting new ones, &c. all of which were, in 1707, transferred to the court of feffion, with this limitation, that no parifh fhould be difjoined, nor new church erected, nor old one removed to a new place, without the confent of three-fourths of the heritors, computing the votes, not by their numbers, but by the valuation of their rents within the parifh. The judges of feffion, when fitting in that court, are confidered as a commiffion of parliament, and have their proper clerks, macers, and other officers of court, as fuch.

12. The loweft ftipend that could be modified to a minifter by the firft commiffion, was 500 merks, or five chalders of victual, unlefs where the whole teinds of the parifh did not extend fo far: and the higheft was 1000 merks, or ten chalders. The parliament 1633 raifed the *minimum* to eight chalders of victual, and proportionably in filver; but as neither the commiffion appointed by that act, nor any of the fubfequent ones, was limited as to the *maximum*, the commiffioners have been in ufe to augment ftipends confiderably above the old *maximum*, where there is fufficiency of free teinds, and the cure is burdensome, or living expenfive.

Stipends

13. Where a certain quantity of ftipend is modified to a minifter out of the teinds of a parifh, without proportioning that ftipend among the feveral heritors, the decree is called a *decree of modification*; but where the commiffioners alfo fix the particular proportions payable by each heritor, it is a *decree of modification and locality*. Where a ftipend is only modified, it is fecured on the whole teinds of the parifh, fo that the minifter can inftit againft any one heritor to the full extent of his teinds; fuch heritor being always entitled to relief againft the reft for what he fhall have paid above his juft fhare: but where the ftipend is alfo localled, each heritor is liable in no more than his own proportion.

14. Few of the reformed minifters were, at firft, provided with dwelling houfes; moft of the Popifh clergy having, upon the firft appearance of the Reformation, let their manfes in feu, or in long tack: minifters therefore got a right, in 1563, to as much of thefe manfes as would ferve them, notwithstanding fuch feus or tacks. Where there was no parfon's nor vicar's manfe, one was to be built by the heritors, at the fight of the bifhop, (now the prefbytery), the charge not exceeding 1000l. Scots, nor below 500 merks. Under a manfe are comprehended ftable, barn, and byre, with a garden; for all which it is ufual to allow half an acre of ground.

Manfes

15. Every

Law of
Scotland.Law of
Scotland.

15. Every incumbent is entitled at his entry to have his manse put in good condition; for which purpose, the presbytery may appoint a visitation by tradesmen, and order estimates to be laid before them of the sums necessary for the repairing, which they may proportion among the heritors according to their valuations. The presbytery, after the manse is made sufficient, ought, upon application of the heritors, to declare it a free manse; which lays the incumbent under an obligation to uphold it in good condition during his incumbency, otherwise he or his executors shall be liable in damages; but they are not bound to make up the loss arising from the necessary decay of the building by the waste of time.

Glebe, and 16. All ministers, where there is any landward or country parish, are, over and above their stipend, entitled to a glebe, which comprehends four acres of arable land, or sixteen fowms of pasture ground where there is no arable land (a fowm is what will graze ten sheep or one cow); and it is to be designed or marked by the bishop or presbytery out of such kirklands within the parish as lie nearest to the kirk, and, in default of kirklands, out of temporal lands.

17. A right of relief is competent to the heritors, whose lands are set off for the manse or glebe, against the other heritors of the parish. Manses and glebes being once regularly designed, cannot be feued or sold by the incumbent in prejudice of his successors, which is in practice extended even to the case where such alienation evidently appears profitable to the benefice.

Grafs. 18. Ministers, beside their glebe, are entitled to grafs for a horse and two cows. And if the lands, out of which the grafs may be designed, either lie at a distance, or are not fit for pasture, the heritors are to pay to the minister 20l. Scots yearly as an equivalent. Ministers have also freedom of foggage, pasturage, fuel, feal, divot, loaning, and free ish and entry, according to use and wont: but what these privileges are, must be determined by the local custom of the several parishes.

Terms of payment of stipends. 19. The legal terms at which stipends become due to ministers are Whitfunday and Michaelmas. If the incumbent be admitted to his church before Whitfunday (till which term the corns are not presumed to be fully sown), he has right to that whole year's stipend; and, if he is received after Whitfunday, and before Michaelmas, he is entitled to the half of that year; because, though the corns were sown before his entry, he was admitted before the term at which they are presumed to be reaped. By the same reason, if he dies or is transported before Whitfunday, he has right to no part of that year; if before Michaelmas, to the half; and if not till after Michaelmas, to the whole.

Annat or ann. 20. After the minister's death, he executors have right to the annat; which, in the sense of the canon law, was a right reserved to the pope of the first year's fruits of every benefice. Upon a threatened invasion from England anno 1547, the annat was given by our parliament, notwithstanding this right in the pope, to the executors of such churchmen as should fall in battle in defence of their country: but the word *annat* or *ann*, as it is now understood, is the right which law gives to the executors of ministers, of half

a year's benefice over and above what was due to the minister himself for his incumbency.

21. The executors of a minister need make up no title to the ann by confirmation: neither is the right assignable by the minister, or affectable with his debts; for it never belonged to him, but is a mere gratuity given by law to those whom it is presumed the deceased could not sufficiently provide; and law has given it expressly to *executors*: and if it were to be governed by the rules of succession in executory, the widow, in case of no children, would get one half, the other would go to the next of kin; and where there are children, she would be entitled to a third, and the other two thirds would fall equally among the children. But the court of session, probably led by the general practice, have in this last case divided the ann into two equal parts; of which one goes to the widow, and the other among the children *in capita*.

22. From the great confidence that was, in the first ages of Christianity, reposed in churchmen, dying persons frequently committed to them the care of their estates, and of their orphan children; but these were simply rights of trust, not of jurisdiction. The clergy soon had the address to establish to themselves a proper jurisdiction, not confined to points of ecclesiastical right, but extending to questions that had no concern with the church. They judged not only in teinds, patronages, testaments, breach of vow, scandal, &c. but in questions of marriage and divorce, because marriage was a sacrament; in tocheis, because these were given in consideration of marriage; in all questions where an oath intervened, on pretence that oaths were a part of religious worship, &c. As churchmen came, by the means of this extensive jurisdiction, to be diverted from their proper functions, they committed the exercise of it to their officials or commissaries: hence the commissary court was called the *bishop's court*, and *curia Christianitatis*; it was also styled the *consistorial court*; from *consistory*, a name first given to the court of appeals of the Roman emperors, and afterwards to the courts of judicature held by churchmen.

23. At the Reformation, all episcopal jurisdiction, exercised under the authority of the bishop of Rome, was abolished. As the course of justice in consistorial causes was thereby stopped, Q. Mary, besides naming a commissary for every diocese, did, by a special grant, establish a new commissary court at Edinburgh, consisting of four judges or commissaries. This court is vested with a double jurisdiction; one diocesan, which is exercised in the special territory contained in the grant, viz. the counties of Edinburgh, Haddington, Linlithgow, Peebles, and a great part of Stirlingshire; and another universal, by which the judges confirm the testaments of all who die in foreign parts, and may reduce the decrees of all inferior commissaries, provided the reduction be pursued within a year after the decree. Bishops, upon their re-establishment in the reign of James VI. were restored to the right of naming their several commissaries.

24. As the clergy, in time of Popery, assumed a jurisdiction independant of the civil power or any secular court, their sentences could be reviewed only by the pope, or judges delegated by him; so that, with regard

Jurisdiction
of bishops.

Commissary.

regard to the courts of Scotland, their jurisdiction was supreme. But, by an act 1560, the appeals from the bishops courts, that were then depending before the Roman consistories, were ordained to be decided by the court of session: and by a posterior act, 1609, the session is declared the king's great consistory, with power to review all sentences pronounced by the commissaries. Nevertheless, since that court had no inherent jurisdiction in consistorial causes prior to this statute, and since the statute gives them a power of judging only by way of advocacy, they have not, to this day, any proper consistorial jurisdiction in the first instance; neither do they pronounce sentence in any consistorial cause brought from the commissaries but remit it back to them with instructions. By the practice immediately subsequent to the act before quoted, they did not admit advocations from the inferior commissaries, till the cause was first brought before the commissaries of Edinburgh; but that practice is now in disuse.

25. The commissaries retain to this day an exclusive power of judging in declarators of marriage, and of the nullity of marriage; in actions of divorce and of non-adherence, of adultery, bastardy, and confirmation of testaments; because all these matters are still considered to be properly consistorial. Inferior commissaries are not competent to questions of divorce, under which are comprehended questions of bastardy and adherence, when they have a connexion with the lawfulness of marriage, or with adultery.

26. Commissaries have now no power to pronounce decrees in absence for any sum above 40l. Scots, except in causes properly consistorial: but they may authenticate tutorial and curatorial inventories; and all bonds, contracts, &c. which contain a clause for registration in the books of any judge competent, and protests on bills, may be registered in their books.

SECT. VI. Of Marriage.

clx.
Marriage.

1. Persons, when considered in a private capacity, are chiefly distinguished by their mutual relations; as husband and wife, tutor and minor, father and child, master and servant. The relation of husband and wife is constituted by marriage; which is the conjunction of man and wife, vowing to live inseparably till death.

2. Marriage is truly a contract, and so requires the consent of parties. Idiots, therefore, and furious persons, cannot marry. As no person is presumed capable of consent within the years of pupillarity, which, by our law, lasts till the age of 14 in males, and 12 in females, marriage cannot be contracted by pupils; but if the married pair shall cohabit after puberty, such acquiescence gives force to the marriage. Marriage is fully perfected by consent; which, without consummation, founds all the conjugal rights and duties. The consent requisite to marriage must be *de presenti*. A promise of marriage (*stipulatio sponsalitia*) may be relied from, as long as matters are entire; but if any thing be done by one of the parties, whereby a prejudice arises from the non-performance, the party relying is liable in damages to the other. The canons, and after them our courts of justice, explain a

copula subsequent to a promise of marriage into actual marriage.

3. It is not necessary that marriage should be celebrated by a clergyman. The consent of parties may be declared before any magistrate, or simply before witnesses: and though no formal consent should appear, marriage is presumed from the cohabitation, or living together at bed and board, of a man and woman who are generally reputed husband and wife. One's acknowledgment of his marriage to the midwife whom he called to his wife, and to the minister who baptized his child, was found sufficient presumptive evidence of marriage, without the aid either of cohabitation or of *habitu* and *repute*. The father's consent was, by the Roman law, essential to the marriage of children *in familia*: but, by our law, children may enter into marriage, without the knowledge, and even against the remonstrances, of a father.

4. Marriage is forbidden within certain degrees of blood. By the law of Moses (Leviticus xviii.), which by the act 1567. c. 15. has been adopted by us, seconds in blood, and all remoter degrees, may all lawfully marry. By seconds in blood are meant first cousins. Marriage in the direct line is forbidden *in infinitum*; as it is also in the collateral line, in the special case where one of the parties is *loco parentis* to the other, as grand uncle, great grand uncle, &c. with respect to his grand niece, &c. The same degrees that are prohibited in consanguinity, are prohibited in affinity; which is the tie arising from marriage betwixt one of the married pair and the blood relations of the other. Marriage also, where either of the parties is naturally unfit for generation, or stands already married to a third person, is *ipso jure* null.

5. To prevent bigamy and incestuous marriages, the church has introduced proclamations of banns; which is the ceremony of publishing the names and designations of those who intend to intermarry in the churches where the bride and bridegroom reside, after the congregation is assembled for divine service; that all persons who know any objection to the marriage may offer it. When the order of the church is observed, the marriage is called *regular*; when otherwise, *clandestine*. Marriage is valid when entered into in either of these ways; but when clandestine, there are certain penalties imposed upon the parties as well as the celebrator and witnesses.

6. By marriage, a society is created between the married pair, which draws after it a mutual communication of their civil interests, in as far as is necessary for maintaining it. As the society lasts only for the joint lives of the *socii*; therefore rights that have the nature of a perpetuity, which our law styles *heritable*, are not brought under the partnership or communion of goods; as a land estate, or bonds bearing a yearly interest: it is only moveable subjects, or the fruits produced by heritable subjects during the marriage, that become common to man and wife.

7. The husband, as the head of the wife, has the sole right of managing the goods in communion, which is called *jus mariti*. This right is so absolute, that it bears but little resemblance to a right of administering a common subject. For the husband can, in virtue thereof, sell, or even gift, at his pleasure, the whole goods

Law of
Scotland.

goods falling under communion; and his creditors may affect them for the payment of his proper debts: so that the *jus mariti* carries all the characters of an assignation, by the wife to her husband, of her moveable estate. It arises *ipso jure* from the marriage; and therefore needs no other constitution. But a stranger may convey an estate to a wife, so as it shall not be subject to the husband's administration; or the husband himself may, in the marriage contract, renounce his *jus mariti* in all or any part of his wife's moveable estate.

Paraphernalia.

8. From this right are excepted paraphernal goods, which, as the word is understood in our law, comprehends the wife's wearing apparel, and the ornaments proper to her person; as necklaces, ear-rings, breast or arm jewels, buckles, &c. These are neither alienable by the husband, nor affectable by his creditors. Things of promiscuous use to husband and wife, as plate, medals, &c. may become paraphernalia, by the husband's giving them to the wife, at or before marriage; but they are paraphernal only in regard to that husband who gave them as such, and are esteemed common moveables, if the wife, whose *paraphernalia* they were, be afterwards married to a second husband; unless he shall in the same manner appropriate them to her.

Burdens affecting the *jus mariti*.

9. The right of the husband to the wife's moveable estate, is burdened with the moveable debts contracted by her before marriage; and as his right is universal, so also is his burden; for it reaches to her whole moveable debts, though they should far exceed her moveable estate. Yet the husband is not considered as the true debtor in his wife's debts. In all actions for payment, she is the proper defender: the husband is only cited for his interest: that is, as curator to her, and administrator of the society goods. As soon therefore as the marriage is dissolved, and the society goods thereby suffer a division, the husband is no farther concerned in the share belonging to his deceased wife: and consequently is no longer liable to pay her debts, which must be recovered from her representatives or her separate estate.

How extended against the husband.

10. This obligation upon the husband is, however, perpetuated against him, (1.) Where his proper estate, real or personal, has been affected, during the marriage, by complete legal diligence; in which case, the husband must, by the common rules of law, relieve his property from the burden with which it stands charged; but the utmost diligence against his person is not sufficient to perpetuate the obligation; nor even incomplete diligence against his estate. (2.) The husband continues liable, even after the wife's death, in so far as he is *lucratus* or profited by her estate: Still, however, the law does not consider a husband who has got but a moderate tocher with the wife as *lucratus* by the marriage; it is the excess only which it considers as *lucrum*, and that must be estimated by the quality of the parties and their condition of life:—As he was as no time the proper debtor in his wife's moveable debts; therefore, though he should be *lucratus*, he is, after the dissolution, only liable for them *subsidiariè*, i. e. if her own separate estate is not sufficient to pay them off.

11. Where the wife is debtor in that sort of debt, which, if it had been due to her, would have excluded

VOL. XI. Part II.

the *jus mariti*, e. g. in bonds bearing interest, which, as we shall afterwards see (clxiii. 4.), continues heritable as to the rights of husband and wife, notwithstanding of the enactment of the statute 1661, which renders them moveable in certain other respects, the husband is liable only for the bygone interests, and those that may grow upon the debt during the marriage; because his obligation for her debts must be commensurated to the interest he has in her estate. It is the husband alone who is liable in personal diligence for his wife's debts, while the marriage subsists: the wife, who is the proper debtor, is free from all personal execution upon them while she is *vestita viro*.

Law of
Scotland.

12. The husband by marriage becomes the perpetual curator of the wife. From this right it arises, 1. That no suit can proceed against the wife till the husband be cited for his interest. 2. All deeds, done by a wife without the husband's consent, are null; neither can she sue in any action without the husband's concurrence. Yet, where the husband refuses, or by reason of forfeiture, &c. cannot concur; or where the action is to be brought against the husband himself, for performing his part of the marriage articles; the judge will authorize her to sue in her own name. The effects arising from this curatorial power discover themselves even before marriage, upon the publication of banns; after which the bride, being no longer *sui juris*, can contract no debt, nor do any deed, either to the prejudice of her future husband, nor even to her own. But in order to this, it is necessary that the banns shall have been published in the bride's parish church as well as in that of her husband.

13. If the husband should either withdraw from his wife, or turn her out of doors; or if, continuing in family with her, he should by severe treatment endanger her life; the commissaries will authorize a separation *à mensa et thoro*, and give a separate alimony to the wife, suitable to her husband's estate, from the time of such separation until either a reconciliation or a sentence of divorce.

14. Certain obligations of the wife are valid, notwithstanding her being *sub cura mariti*; ex. gr. obligations arising from delict; for wives have no privilege to commit crimes. But if the punishment resolves into a pecuniary mulct, the execution of it must, from her incapacity to fulfil, be suspended till the dissolution of the marriage, unless the wife has a separate estate exempted from the *jus mariti*.

15. Obligations arising from contract, affect either the person or the estate. The law has been so careful to protect wives while *sub cura mariti*, that all personal obligations granted by a wife, though with the husband's consent, as bonds, bills, &c. are null; with the following exceptions: (1.) Where the wife gets a separate *peculium* or stock, either from her father or a stranger, for her own or her children's alimony, she may grant personal obligations in relation to such stock: and by stronger reason, personal obligations granted by a wife are good, when her person is actually withdrawn from the husband's power by a judicial separation. (2.) A wife's personal obligation, granted in the form of a deed, *inter vivos*, is valid, if it is not to take effect till her death. (3.) Where the wife is by the husband *præposita negotiis*, intrusted with the management either of a particular branch of business or

The husband is the wife's curator.

Separate alimony.

What obligations of the wife are valid.

Law of
Scotland.

of his whole affairs, all the contracts she enters into in the exercise of her *præpositura* are effectual, even though they be not reduced to writing, but should arise merely *ex re*, from furnishing* made to her: but such obligations have no force against the wife; it is the husband only, by whose commission she acts, who is thereby obliged.

Inhibition
against a
wife.

16. A wife, while she remains in family with her husband, is considered as *præposita negotiis domesticis*, and consequently may provide things proper for the family; for the price whereof the husband is liable, though they should be misapplied, or though the husband should have given her money to provide them elsewhere. A husband who suspects that his wife may hurt his fortune by high living, may use the remedy of inhibition against her; by which all persons are interpellated from contracting with her, or giving her credit. After the completing of this diligence, whereby the *præpositura* falls, the wife cannot bind the husband, unless for such reasonable furnishings as he cannot instruct that he provided her with *aliunde*. As every man, and consequently every husband, has a right to remove his managers at pleasure, inhibition may pass at the suit of the husband against the wife, though he should not offer to justify that measure by an actual proof of the extravagance or profusion of her temper.

Rights af-
fecting her
estate.

17. As to rights granted by the wife affecting her estate, she has no moveable estate, except her *paraphernalia*; and these she may alien or impignorate, with consent of her husband. She can, without the husband, bequeath by testament her share of the goods in communion; but she cannot dispose of them *inter vivos*; for she herself has no proper right to them while the marriage subsists. A wife can lawfully oblige herself, in relation to her heritable estate, with consent of her husband: for though her person is in some sense sunk by the marriage, she continues capable of holding a real estate; and in such obligations her estate is considered, and not her person. A husband, though he be curator to his wife, can, by his acceptance or intervention, authorize rights granted by her in his own favour: for a husband's curatory differs in this respect from the curatory of minors, for it is not merely intended for the wife's advantage, but is considered as a mutual benefit to both.

Donations
revocable
and irrevocable.

18. All donations, whether by the wife to the husband or by the husband to the wife, are revocable by the donor; but if the donor dies without revocation, the right becomes absolute. Where the donation is not pure, it is not subject to revocation: thus, a grant made by the husband, in consequence of the natural obligation that lies upon him to provide for his wife, is not revocable, unless in so far as it exceeds the measure of a rational settlement; neither are remuneratory grants revocable, where mutual grants are made in consideration of each other, except where an onerous cause is simulated, or where what is given *hinc inde* bears no proportion to each other. All voluntary contracts of separation, by which the wife is provided in a yearly alimony, are effectual as to the time past, but revocable either by the husband or wife.

Ratification
by wives.

19. As wives are in the strongest degree subject to the influence of their husbands, third parties, in whose favours they had made grants, were frequently vexed with actions of reduction, as if the grant had been ex-

Law of
Scotland.

torted from the wife through the force or fear of the husband. To secure the grantees against this danger, ratifications were introduced, whereby the wife, appearing before a judge, declares upon oath, her husband not present, that she was not induced to grant the deed *ex vi aut metu*. A wife's ratification is not absolutely necessary for securing the grantee: law indeed allows the wife to bring reduction of any deed she has not ratified, upon the head of force or fear; of which, if she bring sufficient evidence, the deed will be set aside; but if she fails in the proof, it will remain effectual to the receiver.

20. Marriage, like other contracts, might, by the Roman law, be dissolved by the contrary consent of parties; but by the law of Scotland, it cannot be dissolved till death, except by divorce, proceeding either upon the head of adultery or of wilful desertion.

Dissolution
of marriage.

21. Marriage is dissolved by death, either *within* year and day from its being contracted, or *after* year and day. If it is dissolved within year and day, all rights granted in consideration of the marriage (unless guarded against in the contract) become void, and things return to the same condition in which they stood before the marriage; with this restriction, that the husband is considered as a *bona fide* possessor, in relation to what he has consumed upon the faith of his right; but he is liable to repay the tocher, without any deduction, in consideration of his family expence during the marriage. If things cannot be restored on both sides, equity hinders the restoring of one party and not the other. In a case which was lately before the court of session, it was determined after a long hearing in presence, that where a marriage had been dissolved within the year without a living child, by the death of the husband, the widow was entitled to be alimented out of an estate of which he died possessed, though there were no conventional provisions stipulated in favour of the wife.

22. Upon the dissolution of a marriage, after year and day, the surviving husband becomes the irrevocable proprietor of the tocher; and the wife, where she survives, is entitled to her jointure, or to her legal provisions. She has also right to mournings, suitable to the husband's quality; and to alimony from the day of his death till the term at which her life rent provision, either legal or conventional, commences. If a living child be procreated of the marriage, the marriage has the same effect as if it had subsisted beyond the year. A day is adjoined to the year, *in majorem evidentiam*, that it may clearly appear that the year itself is elapsed; and therefore, the running of any part of the day, after the year, has the same effect as if the whole were elapsed. The legal right of courtesy competent to the surviving husband is explained below, N^o clxx. 28.

23. Divorce is such a separation of married persons, during their lives, as looses them from the nuptial tie, and leaves them at freedom to intermarry with others. But neither adultery, nor wilful desertion, are grounds which must necessarily dissolve marriage; they are only handles, which the injured party may take hold of to be free. Cohabitation, therefore, by the injured party, after being in the knowledge of the acts of adultery, implies a passing from the injury; and no divorce can proceed, which is carried on by collusion be-

twixt

Law of Scotland.

twixt the parties, left, contrary to the first institution of marriage, they might disengage themselves by their own consent; and though, after divorce, the guilty person, as well as the innocent, may contract second marriages; yet, in the case of divorce upon adultery, marriage is by special statute (1600. c. 20.) prohibited betwixt the two adulterers.

24. Where either party has deserted from the other for four years together, that other may sue for adherence. If this has no effect, the church is to proceed, first by admonition, then by excommunication; all which previous steps are declared to be a sufficient ground for pursuing a divorce. *De praxi*, the commissaries pronounce sentence in the adherence, after one year's desertion; but four years must intervene between the first desertion and the decree of divorce.

25. The legal effects of divorce on the head of desertion are, that the offending husband shall restore the tocher, and forfeit to the wife all her provisions, legal and conventional; and, on the other hand, the offending wife shall forfeit to the husband her tocher, and all the rights that would have belonged to her in the case of her survivance. This was also esteemed the rule in divorces upon adultery. But by a decision of the court of session 1662, founded on a tract of ancient decisions recovered from the records, the offending husband was allowed to retain the tocher.

SECT. VII. Of Minors, and their Tutors and Curators.

cxli. Pupillarity, &c.

1. The stages of life principally distinguished in law are, *pupillarity*, *puberty* or *minority*, and *majority*. A child is under pupillarity, from the birth to 14 years of age if a male, and till 12 if a female. Minority begins where pupillarity ends, and continues till majority; which, by the law of Scotland, is the age of 21 years complete, both in males and females: but minority, in a large sense, includes all under age, whether pupils or *puberes*. Because pupils cannot in any degree act for themselves, and minors seldom with discretion, pupils are put by law under the power of tutors, and minors may put themselves under the direction of curators. Tutory is a power and faculty to govern the person, and administer the estate, of a pupil. Tutors are either *nominate*, *of law*, or *dative*.

Tutors.

2. A tutor nominate is he who is named by a father, in his testament or other writing, to a lawful child. Such tutor is not obliged to give caution for the faithful discharge of his office; because his fidelity is presumed to have been sufficiently known to the father.

Agnates.

3. If there be no nomination by the father, or if the tutors nominate do not accept, or if the nomination falls by death or otherwise, there is a place for a *tutor of law*. This sort of tutory devolves upon the next agnate; by which we understand he who is nearest related by the father, though females intervene.

4. Where there are two or more agnates equally near to the pupil, he who is entitled to the pupil's legal succession falls to be preferred to the others. But as the law suspects that he may not be over careful to preserve a life which stands in the way of his own interest, this sort of tutor is excluded from the custody of the pupil's person; which is commonly committed to the

Law of Scotland.

mother, while a widow, until the pupil be seven years old; and, in default of the mother, to the next cognate, i. e. the nearest relation by the mother. The tutor of law must (by act 1474) be at least 25 years of age. He is served or declared by a jury of sworn men, who are called upon a brief issuing from the chancery, which is directed to any judge having jurisdiction. He must give security before he enters upon the management.

5. If no tutor of law demands the office, any person, even a stranger, may apply for a tutory *dative*. But because a tutor in law ought to be allowed a competent time to deliberate whether he will serve or not, no tutory dative can be given till the elapsing of a year from the time at which the tutor of law had first a right to serve. It is the king alone, as the father of his country, who gives tutors dative, by his court of exchequer; and by act 1672, no gift of tutory can pass in exchequer, without the citation or consent of the next of kin to the pupil, both by the father and mother, nor till the tutor give security, recorded in the books of exchequer. There is no room for a tutor of law, or tutor dative, while a tutor nominate can be hoped for: and tutors of law or dative, even after they have begun to act, may be excluded by the tutor nominate, as soon as he offers to accept, unless he has expressly renounced the office. If a pupil be without tutors of any kind, the court of session will, at the suit of any kinsman, name a factor (steward) for the management of the pupil's estate.

Curators.

6. After the years of pupillarity are over, the minor is considered as capable of acting by himself, if he has confidence enough of his own capacity and prudence. The only two cases in which curators are imposed upon minors are, (1.) Where they are named by the father, in a state of health. (2.) Where the father is himself alive; for a father is *ipso jure*, without any service, administrator, that is, both tutor and curator of law to his children, in relation to whatever estate may fall to them during their minority. This right in the father does not extend to grandchildren, nor to such even of his immediate children as are foris-familiated. Neither has it place in subjects which are left by a stranger to the minor exclusive of the father's administration. If the minor chooses to be under the direction of curators, he must raise and execute a summons, citing at least two of his next of kin to appear before his own judge ordinary, upon nine days warning (by act 1555.) At the day and place of appearance, he offers to the judge a list of those whom he intends for his curators: such of them as resolve to undertake the office must sign their acceptance, and give caution; upon which an act of curatory is extracted.

7. These curators are styled *ad negotia*; to distinguish them from another sort called curators *ad lites*, who are authorized by the judge to concur with a pupil or minor in actions of law, either where he is without tutors and curators, or where his tutors and curators are parties to the suit. This sort is not obliged to give caution, because they have no intermeddling with the minor's estate: they are appointed for a special purpose; and when that is over, their office is at an end. Women are capable of being tutors and curators under the following restrictions: (1.) The office of a female tutor

Whodebarred from tutory and curatory.

Law of
Scotland.

tutor or curator falls by her marriage, even though the nomination should provide otherwise; for she is no longer *sui juris*, and incapable of course of having another under her power. (2.) No woman can be tutor of law. Papists are (by act 1700) declared incapable of tutory or curatory. Where the minor has more tutors and curators than one, who are called in the nomination to the *joint* management, they must *all* concur in every act of administration; where a certain number is named for a quorum, *that number* must concur: where any one is named *sine quo non*, no act is valid without that one's special concurrence. But if they are named without any of these limitations, the concurrence of *the majority* of the nominees then alive is sufficient.

Difference
between tu-
tory and cu-
ratory.

8. In this, tutory differs from curatory, that as pupils are incapable of consent, they have no person capable of acting; which defect the tutor supplies: but a minor *pubes* can act for himself. Hence, the tutor subscribes alone all deeds of administration: but in curatory, it is the minor who subscribes as the proper party; the curator does no more than consent. Hence also, the persons of pupils are under the power either of their tutors or of their nearest cognates; but the minor, after pupillarity, has the disposal of his own person, and may reside where he pleases. In most other particulars, the nature, the powers, and the duties of the two offices, coincide. Both tutors and curators must, previous to their administration, make a judicial inventory, subscribed by them and the next of kin, before the minor judge ordinary, of his whole estate personal and real; of which, one subscribed duplicate is to be kept by the tutors or curators themselves; another, by the next of kin on the father's side; and a third by the next of kin or the mother's. If any estate belonging to the minor shall afterwards come to their knowledge, they must add it to the inventory within two months after their attaining possession thereof. Should they neglect this, the minor's debtors are not obliged to make payment to them: they may be removed from their offices as suspected; and they are entitled to no allowance for the sums disbursed by them in the minor's affairs (act 1672), except the expence laid out upon the minor's entertainment, upon his lands and houses, and upon completing his titles.

Judicial in-
ventories.

9. Tutors and curators cannot grant leases of the minor's lands, to endure longer than their own office; nor under the former rental, without either a warrant from the court of session, or some apparent necessity.

10. They have power to sell the minor's moveables; but cannot sell their pupil's land estate, without the authority of a judge: yet this restraint reaches not to such alienations as the pupil could by law be compelled to grant, *e. g.* to renunciations of wadsets upon redemption by the reverser; for in such case, the very tenor of his own right lays him under the obligation; nor to the renewal of charters to heirs; but the charter must contain no new right in favour of the heir. The alienation, however, of heritage by a minor, with consent of his curators, is valid.

11. Tutors and curators cannot, contrary to the nature of their trust, authorize the minor to do any deed for their own benefit; nor can they acquire any debt affecting the minor's estate: and, where a tutor or curator makes such acquisition, in his own name, for a

less sum than the right is entitled to draw, the benefit thereof accrues to the minor. It seems, however, that such purchase would be considered as valid, provided it were *bona fide* acquired at a public sale; for in such case it occurs that the tutor or curator is in fact meliorating the situation of his ward by enhancing the value of his property by a fair competition. In general, it seems to be the genius and spirit of our law, that tutors and curators shall do every thing in their power towards the faithful and proper discharge of their respective offices.

Law of
Scotland.

12. By the Roman law, tutory and curatory, being *Their obligations.* *munera publica*, might be forced upon every one who had not a relevant ground of excuse: but, with us, the persons named to these offices may either accept or decline: and where a father, in *lege postie* (when in a state of health), names certain persons both as tutors and curators to his children, though they have acted as tutors, they may decline the office of curatory. Tutors and curators having once accepted, are liable in *diligence*, that is, are accountable for the consequences of their neglect in any part of their duty from the time of their acceptance. They are accountable *singuli in solidum*, *i. e.* every one of them is answerable, not only for his own diligence, but for that of his co-tutors; and any one may be sued without citing the rest: but he who is condemned in the whole, has action of relief against his co-tutors.

13. From this obligation to diligence, we may except, (1.) Fathers or administrators-in-law, who, from the presumption that they act to the best of their power for their children, are liable only for actual intromissions. (2.) Tutors and curators named by the father in consequence of the act 1696, with the special proviso, that they shall be liable barely for intromissions, not for omissions; and that each of them shall be liable only for himself, and not *in solidum* for the co-tutors: but this power of exemption from diligence is limited to the estate descending from the father himself. Tutors or curators are not entitled to any salary or allowance for pains, unless a salary has been expressly contained in the testator's nomination; for their office is presumed gratuitous.

14. Though no person is obliged to accept the office of tutor or curator; yet having once accepted, he cannot throw it up or renounce it without sufficient cause; but, if he should be guilty of misapplying the minor's money, or fail in any other part of his duty, he may be removed at the suit of the minor's next in kin, or by a co-tutor or co-curator. Where the misconduct proceeds merely from indolence or inattention, the court, in place of removing the tutor, either joins a curator with him, or, if he be a tutor nominate, they oblige him to give caution for his past and future management.

How tuto-
ry and cu-
ratory ex-
pire.

15. The offices of tutory and curatory expire also by the pupil's attaining the age of puberty, or the minor's attaining the age of 21 years complete; and by the death either of the minor, or of his tutor and curator. Curatory also expires by the marriage of a female minor, who becomes thereby under the coverture of her own husband. After expiry of the office, reciprocal actions lie at the instance both of the tutors and curators, and of the minor. That at the instance of the minor is called *actio tutelæ directæ*, by which he can com-
pel

Powers of
tutors and
curators.

Law of Scotland. pel the tutors to account; that at the instance of the tutors, *actio tutelæ contraria*, by which the minor can be compelled to repeat what has been profitably expended during the administration: but this last does not lie till after accounting to the minor; for till then the tutors are presumed *intus habere* to the effects in their own hands for answering their disbursements.

Effects of deeds by minors. 16. Deeds either by pupils, or by minors having curators without their consent, are null; but they oblige the granters in as far as relates to sums profitably applied to their use. A minor under curators can indeed make a testament by himself; but whatever is executed in the form of a deed *inter vivos*, requires the curator's consent. Deeds by a minor who has no curators, are as effectual as if he had had curators, and signed them with their consent; he may even alien his heritage, without the interposition of a judge.

Restitution. 17. Minors may be restored against all deeds granted in their minority, that are hurtful to them. Deeds, in themselves void, need not the remedy of restitution; but where hurtful deeds are granted by a tutor in his pupil's affairs, or by a minor, who has no curators, as these deeds subsist in law, restitution is necessary: and even where a minor, having curators, executes a deed hurtful to himself with their consent, he has not only action against the curators, but he has the benefit of restitution against the deed itself. The minor cannot be restored, if he does not raise and execute a summons for reducing the deed, *ex capite minorennitatis et lesionis*, before he be 25 years old. These four years, between the age of 21 and 25, called *quadriennium utile*, are indulged to the minor, that he may have a reasonable time, from that period, when he is first presumed to have the perfect use of his reason, to consider with himself what deeds done in his minority have been truly prejudicial to him.

Its requisites. 18. Questions of restitution are proper to the court of session. Two things must be proved by the minor, in order to the reduction of the deed: (1.) That he was minor when it was signed: (2.) That he is hurt or lesed by the deed. This lesion must not proceed merely from accident; for the privilege of restitution was not intended to exempt minors from the common misfortunes of life; it must be owing to the imprudence or negligence of the minor, or his curator.

How excluded. 19. A minor cannot be restored against his own delict or fraud; e. g. if he should induce one to bargain with him by saying he was major. (1.) Restitution is excluded, if the minor, at any time after majority, has approved of the deed, either by a formal ratification, or tacitly by payment of interest, or by other acts inferring approbation. (2.) A minor, who has taken himself to business, as a merchant-shopkeeper, &c. cannot be restored against any deed granted by him in the course of that business, especially if he was *proximus majorennitatis* at signing the deed. (3.) According to the more common opinion, a minor cannot be restored in a question against a minor, unless some gross unfairness shall be qualified in the bargain.

How transmitted to the heir. 20. The privilege of restitution does not always die with the minor himself. (1.) If a minor succeeds to a minor, the time allowed for restitution is governed by the minority of the heir, not of the ancestor. (2.) If a minor succeeds to a major, who was not full 25, the privilege continues with the heir during his minority;

but he cannot avail himself of the *anni utiles*, except in so far as they were unexpired at the ancestor's death. (3.) If a major succeeds to a minor, he has only the *quadriennium utile* after the minor's death, and if he succeeds to a major dying within the *quadriennium*, no more of it can be profitable to him than what remained when the ancestor died.

Law of Scotland. 21. No minor can be compelled to state himself as a defender, in any action, whereby his heritable estate flowing from ascendants may be evicted from him, by one pretending a preferable right. *Minor non tenetur placitare.*

22. This privilege is intended merely to save minors from the necessity of disputing upon questions of preference. It does not therefore take place, (1.) Where the action is pursued on the father's falsehood or delict. (2.) Upon his obligation to convey heritage. (3.) On his liquid bond for a sum of money, though such action should have the effect to carry off the minor's estate by adjudication. (4.) Nor in actions pursued by the minor's superior, upon feudal casualties. (5.) This privilege cannot be pleaded in bar of an action which had been first brought against the father, and is only continued against the minor; nor where the father was not in the peaceable possession of the heritable subject at his death. Before the minor can plead it, he must be served heir to his father. The persons of pupils are by said act 1696 protected from imprisonment on civil debts.

23. Curators are given, not only to minors, but in general to every one who, either through defect of judgement, or unfitness of disposition, is incapable of rightly managing his own affairs. Of the first sort, are idiots and furious persons. Idiots, or *fanni*, are entirely deprived of the faculty of reason. The diltemper of the furious person does not consist in the defect of reason; but in an overheated imagination, which obstructs the application of reason to the purposes of life. Curators may be also granted to lunatics; and even to persons dumb and deaf, though they are of sound judgement, where it appears that they cannot exert it in the management of business. Every person, who is come of age, and is capable of acting rationally, has a natural right to conduct his own affairs. The only regular way, therefore, of appointing this sort of curators, is by a jury summoned upon a brief from the chancery; which is not, like the brief of common tutory, directed to any judge ordinary, but to the judge of the special territory where the person alleged to be fatuous or furious resides; that, if he is truly of sound judgement, he may have an opportunity to oppose it: and for this reason, he ought to be made a party to the brief. The curatory of idiots and furious persons belongs to the nearest agnate; but a father is preferred to the curatory of his fatuous son, and the husband to that of his fatuous wife, before the agnate.

24. A clause is inserted in the brief, for inquiring how long the fatuous or furious person has been in that condition: and the verdict to be pronounced by the inquest has a retrospective effect: for it is declared a sufficient ground, without further evidence, for reducing all deeds granted after the period at which it appeared by the proof that the fatuity or furiosity began. But, as fatuous and furious persons are, by their very state, incapable of being obliged, all deeds done by them may be declared void, upon proper evidence of the

Law of
Scotland.

their fatuity at the time of signing, though they should never have been cognosed idiots by an inquest.

25. We have some few instances of the sovereign's giving curators to idiots, where the next agnate did not claim; but such gifts are truly deviations from our law, since they pass without any inquiry into the state of the person upon whom the curatory is imposed.— Hence the curator of law to an idiot serving *quandocunque*, is preferred, as soon as he offers himself, before the curator-dative. This sort of curatory does not determine by the lucid intervals of the person *sub cura*; but it expires by his death, or perfect return to a sound judgement; which last ought regularly to be declared by the sentence of a judge.

Interdic-
tion.

26. Persons, let them be ever so profuse, or liable to be imposed upon, if they have the exercise of reason, can effectually oblige themselves, till they are fettered by law. This may be done by *Interdiction*, which is a legal restraint laid upon such persons from signing any deed to their own prejudice, without the consent of their curators or interdictors.

27. There could be no interdiction by our ancient practice, without a previous inquiry into the person's condition. But as there were few who could bear the shame that attends judicial interdiction, however, necessary the restraint might have been, voluntary interdiction has received the countenance of law; which is generally executed in the form of a bond, whereby the granter obliges himself to do no deed that may affect his estate, without the consent of certain friends therein mentioned. Though the reasons inductive of the bond should be but gently touched in the recital, the interdiction stands good. Voluntary interdiction, though it be imposed by the sole act of the person interdicted, cannot be recalled at his pleasure: but it may be taken off, (1.) By a sentence of the court of session, declaring, either that there was from the beginning no sufficient ground for the restraint; or that the party is, since the date of the bond, become *rei sui providus*. (2.) It falls, even without the authority of the lords, by the joint act of the person interdicted, and his interdictors, concurring to take it off. (3.) Where the bond of interdiction requires a certain number as a quorum, the restraint ceases, if the interdictors shall by death be reduced to a lesser number.

28. Judicial interdiction is imposed by a sentence of the court of session. It commonly proceeds on an action brought by a near kinsman to the party; and sometimes from the *nobile officium* of the court, when they perceive, during the pendency of a suit, that any of the litigants is, from the facility of his temper, subject to imposition. This sort must be taken off by the authority of the same court that imposed it.

Registra-
tion of in-
terdictions.

29. An interdiction need not be served against the person interdicted; but it must be executed, or published by a messenger, at the market cross of the jurisdiction where he resides, by publicly reading the interdiction there, after three oyeses made for convocating the lieges. A copy of this execution must be affixed to the cross; and thereafter, the interdiction, with its execution, must (by the act 1581) be registered in the books both of the jurisdiction where the person interdicted resides and where his lands lie, or (by the act 1600) in the general register of the session, within 40 days from the publication. An interdiction, before

it is registered, has no effect against third parties, though they should be in the private knowledge of it; but it operates against the interdictors themselves, as soon as it is delivered to them.

Law of
Scotland.

30. An interdiction, duly registered, has this effect, Effects, that all deeds done thereafter, by the person interdicted, without the consent of his interdictors, affecting his heritable estate, are subject to reduction. Registration in the general register secures all his lands from alienation, wherever they lie; but where the interdiction is recorded in the register of a particular shire, it covers no lands except those situated in that shire. But persons interdicted have full power to dispose of their moveables, not only by testament, but by present deeds of alienation: And creditors, in personal bonds granted after interdiction, may use all execution against their debtor's person and moveable estate: such bonds being only subject to reduction in so far as diligence against the heritable estate may proceed upon them.

31. All onerous or rational deeds granted by the person interdicted, are as effectual, even without the consent of the interdictors, as if the granter had been laid under no restraint; but he cannot alter the succession of his heritable estate, by any settlement, let it be ever so rational. No deed, granted with consent of the interdictors, is reducible, though the strongest lesion or prejudice to the granter should appear: the only remedy competent, in such case, is an action by the granter against his interdictors, for making up to him what he has lost through their undue consent. It is no Office of in-
terdictors. part of the duty of interdictors to receive sums or manage any estate; they are given merely *ad auctoritatem prestandam*, to interpose their authority to reasonable deeds: and so are accountable for nothing but their fraud or fault, in consenting to deeds hurtful to the person under their care.

32. The law concerning the state of children falls Lawful
children. next to be explained. Children are either born in wedlock, or out of it. All children born in lawful marriage or wedlock, are presumed to be begotten by the person to whom the mother is married; and consequently to be lawful children. This presumption is so strongly founded, that it cannot be defeated but by direct evidence that the mother's husband could not be the father of the child, *e. g.* where he is impotent, or was absent from the wife till within six lunar months of the birth. The canonists indeed maintain, that the concurring testimony of the husband and wife, that the child was not procreated by the husband, is sufficient to elide this legal presumption for legitimacy: but it is an agreed point, that no regard is to be paid to such testimony, if it be made after they have owned the child to be theirs. A father has the absolute right of disposing of his children's person, of directing their education, and of moderate chastisement; and even after they become *puberes*, he may compel them to live in family with him, and to contribute their labour and industry, while they continue there, towards his service. A child who gets a separate stock from the father for carrying on any trade or employment, even though he should continue in the father's house, may be said to be emancipated or forisfamiated, in so far as it concerns that stock; for the profits arising from it are his own. Forisfamiation, when taken in this sense, is also infer-
red.

Law of Scotland. red by the child's marriage, or by his living in a separate house, with his father's permission or good will. Children, after their full age of twenty-one years, become, according to the general opinion, their own masters; and from that period are bound to the father only by the natural ties of duty, affection, and gratitude. The mutual obligations between parents and children to maintain each other, are explained afterwards, N° clxxiii. 4.

Bastards. 33. Children born out of wedlock, are styled natural children, or bastards. Bastards may be legitimated or made lawful. (1.) By the subsequent intermarriage of the mother of the child with the father. And this sort of legitimation entitles the child to all the rights of lawful children. The subsequent marriage, which produces legitimation, is considered by the law to have been entered into when the child legitimated was begotten; and hence, if he be a male, he excludes, by his right of primogeniture, the sons procreated after the marriage, from the succession of the father's heritage, though the sons were lawful children from the birth. Hence, also, those children only can be thus legitimated, who are begotten of a woman whom the father might at that period have lawfully married. (2.) Bastards are legitimated by letters of legitimation from the sovereign. N° clxxxii. 3.

Servants. 34. As to the power of masters over their servants: All servants now enjoy the same rights and privileges with other subjects, unless in so far as they are tied down by their engagements of service. Servants are either necessary or voluntary. Necessary are those whom law obliges to work without wages, of whom immediately. Voluntary servants engage without compulsion, either for mere subsistence, or also for wages. Those who earn their bread in this way, if they should stand off from engaging, may be compelled to it by the justices of the peace, who have power to fix the rate of their wages.

Colliers and salters. 35. Colliers, coal-bearers, salters, and other persons necessary to colliers and salt works, as they are particularly described by act 1661, were formerly tied down to perpetual service at the works to which they had once entered. Upon a sale of the works, the right of their service was transferred to the new proprietor. All persons were prohibited to receive them into their service, without a testimonial from their last master; and if they deserted to another work, and were redemanded within a year thereafter, he who had received them was obliged to return them within twenty-four hours, under a penalty. But though the proprietor should neglect to require the deserter within the year, he did not by that short prescription, lose his property in him. Colliers, &c. where the colliery to which they were restricted was either given up, or not sufficient for their maintenance, might lawfully engage with others; but if that work should be again set a going, the proprietor might reclaim them back to it.

Restraints lately taken off. 36. But by 15 Geo. III. c. 28. these restraints, the only remaining vestiges of slavery in the law of Scotland, are abrogated; and, after the 1st July 1775, all colliers, coal-bearers, and salters, are declared to be upon the same footing with other servants or labourers. The act subjects those who are bound prior to the 1st July 1775, to a certain number of years service for their freedom, according to the age of the person.

37. The poor make the lowest class or order of persons. Indigent children may be compelled to serve any of the king's subjects without wages, till the age of thirty years. Vagrants and sturdy beggars may be also compelled to serve any manufacturer. And because few persons were willing to receive them into their service, public workhouses are ordained to be built for setting them to work. The poor who cannot work, must be maintained by the parishes in which they were born; and where the place of their nativity is not known, that burden falls upon the parishes where they have had their most common resort, for the three years immediately preceding their being apprehended or their applying for the public charity. Where the contributions collected at the churches to which they belong are not sufficient for their maintenance, they are to receive badges from the minister and kirk session, in virtue of which they may ask alms at the dwelling-houses of the inhabitants of the parish.

Law of Scotland. The poor.

CHAP. II. Of THINGS.

THE things, or subjects, to which persons have right, are the second object of law.

SECT. I. Of the Division of Rights, and the several ways by which a Right may be acquired. clxii.

1. The right of enjoying and disposing of a subject at one's pleasure, is called property. Proprietors are restrained by law from using their property emulouly to their neighbour's prejudice. Every state or sovereign has a power over private property, called, by some lawyers, *dominium eminens*, in virtue of which, the proprietor may be compelled to sell his property for an adequate price, where an evident utility on the part of the public demands it.

2. Certain things are by nature itself incapable of appropriation; as the air, the light, the ocean, &c.; none of which can be brought under the power of any one person, though their use be common to all. Others are by law exempted from private commerce, in respect of the uses to which they are destined. Of this last kind are, (1.) *Res publicæ*, as navigable rivers, highways, bridges, &c. the right of which is vested in the king, chiefly for the benefit of his people, and they are called *regalia*. (2) *Res universitatis*, things which belong in property to a particular corporation or society, and whose use is common to every individual in it, but both property and use are subject to the regulations of the society; as town houses, corporation halls, market places, churchyards, &c. The lands or other revenue belonging to a corporation do not fall under this class, but are *juris privati*, *quoad* the corporation.

3. Property may be acquired, either by *occupation* or *accession*; and transferred by *tradition* or *prescription*; but prescription being also a way of losing property, falls to be explained under a separate title. OCCUPATION, or occupancy, is the appropriating of things which have no owner, by apprehending them, or seizing their possession. This was the original method of acquiring property: and continued, under certain restrictions, the doctrine of the Roman law, *Quod nullius est, sit occupantis*: but it can have no room in the feudal plan,

Things incapable of appropriation.

Ways of acquiring property.

plan, by which the king is looked on as the original proprietor of all the lands within his dominions.

4. Even in that sort of moveable goods which are presumed to have once had an owner, this rule obtains by the law of Scotland, *Quod nullius est, fit domini regis*. Thus, the right of treasure hid under ground is not acquired by occupation, but accrues to the king.— Thus also, where one finds strayed cattle or other moveables, which have been lost by their former owner, the finder acquires no right in them, but must give public notice thereof; and if, within year and day after such notice, the proprietor does not claim his goods, they fall to the king, sheriff, or other person to whom the king has made a grant of such escheats.

5. In that sort of moveables which never had an owner, as wild beasts, fowls, fishes, or pearls found on the shore, the original law takes place, that he who first apprehends, becomes proprietor; inasmuch, that though the right of hunting, fowling, and fishing, be restrained by statute, under certain penalties, yet all game, even what is caught in contravention of the law, becomes the property of the catcher (unless where the confiscation thereof is made part of the penalty), the contravener being obnoxious, however, to the penal enactment of the statutes in consequence of his transgression. It was not for a long time a fixed point whether a person, though possessed of the valued rent by law entitling him to kill game, could hunt upon another person's grounds without consent; but it was lately found by the court of session, and affirmed upon appeal, that he could not; it being repugnant to the idea of property, that any person, however qualified, should have it in his power to traverse and hunt upon another's grounds without consent of the proprietor. Although certain things became the property of the first occupant, yet there are others which fall not under this rule. Thus, whales thrown in or killed on our coasts, belong neither to those who kill them, nor to the proprietor of the grounds on which they are cast; but to the king, providing they are so large as that they cannot be drawn by a wane with six oxen.

Accession.

6. ACCESSION is that way of acquiring property, by which, in two things which have a connexion with, or dependence on, one another, the property of the principal thing draws after it the property of its accessory. Thus the owner of a cow becomes the owner of the calf; a house belongs to the owner of the ground on which it stands, though built with materials belonging to and at the charge of another; trees taking root in our ground, though planted by another become ours. Thus also the insensible addition made to one's ground by what a river washes from other grounds, (which is called *alluvio*), accrues to the master of the ground which receives the addition; but where it happened that a large piece of ground was disjoined and annexed to another person's by the force of a river or any other accident, and which was by the Romans called *avulsio*, they considered the owner's right of property still to subsist, § 21. *Insl. de rer. divis.*; and it is probable that, in a similar case, our courts would countenance the distinction. The Romans excepted from this rule the case of paintings drawn on another man's board or canvas, in consideration of the excellency of the art; which exception our practice has for a like reason extended to similar cases.

7. Under accession is comprehended SPECIFICATION; by which is meant, a person's making a new species or subject, from materials belonging to another. Where the new species can be again reduced to the matter of which it was made, law considers the former mass as still existing; and therefore, the new species, as an accessory to the former subject, belongs to the proprietor of that subject: but where the thing made cannot be so reduced, as in the case of wine, which cannot be again turned into grapes, there is no place for the *fiction juris*; and therefore the workmanship draws after it the property of the materials. But the person who thus carries the property from the other is bound to indemnify him according to the true value; and in case it was done *mala fide*, he may be made liable in the *pretium affectionis* or utmost value.

8. Though the new species should be produced from the COMMIXION or confasion of different substances belonging to different proprietors, the same rule holds; but where the mixture is made by the common consent of the owner, such consent makes the whole a common property, according to the shares that each proprietor had formerly in the several subjects. Where things of the same sort are mixed without the consent of the proprietors, which cannot again be separated; e. g. two hogheads of wine, the whole likewise becomes a common property; but, in the after division, regard ought to be had to the different quality of the wines: if the things so mixed admit of a separation, e. g. two flocks of sheep, the property continues distinct.

9. Property is carried from one to another by TRADITION; which is the delivery of possession by the proprietor, with an intention to transfer the property to the receiver. Two things are therefore requisite, in order to the transmitting of property in this way: 1. The intention or consent of the former owner to transfer it on some proper title of alienation, as sale, exchange, gift, &c. (2.) The actual delivery in pursuance of that intention. The first is called the *causa*, the other the *modus transferendi dominii*: which last is so necessary to the acquiring of property, that he who gets the last right, with the first tradition, is preferred, according to the rule, *Traditionibus, non nudis pactis, transferuntur rerum dominia*.

10. Tradition is either real, where the *ipsa corpora* of moveables are put into the hands of the receiver; or symbolical, which is used where the thing is incapable of real delivery, or even when actual delivery is only inconvenient. Where the possession or custody of the subject has been before with him to whom the property is to be transferred, there is no room for tradition.

11. Possession, which is essential both to the acquisition and enjoyment of property, is defined, the detention of a thing, with a design or *animus* in the detainer of holding it as his own. It cannot be acquired by the sole act of the mind, without real detention; but, being once acquired, it may be continued *solo animo*. Possession is either natural, or civil. Natural possession is, when one possesses by himself: thus, we possess lands by cultivating them and reaping their fruits, houses by inhabiting them, moveables by detaining them in our hands. Civil possession is our holding the thing, either by the sole act of the mind, or by the hands of another who

Law of Scotland.

who holds it in our name: thus, the owner of a thing lent possesses it by the borrower; the proprietor of lands, by his tackman, trustee, or steward, &c. The same subject cannot be possessed entirely, or *in solidum*, by two different persons at one and the same time: and therefore possession by an act of the mind ceases, as soon as the natural possession is so taken up by another, that the former possessor is not suffered to re-enter. Yet two persons may, in the judgement of law, possess the same subject, at the same time, on different rights: thus, in the case of a pledge, the creditor possesses it in his own name, in virtue of the right of impignoration; while the proprietor is considered as possessing, in and through the creditor, in so far as is necessary for supporting his right of property. The same doctrine holds in liferenters, tacksmen, and, generally, in every case where there are rights affecting a subject distinct from the property.

bona fide.

12. A *bona fide* possessor is he who, though he is not really proprietor of the subject, yet believes himself proprietor on probable grounds. A *mala fide* possessor is he who knows, or is presumed to know, that what he possesses is the property of another. A possessor *bona fide* acquired right, by the Roman law, to the fruits of the subject possessed, that had been reaped and consumed by himself, while he believed the subjects his own. By our customs, perception alone, without consumption, secures the possessor: nay, if he has sown the ground, while his *bona fides* continued, he is entitled to reap the crop, *propter curam et culturam*. But this doctrine does not reach to civil fruits, e. g. the interest of money, which the *bona fide* receiver must restore, together with the principal, to the owner.

13. *Bona fides* necessarily ceaseth by the *conscientia rei alienæ* in the possessor, whether such conscientiousness should proceed from legal interpellation, or private knowledge. *Mala fides* is sometimes induced by the true owner's bringing his action against the possessor, sometimes not till litiscontestation, and, in cases uncommonly favourable, not till the sentence be pronounced against the possessor.

Effects of possession.

14. The property of moveable subjects is presumed by the bare act of possession, until the contrary be proved; but possession of an immoveable subject, though for a century of years together, if there is no feisin, does not create even a presumptive right to it: *Nulla lesina, nulla terra*. Such subject is considered as caducuary, and so accrues to the sovereign. Where the property of a subject is contested, the lawful possessor is entitled to continue his possession, till the point of right be discussed; and, if he has lost it by force or stealth, the judge will upon summary application, immediately restore it to him.

15. Where a possessor has several rights in his person, affecting the subject possessed, the general rule is, that he may ascribe his possession to which of them he pleases; but one cannot prescribe his possession to a title other than that on which it commenced, in prejudice of him from whom his title flowed.

SECT. II. Of Heritable and Moveable Rights.

clxxi.

1. For the better understanding the doctrine of this title, it must be known, that by the law of Scotland, and indeed of most nations of Europe since the intro-

Vol. XI. Part II.

duction of feus, wherever there are two or more in the same degree of consanguinity to one who dies intestate, and who are not all females, such rights belonging to the deceased as are either properly feudal, or have any resemblance to feudal rights, descend wholly to one of them, who is considered as his proper heir; the others, who have the name of next of kin or executors, must be contented with that portion of the estate which is of a more perishable nature. Hence has arisen the division of rights to be explained under this title: the subjects descending to the heir are styled *heritable*; and those that fall to the next of kin *moveable*.

Law of Scotland.

2. All rights of, or affecting lands, under which are comprehended houses, mills, fishings, teinds; and all rights of subjects that are *fundo annexa*, whether completed by feisin or not, are heritable *ex sua natura*. On the other hand, every thing that moves itself or can be moved, and in general whatever is not united to land, is moveable; as household furniture, corns, cattle, cash, arrears of rent and of interest, even though they should be due on a right of annualrent; for though the arrears last mentioned are secured on land, yet being presently payable, they are considered as cash.

Division of rights into heritable and moveable.

3. Debts, (*nomina debitorum*), when due by bill, promissory note, or account, are moveable. When constituted by bond, they do not all fall under any one head; but are divided into heritable and moveable, by the following rules. All debts constituted by bond bearing an obligation to interest the creditor in any heritable subject in security of the principal sum and annualrent, or annualrent only, are heritable; for they not only carry a yearly profit, but are secured upon land.

4. Bonds merely personal, though bearing a clause of interest, are, by act 1661, declared to be moveable as to succession; i. e. they go, not to the heir, but to the next of kin or executors; but they are heritable with respect to the fisk, and to the rights of husband and wife; that is, though by the general rule, moveable rights fall under the communion of goods consequent upon marriage, and the moveables of denounced persons fall to the crown or fisk by single escheat, yet such bonds do neither, but are heritable in both respects.

5. Bonds taken payable to heirs and assignees, excluding executors, are heritable in all respects, from the destination of the creditor. But a bond, which is made payable to heirs, without mention of executors, descends, not to the proper heir in heritage, though heirs are mentioned in the bond, but to the executor; for the word *heir*, which is a generic term, points out him who is to succeed by law in the right; and the executor, being the heir *in mobilibus*, is considered as the person to whom such bond is taken payable. But where a bond is taken to heirs male, or to a series of heirs, one after another, such a bond is heritable, because its destination necessarily excludes executors.

6. Subjects originally moveable become heritable, (1.) By the proprietor's destination. Thus, a jewel, or any other moveable subject, may be provided to the heir, from the right competent to every proprietor to settle his property on whom he pleases. (2.) Moveable rights may become heritable, by the supervening of an heritable security: Thus, a sum due by a personal bond becomes heritable, by the creditor's accept-

How moveable rights become heritable.

Law of Scotland. ing an heritable right for securing it, or by adjudging upon it.

7. Heritable rights do not become moveable by accessory moveable securities; the heritable right being in such case the *jus nobilius*, which draws the other after it.

Rights partly heritable, partly moveable. 8. Certain subjects partake, in different respects, of the nature both of heritable and moveable. Personal bonds are, by the above cited act 1661, moveable in respect of succession; but heritable as to the *folk*, and the rights of husband and wife. All bonds, whether merely personal, or even heritable, on which no *feisin* has followed, may be affected at the suit of creditors, either by adjudication, which is a diligence proper to heritage, or by arrestment, which is peculiar to moveables. Bonds including executors, though they descend to the creditor's heir, are payable by the debtor's executors, without relief against the heir; since the debtor's succession cannot be affected by the destination of the creditor.

What period makes a subject heritable or moveable. 9. All questions, whether a right be heritable or moveable, must be determined according to the condition of the subject at the time of the ancestor's death. If it was heritable at that period, it must belong to the heir; if moveable, it must fall to the executor, without regard to any alterations that may have affected the subject in the intermediate period between the ancestor's death and the competition.

I. HERITABLE RIGHTS.

SECT. III. Of the Constitution of Heritable Rights by Charter and *Seisin*.

clxiv. Origin of the feudal law.

1. Heritable rights are governed by the feudal law, which owed its origin, or at least its first improvements, to the Longobards; whose kings, upon having penetrated into Italy, the better to preserve their conquests, made grants to their principal commanders of great part of the conquered provinces, to be again subdivided by them among the lower officers, under the conditions of fidelity and military service.

2. The feudal constitutions and usages were first reduced into writing about the year 1150, by two lawyers of Milan, under the title of *Consuetudines Feudorum*. None of the German emperors appear to have expressly confirmed this collection by their authority: but it is generally agreed, that it had their tacit approbation, and was considered as the customary feudal law of all the countries subject to the empire. No other country has ever acknowledged these books for their law; but each state has formed to itself such a system of feudal rules, as best agreed with the genius of its own constitution. In feudal questions, therefore, we are governed, in the first place, by our own statutes and customs; where these fail us, we have regard to the practice of neighbouring countries, if the genius of their law appears to be the same with ours; and should the question still remain doubtful, we may have recourse to those written books of the feus, as to the original plan on which all feudal systems have proceeded.

Definition of feus.

3 This military grant got the name, first of *beneficium*, and afterwards of *feudum*; and was defined a

Law of Scotland. gratuitous right to the property of lands, made under the conditions of fealty and military service, to be performed to the granter by the receiver; the radical right of the lands still remaining in the granter. Under lands, in this definition, are comprehended all rights or subjects so connected with land, that they are deemed a part thereof; as houses, mills, fishings, jurisdictions, patronages, &c. Though feus in their original nature were gratuitous, they soon became the subject of commerce; services of a civil or religious kind were frequently substituted in place of military; and now, of a long time, services of every kind have been entirely dispensed with in certain feudal tenures. He who makes the grant is called the *superior*, and he who receives it the *vassal*. The subject of the *grant* is commonly called the *feu*; though that word is at other times, in our law, used to signify one particular tenure. (See Sect. iv. 2.) The interest retained by the superior in the feu is styled *dominium directum*, or the superiority; and the interest acquired by the vassal, *dominium utile*, or the property. The word *fee* is promiscuously applied to both.

4. Allodial goods are opposed to feus; by which are understood goods enjoyed by the owner, independent of a superior. All moveable goods are allodial; lands only are so when they are given without the condition of fealty or homage. By the feudal system, the sovereign, who is the fountain of feudal rights, reserves to himself the superiority of all the lands of which he makes the grant; so that, with us, no lands are allodial, except those of the king's own property, the superiorities which the king reserves in the property-lands of his subjects, and manes and glebes, the right of which is completed by the presbytery's designation, without any feudal grant.

5. Every person who is in the right of an immoveable subject, provided he has the free administration of his estate, and is not debarred by statute, or by the nature of his right, may dispose of it to another. Nay, a vassal, though he has only the *dominium utile*, can subfeu his property to a subvassal by a subaltern right, and thereby raise a new *dominium directum* in himself, subordinate to that which is in his superior; and so *in infinitum*. The vassal who thus subfeus is called the subvassal's immediate superior, and the vassal's superior is the subvassal's mediate superior.

6. All persons who are not disabled by law, may acquire and enjoy feudal rights. Papists cannot purchase a land estate by any voluntary deed. Aliens, who owe allegiance to a foreign prince, cannot hold a feudal right without naturalization: and therefore, where such privilege was intended to be given to favoured nations or persons, statutes of naturalization were necessary, either general or special; or at least, letters of naturalization by the sovereign.

7. Every heritable subject capable of commerce, may be granted in feu. From this general rule are excepted, 1. The annexed property of the crown, which is not alienable without a previous dissolution in parliament. 2. Tailzied lands, which are devised under condition that they shall not be aliened. 3. An estate in *hereditate jacente* cannot be effectually aliened by the heir-apparent (i. e. not entered); but such alienation becomes effectual upon his entry, the supervening right.

right accruing in that case to the purchaser; which is a rule applicable to the alienation of all subjects not belonging to the vender at the time of the sale.

8. The feudal right, or, as it is called, *investiture*, is constituted by charter and feifin. By the charter, we understand that writing which contains the grant of the feudal subject to the vassal, whether it be executed in the proper form of a charter, or of a disposition. Charters by subject superiors are granted, either, 1. *A me de superiore meo*, when they are to be holden, not of the granter himself, but of his superior. This sort is called a *public holding*, because vassals were in ancient times publicly received in the superior's court before the *pares curie* or co-vassals. Or, 2. *De me*, where the lands are to be holden of the granter. These were called sometimes *base rights*, from *bas*, *lower*: and sometimes *private*, because, before the establishment of our records, they were easily concealed from third parties; the nature of all which will be more fully explained, Sect. vii. An original charter is that by which the fee is first granted: A charter by progress is a renewed disposition of that fee to the heir or assignee of the vassal. All doubtful clauses in charters by progress ought to be construed agreeably to the original grant; and all clauses in the original charter are understood to be implied in the charters by progress, if there be no express alteration.

9. The first clause in an original charter, which follows immediately after the name and designation of the granter, is the narrative or recital, which expresses the causes inductive of the grant. If the grant be made for a valuable consideration, it is said to be *onerous*; if for love and favour, *gratuitous*. In the dispositive clause of a charter, the subjects made over are described either by special boundaries or march stones, (which is called a *bounding charter*), or by such other characters as may sufficiently distinguish them. A charter regularly carries right to no subjects but what are contained in this clause, though they should be mentioned in some other clause of the charter. It has been however found, that a right to salmon fishing was carried by a clause *cum piscariis* in the *tenendas* of a charter, the same having been followed with possession.

10. The clause of *tenendas* (from its first words *tenendas predictas terras*) expresses the particular tenure by which the lands are to be holden. The clause of *reddendo* (from the words *reddendo inde annuatim*) specifies the particular duty or service which the vassal is to pay or perform to the superior.

11. The clause of *warrantice* is that by which the granter obliges himself that the right conveyed shall be effectual to the receiver. Warrantice is either *personal* or *real*. *Personal* warrantice, where the granter is only bound personally, is either, 1. *Simple*, that he shall grant no deed in prejudice of the right; and this sort, which is confined to future deeds, is implied even in donations. 2. Warrantice *from fact and deed*, by which the granter warrants that the right neither has been, nor shall be, hurt by any fact of his. Or, 3. *Absolute* warrantice *contra omnes mortales*, whereby the right is warranted against all legal defects in it which may carry it off from the receiver either wholly or in part. Where a sale of land proceeds upon an *onerous* cause, the granter is liable in absolute warran-

dice, though no warrantice be expressed; but in assignments to debts or decrees, no higher warrantice than from fact and deed is implied.

12. Gratuitous grants by the crown imply no warrantice; and though warrantice should be expressed, the clause is ineffectual, from a presumption that it has crept in by the negligence of the crown's officers. But where the crown makes a grant, not *jure coronæ*, but for an adequate price, the sovereign is in the same case with his subjects.

13. Absolute warrantice, in case of eviction, affords an action to the grantee against the granter, for making up to him all that he shall have suffered through the defect of the right; and not simply for his indemnification, by the granter's repayment of the price to him. But as warrantice is penal, and consequently *stricti juris*, it is not easily presumed, nor is it incurred from every light servitude that may affect the subject; far less does it extend to burdens which may affect the subject posterior to the grant, nor to those imposed by public statute, whether before or after, unless specially warranted against.

14. *Real* warrantice is either, 1. *Express*, whereby, in security of the lands principally conveyed, other lands, called *warrantice lands*, are also made over, to which the receiver may have recourse in case the principal lands be evicted. Or, 2. *Tacit*, which is constituted by the exchange or excambion of one piece of ground with another; for, if the lands exchanged are carried off from either of the parties, the law itself, without any paction, gives that party immediate recourse upon his own first lands, given in exchange for the lands evicted.

15. The charter concludes with a *precept of feifin*, which is the command of the superior granter of the right to his bailie, for giving feifin or possession to the vassal, or his attorney, by delivering to him the proper symbols. Any person, whose name may be inserted in the blank left in the precept for that purpose, can execute the precept as bailie; and whoever has the precept of feifin in his hands, is presumed to have a power of attorney from the vassal for receiving possession in his name.

16. A feifin is the instrument or attestation of a notary, that possession was actually given by the superior or his bailie, to the vassal or his attorney; which is considered as so necessary a solemnity, as not to be suppliable, either by a proof of natural possession, or even of the special fact that the vassal was duly entered to the possession by the superior's bailie.

17. The symbols by which the delivery of possession is expressed, are, for lands, earth, and stone; for rights of annualrent payable forth of land, it is also earth and stone with the addition of a penny money: for parsonage, teinds, a sheaf of corn; for jurisdictions, the book of the court; for patronages, a psalm book, and the keys of the church; for fishings, net and coble; for mills, clap and happer, &c. The feifin must be taken upon the ground of the lands, except where there is a special dispensation in the charter from the crown.

18. All feifins must be registered within 60 days after their date, either in the general register of feifins at Edinburgh, or in the register of the particular shire appointed by the act 1617; which, it must be observ-

Law of
Scotland.

ed, is not, in every case, the shire within which the lands lie. Burgage feifins are ordained to be registered in the books of the borough.

19. Unregistered feifins are ineffectual against third parties, but they are valid against the granters and their heirs. Feifins regularly recorded, are preferable not according to their own dates, but the dates of their registration.

One feifin
serves in
contiguous
and in united
tenements.

20. Feifin necessarily supposes a superior by whom it is given; the right therefore which the sovereign, who acknowledges the superior, has over the whole lands of Scotland, is constituted *jure coronæ* without feifin. In several parcels of land that lie contiguous to one another, one feifin serves for all, unless the right of the several parcels be either holden of different superiors, or derived from different authors, or enjoyed by different tenures under the same superior. In discontinuous lands, a separate feifin must be taken on every parcel, unless the sovereign has united them into one tenantry by a charter of union; in which case, if there is no special place expressed, a feifin taken on any part of the united lands will serve for the whole, even though they be situated in different shires. The only effect of union is, to give the discontinuous lands the same quality as if they had been contiguous or naturally united; union, therefore, does not take off the necessity of separate feifins, in lands holden by different superiors, these being incapable of natural union.

Barony im-
plies union.

21. The privilege of barony carries a higher right than union does, and consequently includes union in it as the lesser degree. This right of barony can neither be given, nor transmitted, unless by the crown; but the quality of simple union, being once conferred on lands by the sovereign, may be communicated by the vassal to a subvassal. Though part of the lands united or erected into a barony be sold by the vassal to be holden *à me*, the whole union is not thereby dissolved: what remains unsold retains the quality.

A charter
becomes
real only
after feifin.

22. A charter, not perfected by feifin, is a right merely personal, which does not transfer the property (see N^o clxxiii. 1.); and a feifin of itself bears no faith without its warrant: It is the charter and feifin joined together that constitutes the feudal right, and secures the receiver against the effect of all posterior feifins, even though the charters on which they proceed should be prior to his.

All burdens
must be in-
serted in
the investiture.

23. No quality which is designed as a lien or real burden on a feudal right, can be effectual against singular successors, if it be not inserted in the investiture. If the creditors in the burden are not particularly mentioned, the burden is not real; for no perpetual unknown encumbrance can be created upon lands. Where the right itself is granted with the burden of the sum therein mentioned, or where it is declared void if the sum be not paid against a day certain, the burden is real; but where the receiver is simply obliged by his acceptance to make payment, the clause is effectual only against him and his heirs.

SECT. IV. *Of the several kinds of Holding.*

clxv.

Ward-hold-
ing.

1. Feudal subjects are chiefly distinguished by their different manners of holding, which were either *ward*, *blanch*, *feu*, or *burgage*. *Ward holding*, (which is now

Law of
Scotland.

abolished by 20 Geo. II. c. 50.) was that which was granted for military service. Its proper *reddendo* was *services*, or *services used and wont*; by which last was meant the performance of service whenever the superior's occasions required it. As all feudal rights were originally held by this tenure, ward-holding was *in dubio* presumed. Hence, though the *reddendo* had contained some special service or yearly duty, the holding was presumed ward, if another holding was not particularly expressed.

2. *Feu*-holding is that whereby the vassal is obliged to pay to the superior a yearly rent in money or grain, and sometimes also in services proper to a farm, as ploughing, reaping, carriages for the superior's use, &c. *nomine feudi firmæ*. This kind of tenure was introduced for the encouragement of agriculture, the improvement of which was considerably obstructed by the vassal's obligation to military service. It appears to have been a tenure known in Scotland as far back as *leges burgorum*.

3. *Blanch*-holding is that whereby the vassal is to pay to the superior an elusory yearly duty, as a penny money, a rose, a pair of gilt spurs, &c. merely in acknowledgment of the superiority, *nomine alba firmæ*. This duty, where it is a thing of yearly growth, if it be not demanded within the year, cannot be exacted thereafter; and where the words *si petatur tantum* are subjoined to the *reddendo*, they imply a release to the vassal, whatever the quality of the duty may be, if it is not asked within the year.

4. *Burgage*-holding is that, by which boroughs-royal hold of the sovereign the lands which are contained in their charters of erection. This, in the opinion of *Craig*, does not constitute a separate tenure, but is a species of ward-holding; with this speciality, that the vassal is not a private person, but a community: and indeed, watching and warding, which is the usual service contained in the *reddendo* of such charters, might be properly enough said, some centuries ago, to have been of the military kind. As the royal borough is the king's vassal, all burgage-holders hold immediately of the crown: the magistrates, therefore, when they receive the resignations of the particular burghesses, and give feifin to them, act, not as superiors, but as the king's bailies specially authorized thereto.

5. Feudal subjects, granted to churches, monasteries, or other societies for religious or charitable uses, are said to be mortified, or granted *ad manum mortuam*; either because all casualties must necessarily be lost to the superior, where the vassal is a corporation, which never dies; or because the property of these subjects is granted to a dead hand, which cannot transfer it to another. In lands mortified in times of Popery to the church, whether granted to prelates for the behoof of the church, or *in puram eleemosynam*; the only services prestable by the vassals were prayers, and singing of masses for the souls of the deceased, which approaches nearer to blanch-holding than ward. The purposes of such grants having been, upon the Reformation, declared superstitious, the lands mortified were annexed to the crown: but mortifications to universities, hospitals, &c. were not affected by that annexation; and lands may, at this day, be mortified to any lawful purpose, either by blanch or by feu holding.

Law of
Scotland.

ing: But as the superior must lose all the casualties of superiority in the case of mortifications to churches, universities, &c. which, being considered as a corporation, never dies; therefore lands cannot be mortified without the superior's consent. *Craig*, lib. i. dieg. 11. § 21.

clxvi.

SECT. V. *Of the Casualties due to the Superior.*Fixed rights
of superio-
rity.

1. The right of the superior continues unimpaired, notwithstanding the feudal grant, unless in so far as the *dominium utile*, or property, is conveyed to his vassal. The superiority carries a right to the services and annual duties contained in the *reddendo* of the vassal's charter. The duty payable by the vassal is a *debitum fundi*, i. e. it is recoverable, not only by a personal action against himself, but by a real action against the lands.

Casual
rights.

2. Besides the constant fixed rights of superiority, there are others which, because they depend upon uncertain events, are called *casualties*.

Ward-hold-
ing.

3. The casualties proper to a ward-holding, while that tenure subsisted, were *ward*, *recognition*, and *marriage*, which it is now unnecessary to explain, as by the late statutes 20 and 25 Geo. II. for abolishing ward-holdings, the tenure of the lands holden ward of the crown or prince is turned into *blanch*, for payment of one penny Scots yearly, *si petatur tantum*; and the tenure of those holden of subjects into *feu*, for payment of such yearly feu duty in money, victual, or cattle, in place of all services, as should be fixed by the court of session. And accordingly that court, by act of sederunt Feb. 8. 1749, laid down rules for ascertaining the extent of these feu duties. A full history of their casualties, and of the effects consequent upon their falling to the superior, will be found in Erskine's large Institute, B. 2. t. 5. § 5. *et sequen.*; to which the reader is referred.

Feu-hold-
ing.

4. The only casualty, or rather forfeiture, proper to feu-holding, is the loss or tinsel of the feu right, by the neglect of payment of the feu duty for two full years. Yet where there is no conventional irritancy in the feu right, the vassal is allowed to purge the legal irritancy at the bar; that is, he may prevent the forfeiture, by making payment before sentence; but where the legal irritancy is fortified by a conventional, he is not allowed to purge, unless where he can give a good reason for the delay of payment.

Non-entry.

5. The casualties common to all holdings are *non-entry*, *relief*, *lif-rent*, *escheat*, *disclamation*, and *purpresture*. NON-ENTRY is that casualty which arises to the superior out of the rents of the feudal subject, through the heirs neglecting to renew the investiture after his ancestor's death. The superior is entitled to this casualty, not only where the heir has not obtained himself investiture, but where his retour or investiture is set aside upon nullities. The heir, from the death of the ancestor, till he be cited by the superior in a process of general declarator of non-entry, loses only the retoured duties of his lands, (see next parag.); and he forfeited these, though his delay should not argue any contempt of the superior, because the casualty is considered to fall, as a condition implied in the feudal right, and not as a penalty of transgression: but rea-

sonable excuses are now admitted to liberate even from the retoured duties before citation.

Law of
Scotland.

6. For understanding the nature of retoured duties, it must be known, that there was anciently a general

valuation of all the lands in Scotland, designed both for regulating the proportion of public subsidies, and for ascertaining the quantity of non-entry and relief duties payable to the superior; which appears, by a contract between K. R. Bruce and his subjects *anno* 1327, preserved in the library of the Faculty of Advocates, to have been settled at least as far back as the reign of Alexander III. This valuation became in the course of time, by the improvement of agriculture, and perhaps also by the heightening of the nominal value of our money, from the reign of Robert I. downwards to that of James III. much too low a standard for the superior's casualties; wherefore, in all services of heirs, the inquest came at last to take proof likewise of the present value of the lands contained in the brief (*quantum nunc valent*), in order to fix these casualties. The first was called the *old*, and the other the *new*, extent. Old and new extents were ordained to be specified in all retours made to the chancery upon brieves of inquest; yet by the appellation of retoured duties in a question concerning casualties, the new extent is always understood. The old extent continued the rule for levying public subsidies, till a tax was imposed by new proportions, by several acts made during the usurpation. By two acts of Cromwell's parliament, held at Westminster in 1656, imposing taxations on Scotland, the rates laid upon the several counties are precisely fixed. The subsidy granted by the act of convention 1667 was levied on the several counties, nearly in the same proportions that were fixed by the usurper in 1656; and the sums to which each county was subjected were subdivided among the individual landholders in that county, according to the valuations already settled, or that should be settled by the commissioners appointed to carry that act into execution. The rent fixed by these valuations, is commonly called the *valued rent*; according to which the land tax and most of the other public burdens, have been levied since that time.

7. In feu-holdings, the feu duty is retoured as the rent, because the feu duty is presumed to be, and truly was at first, the rent. The superior therefore of a feu-holding gets no non-entry, before citation in the general declarator; for he would have been entitled to the yearly feu duty, though the fee had been full, i. e. though there had been a vassal investiture in the lands. The superior of teinds gets the fifth part of the retoured duty as non-entry, because the law considers teinds to be worth a fifth part of the rent. In rights of annualrent which are holden of the granter, the annualrent becomes his debtor's vassal; and the annualrent contained in the right is retoured to the blanch or other duty contained in the right before declarator.

8. It is because the retoured duty is the presumed rent, that the non-entry is governed by it. If therefore no retour of the lands in non-entry can be produced, nor any evidence brought of the retoured duty, the superior is entitled to the real, or at least to the valued, rent, even before citation. In lands formerly holden ward of the king, the heir, in place of the re-

retoured

Law of
Scotland.

toured duties, is subjected only to the annual payment of one per cent. of the valued rent.

9. The heir, after he is cited by the superior in the action of general declarator, is subjected to the full rents till his entry, because his neglect is less excusable after citation. The decree of declarator, proceeding on this action, entitles the superior to the possession, and gives him right to the rents downward from the citation. As this sort of non-entry is properly penal, our law has always restricted it to the retoured duties, if the heir had a probable excuse for not entering.

In what
cases non-
entry is not
due.

10. Non-entry does not obtain in burgage-holdings, because the incorporation of inhabitants holds the whole incorporated subjects of the king; and there can be no non-entry duty in lands granted to communities, because there the vassal never dies. This covers the right of particulars from non-entry: for if non-entry be excluded with regard to the whole, it cannot obtain with regard to any part. It is also excluded, as to a third of the lands, by the terce, during the widow's life; and as to the whole of them, by the courtesy during the life of her husband. But it is not excluded by a precept of seisin granted to the heir till seisin be taken thereupon.

Relief.

11. RELIEF is that casualty which entitles the superior to an acknowledgment or consideration from the heir for receiving him as vassal. It is called *relief*, because, by the entry of the heir, his fee is relieved out of the hands of the superior. It is not due in feu-holdings flowing from subjects, unless where it is expressed in the charter by a special clause for doubling the feu duty at the entry of an heir; but in feu rights holden of the crown, it is due, though there should be no such clause in the charter. The superior can recover this casualty, either by a pointing of the ground, as a *debitum fundi*, or by a personal action against the heir. In blanch and feu-holdings, where this casualty is expressly stipulated, a year's blanch or feu duty is due in name of *relief*, beside the current year's duty payable in name of *blanch* or *feu farm*.

Escheat.

12. ESCHEAT (from *escheoir*, to happen or fall) is that forfeiture which falls through a person's being denounced rebel. It is either *single* or *liferent*. *Single escheat*, though it does not accrue to the superior, must be explained in this place, because of its coincidence with *liferent*.

Letters of
horning.

13. After a debt is constituted, either by a formal decree, or by registration of the ground of debt, which to the special effect of execution, is in law accounted a decree: the creditor may obtain letters of horning, issuing from the signet, commanding messengers to charge the debtor to pay or perform his obligation, within a day certain. Where horning proceeds on a formal decree of the session, the time indulged by law to the debtor is fifteen days; if upon a decree of the commission of teinds or admiral, it is ten; and upon the decrees of all inferior judges, fifteen days. Where it proceeds on a registered obligation, which specifies the number of days, that number must be the rule; and, if no precise number be mentioned, the charge must be given in fifteen days, which is the term of law, unless where special statute interposes; as in bills, upon which the debtor may be charged on six days.

14. The messenger must execute these letters (and

Law of
Scotland.

indeed all summonses) against the debtor, either personally or at his dwelling house; and, if he get not access to the house, he must strike six knocks at the gate, and thereafter affix to it a copy of his execution. If payment be not made within the days mentioned in the horning, the messenger, after proclaiming three o'yeffes at the market cross of the head borough of the debtor's domicile, and reading the letters there, blows three blasts with a horn, by which the debtor is understood to be proclaimed rebel to the king for contempt of his authority; after which, he must affix a copy of the execution to the market cross; This is called the *publication of the diligence*, or a *denunciation at the horn*. Where the debtor is not in Scotland, he may be charged on sixty days, and denounced at the market cross of Edinburgh, and pier and shore of Leith.

15. Denunciation, if registered within 15 days, either in the sheriff's books, or in the general register, draws after it the rebel's single escheat, i. e. the forfeiture of his moveables to the crown. Persons denounced rebels have not a *persona standi in judicio*; they can neither sue nor defend in any action. But this incapacity being unfavourable, is personal to the rebel, and cannot be pleaded against his assignee.

16. Persons cited to the court of judicary may be also denounced rebels, either for appearing there with too great a number of attendants: or, if they fail to appear, they are declared fugitives from the law. Single escheat falls, without denunciation, upon sentence of death pronounced in any criminal trial; and, by special statute, upon one's being convicted of certain crimes, though not capital; as perjury, bigamy, deforcement, breach of attornment, and usury. By the late act abolishing ward-holdings, the casualties both of single and *liferent* escheat are discharged, when proceeding upon denunciation for civil debts; but they still continue, when they arise from criminal causes. All moveables belonging to the rebel at the time of his rebellion, (whether proceeding upon denunciation, or sentence in a criminal trial), and all that shall be afterwards acquired by him until relaxation, fall under single escheat. Bonds bearing interest, because they continue heritable *quoad fiscum*, fall not under it, nor such fruits of heritable subjects as became due after the term next ensuing the rebellion, these being reserved for the *liferent* escheat.

17. The king never retains the right of escheat to himself, but makes it over to a donatory, whose gift is not perfected till, upon an action of general declarator, it be declared that the rebel's escheat has fallen to the crown by his denunciation, and that the right of it is now transferred to the pursuer by the gift in his favour. Every creditor therefore of the rebel, whose debt was contracted before rebellion, and who has used diligence before declarator, is preferable to the donatory. But the escheat cannot be affected by any debt contracted, nor by any voluntary deed of the rebel after rebellion.

18. The rebel, if he either pays the debt charged for, or suspends the diligence, may procure letters of relaxation from the horn, which, if published in the same place, and registered 15 days thereafter in the same register with the denunciation, have the effect to restore

Law of Scotland. restore him to his former state; but they have no retrospect as to the moveables already fallen under escheat, without a special clause for that purpose.

Liferent escheat. 19. The rebel, if he continues unrelaxed for year and day after rebellion, is construed to be civilly dead: and therefore, where he holds any feudal right, his superiors, as being without a vassal, are entitled, each of them, to the rents of such of the lands belonging to the rebel as hold of himself, during all the days of the rebel's natural life, by the casualty of **LIFERENT ES-CHEAT**; except where the denunciation proceeds upon treason or proper rebellion, in which case the liferent falls to the king.

20. It is that estate only, to which the rebel has a proper right of liferent in his own person, that falls under his liferent escheat.

21. Though neither the superior nor his donatory can enter into possession in consequence of this casualty, till decree of declarator; yet that decree, being truly declaratory, has a retrospect, and does not so properly confer a new right, as declare the right formerly constituted to the superior, by the civil death of his vassal. Hence, all charters or heritable bonds, though granted prior to the rebellion, and all adjudications, though led upon debts contracted before that period, are ineffectual against the liferent escheat, unless seisin be taken thereon within year and day after the granter's rebellion.

22. Here, as in single escheat, no debt contracted after rebellion can hurt the donatory, nor any voluntary right granted after that period, though in security or satisfaction of prior debts.

Disclama-tion. 23. **DISCLAMATION** is that casualty whereby a vassal forfeits his whole feu to his superior, if he disowns or disclaims him, without ground, as to any part of it. **PURPRESTURE** draws likewise a forfeiture of the whole feu after it; and is incurred by the vassal's encroaching upon any part of his superior's property, or attempting, by building, enclosing, or otherwise, to make it his own. In both these feudal delinquencies, the least colour of excuse saves the vassal.

Signatures. 24. All grants from the crown, whether charters, gifts of casualties, or others, proceed on signatures which pass the signet. When the king resided in Scotland, all signatures were superscribed by him; but, on the accession of James VI. to the crown of England, a cachet or seal was made, having the king's name engraved on it, in pursuance of an act of the privy council, April 4. 1603, with which all signatures were to be afterwards sealed, that the lords of exchequer were empowered to pass; and these powers are transferred to the court of exchequer, which was established in Scotland after the union of the two kingdoms in 1707. Grants of higher consequence, as remission of crimes, gifts proceeding upon forfeiture, and charters of *novodamus*, must have the king's sign manual for their warrant.

Seals. 25. If lands holding of the crown were to be conveyed, the charter passed, before the union of the kingdoms in 1707, by the great seal of Scotland; and now by a seal substituted in place thereof. Grants of church dignities, during Episcopacy, passed also by the great seal; and the commissions to all the principal officers of the crown, as justice clerk, king's advocate, solicitor, &c. do so at this day. All rights which sub-

jects may transmit by simple assignation, the king transmits by the privy seal: as gifts of moveables, or of casualties that require no seisin. The quarter seal, otherwise called the *testimonial of the great seal*, is appended to gifts of tutory, commissions of brieves issuing from the chancery, and letters of presentation to lands holding of a subject, proceeding upon forfeiture, bastardy, or *ultimus hæres*.

26. Seals are to royal grants what subscription is Their use. to rights derived from subjects, and give them authority; they serve also as a check to gifts procured (*subreptione vel obreptione*) by concealing the truth, or expressing a falsehood; for, where this appears, the gift may be stopped before passing the seals, though the signature should have been signed by the king. All rights passing under the great or privy seal must be registered in the registers of the great or privy seal *respective*, before appending the seal.

SECT. VI. *Of the Right which the Vassal acquires by getting the Feu.* clxviii

1. Under the *dominium utile* which the vassal acquires *Dominium utile.* by the feudal right, is comprehended the property of whatever is considered as part of the lands, whether of houses, woods, enclosures, &c. above ground; or of coal, limestone, minerals, &c. under ground. Mills have, by the generality of our lawyers, been deemed a separate tenement, and so not carried by a charter or disposition, without either a special clause conveying mills, or the erection of the lands into a barony. Yet it is certain, that, if a proprietor builds a mill on his own lands, it will be carried by his entail, or by a retour, without mentioning it, although the lands are not erected into a barony. If the lands disposed be astricted, or thirled to another mill, the purchaser is not allowed to build a new corn mill on his property, even though he should offer security that it shall not hurt the thirle; which is introduced for preventing daily temptations to fraud.

2. Proprietors are prohibited to hold dove-cots, unless their yearly rent, lying within two miles thereof, extend to ten chalders of victual. A purchaser of lands, with a dove-cot, is not obliged to pull it down, though he should not be qualified to build one; but, if it becomes ruinous, he cannot rebuild it. The right of brewing, though not expressed in the grant, is implied in the nature of property; as are also the rights of fishing, fowling, and hunting, in so far as they are not restrained by statute.

3. There are certain rights naturally consequent on *Regalia.* property, which are deemed to be preserved by the crown as *regalia*; unless they be specially conveyed. Gold and silver mines are of this sort; the first universally; and the other, where three halfpennies of silver can be extracted from the pound of lead, by act 1424, (three halfpennies at that time was equal to about two shillings five pennies of our present Scots money). These were by our ancient law annexed to the crown; but they are now dissolved from it; and every proprietor is entitled to a grant of the mines within his own lands, with the burden of delivering to the crown a tenth of what shall be brought up.

4. Salmon fishing is likewise a right understood to be reserved by the crown, if it be not expressly granted: but

Law of Scotland.

Law of
Scotland.

but 40 years possession thereof, where the lands are either erected into a barony, or granted with the general clause of fishings, establishes the full right of the salmon fishing in the vassal. A charter of lands within which any of the king's forests lie, does not carry the property of such forest to the vassal.

Res publica.

5. All the subjects which were by the Roman law accounted *res publicæ*, as rivers, highways, ports, &c. are, since the introduction of feus, held to be *inter regalia*, or *in patrimonio principis*; and hence encroachment upon a highway is said to infer purpresture. No person has the right of a free port without a special grant, which implies a power in the grantee to levy anchorage and shore dues, and an obligation upon him to uphold the port in good condition. In this class of things, our forefathers reckoned fortalices, or small places of strength, originally built for the defence of the country, either against foreign invasions or civil commotions; but these now pass with the lands in every charter.

Pertinents.

6. The vassal acquires right by his grant, not only to the lands specially contained in the charter, but to those that have been possessed 40 years as pertinent thereof. But, 1. If the lands in the grant are marked out by special limits, the vassal is circumscribed by the tenor of his own right, which excludes every subject without these limits from being pertinent of the lands. 2. A right possessed under an express investment is preferable, *cæteris paribus*, to one possessed only as pertinent. 3. Where neither party is invest *per expressum*, the mutual promiscuous possession by both, of a subject as pertinent, resolves into a commonalty of the subject possessed: but if one of the parties has exercised all the acts of property of which the subject was capable, while the possession of the other was confined to pasturage only, or to casting seal and divot, the first is to be deemed sole proprietor, and the other to have merely a right of servitude.

Privileges
of barony.

7. As barony is a *nomen universitatis*, and unites the several parts contained in it into one individual right, the general conveyance of a barony carries with it all the different tenements of which it consists, though they should not be specially enumerated (and this holds, even without erection into a barony, in lands that have been united under a special name). Hence, likewise, the possession by the vassal of the smallest part of the barony lands preserves to him the right of the whole.

Tack or
lease.

8. The vassal is entitled, in consequence of his property, to levy the rents of his own lands, and to recover them from his tenants by an action for rent before his own court; and from all other possessors and intruders, by an action of mails and duties before the sheriff. He can also remove from his lands, tenants who have no leases; and he can grant tacks or leases to others. A tack is a contract of location, whereby the use of land, or any other immoveable subject, is set to the lessee or tackfman for a certain yearly rent, either in money, the fruits of the ground, or services. It ought to be reduced into writing, as it is a right concerning lands: tacks, therefore, that are given verbally, to endure for a term of years, are good against neither party for more than one year. An obligation to grant a tack is as effectual against the granter as a formal tack. A liferenter, having a temporary pro-

perty in the fruits, may grant tacks to endure for the term of his own liferent.

Law of
Scotland.

9. The tackfman's right is limited to the fruits which spring up annually from the subject set, either naturally, or by his own industry; he is not therefore entitled to any of the growing timber above ground, and far less to the minerals, coal, clay, &c. under ground, the use of which consumes the substance. Tacks are, like other contracts, personal rights in their own nature; and consequently ineffectual against singular successors in the lands; but, for the encouragement of agriculture, they were, by act 1449, declared effectual to the tackfman for the full time of their endurance, into whose hands soever the lands might come.

10. To give a written tack the benefit of this statute, it must mention the special tack-duty payable to the proprietor, which, though small, if it be not elusory, secures the tackfman; and it must be followed by possession, which supplies the want of a seisin. If a tack does not express the term of entry, the entry will commence at the next term after its date, agreeable to the rule, *Quod pure debetur, præfenti die debetur*. If it does not mention the ish, i. e. the term at which it is to determine, it is good for one year only; but, if the intention of parties to continue it for more than one year, should appear from any clause in the tack, e. g. if the tackfman should be bound to certain annual prestations), it is sustained for two years as the *minimum*. Tacks granted to perpetuity, or with an indefinite ish, have not the benefit of the statute. Tacks of houses within borough do not fall within this act, it being customary to let these from year to year.

11. Tacks necessarily imply a *delectus personæ*, a choice by the setter of a proper person for his tenant. Hence the conveyance of a tack which is not granted to assignees, is ineffectual without the landlord's consent. A right of tack, though it be heritable, falls under the *ius mariti*, because it cannot be separated from the labouring cattle and implements of tillage, which are moveable subjects. A tack, therefore, granted to a single woman, without the liberty of assigning, falls by her marriage; because the marriage, which is a legal conveyance thereof to the husband, cannot be annulled. This implied exclusion of assignees, is, however, limited to voluntary, and does not extend to necessary, assignments; as an adjudication of a tack by the tackfman's creditor: but a tack, expressly excluding assignees, cannot be carried even by adjudication. It was not a fixed point for a long time, whether a tenant could sublet without consent of the landlord; but the court of session, in a case which occurred a few years ago, denied the power of subsetting in the tenant. Liferent tacks, because they import a higher degree of right in the tackfman than tacks for a definite term, may be assigned, unless assignees be specially excluded.

12. If neither the setter nor tackfman shall properly discover their intention to have the tack dissolved at the term fixed for its expiration, they are understood, or presumed, to have entered into a new tack upon the same terms with the former, which is called *tacit relocation*; and continues till the landlord warns the tenant to remove, or the tenant renounces his tack to the landlord: this obtains also in the case of moveable tenants, who possess from year to year without written tacks.

In

Law of Scotland.

In judicial tacks, however, by the court of session, tacit relocation neither does nor can take place; for cautioners being interposed to these, they are loosed at the end of the tack: and therefore, where judicial tacksmen possess after expiry of the right, they are accountable as factors.

13. In tacks of land, the setter is commonly bound to put all the houses and office houses, necessary for the farm, in good condition at the tenant's entry; and the tenant must keep them and leave them so at his removal. But, in tacks of houses, the setter must not only deliver to the tenant the subject set, in tenantable repair at his entry, but uphold it in that repair during the whole years of the tack, unless it is otherwise covenanted betwixt the parties.

14. If the inclemency of the weather, inundation, or calamity of war, should have brought upon the crop an extraordinary damage (*plus quam tolerabile*), the landlord had, by the Roman law, no claim for any part of the tack-duty; if the damage was more moderate, he might exact the full rent. It is nowhere defined, what degree of sterility or devastation makes a loss *plus quam tolerabile*; but the general rule of the Roman law seems to be made ours. Tenants are not obliged to pay any public burdens to which they are not expressly bound by their tack, except mill services.

Destitution of tacks.

15. Tacks may be evacuated during their currency, (1.) In the same manner as feu rights, by the tacksmen's running in arrear of his tack duty for two years together. This irritancy may be prevented by the tenant's making payment at the bar before sentence. (2.) Where the tenant either runs in arrear of one year's rent, or leaves his farm uncultivated at the usual season; in which case he may, by act of federunt 1756, be ordained to give security for the arrears, and for the rent of the five following crops, if the tack shall subsist so long; otherwise to remove, as if the tack were at an end. (3.) Tacks may be evacuated at any time by the mutual consent of parties.

Warning.

16. The landlord, when he intends to remove a tenant whose tack is expiring, or who possesses without a tack, must, upon a precept signed by himself, warn the tenant forty days preceding the term of Whitsunday, at or immediately preceding the ish, personally or at his dwelling house, to remove at that term, with his family and effects. This precept must be also executed on the ground of the lands, and thereafter read in the parish church where the lands lie, after the morning service, and affixed to the most patent door thereof. Whitsunday, though it be a moveable feast, is, in questions of removing, fixed to the 15th of May. In warnings from tenements within borough, it is sufficient that the tenant be warned forty days before the ish of the tack, whether it be Whitsunday or Martinmas; and in these the ceremony of chalking the door is sustained as warning, when proceeding upon a verbal order from the proprietor.

17. This process of warning was precisely necessary for founding an action of removing against tenants, till the act of federunt 1756, which leaves it in the option of the proprietor, either to use the former method, or to bring his action of removing before the judge ordinary: which, if it be called 40 days before the said term of Whitsunday, shall be held as equal to a warning. Where the tenant is bound, by an express clause of his

tack, to remove at the ish without warning, such obligation is, by the said act, declared to be a sufficient warrant for letters of horning; upon which, if the landlord charge his tenant forty days before the said Whitsunday, the judge is authorized to eject him within six days after the term of removing expressed in the tack.

Law of Scotland.

18. Actions of removing might, even before this act of federunt, have been pursued without any previous warning, (1.) Against vicious possessors, i. e. persons who had seized the possession by force, or who, without any legal title, had intruded into it, after the last possessor had given it up. (2.) Against possessors who had a naked tolerance. (3.) Against tenants who had run in arrear of rent, during the currency of their tacks. (4.) Against such as had sold their lands, and yet continued to possess after the term of the purchaser's entry. Upon the same ground, warning was not required, in removings against possessors of liferented lands, after the death of the liferenter who died in the natural possession: but if he possessed by tenants, these tenants could not be disturbed in their possessions till the next Whitsunday, that they might have time to look out for other farms; but they might be compelled to remove at that term, by an action of removing, without warning.

Actions of removing.

19. A landlord's title in a removing, let it be ever so lame, cannot be brought under question by a tenant whose tack flows immediately from him; but, if he is to insist against tenants not his own, his right must be perfected by infeftment, unless it be such as requires no infeftment; as terce, &c.

20. The defender, in a removing, must (by act 1555), before offering any defence which is not instantly verified, give security to pay to the setter the *violent profits*, if they should be awarded against him. These are so called, because the law considers the tenant's possession after the warning as violent. They are estimated, in tenements within borough, to double the rent; and in lands, to the highest profits the pursuer could have made of them, by possessing them either by a tenant or by himself.

21. If the action of removing shall be passed from, or if the landlord shall, after using warning, accept of rent from the tenant, for any term subsequent to that of the removal, he is presumed to have changed his mind, and tacit relocation takes place. All actions of removing against the principal or original tacksmen, and decrees thereupon, if the order be used, which is set forth *supra* (17.), are, by the act of federunt 1756, declared to be effectual against the assignees to the tack or subtenants.

Effect of warning not inflicted in.

22. The landlord has, in security of his tack-duty, over and above the tenant's personal obligation, a tacit pledge or hypothec, not only on the fruits, but on the cattle pasturing on the ground. The corn, and other fruits are hypothecated for the rent of that year whereof they are the crop; for which they remain affected, though the landlord should not use his right for years together. In virtue of this hypothec, the landlord is entitled to a preference over any creditor, though he has actually used a poinding; except in the special case, that the poinding is executed after the term of payment, when the landlord can appropriate the crop for his payment, the poinder in such case being obliged

Hypothec.

Law of
Scotland.

to leave as much on the ground as to satisfy the landlord's hypothec: and it was found by the court of session, that this right of the landlord is preferable even to a debt due to the crown, for which a writ of extent had been issued.

23. The whole cattle on the ground, considered as a quantity, are hypothecated for a year's rent, one after another successively. The landlord may apply this hypothec for payment of the past year's rent, at any time within three months from the last conventional term of payment, after which it ceases for that year. As the tenant may increase the subject of this hypothec, by purchasing oxen, sheep, &c. so he can impair it, by selling part of his stock; but if the landlord suspects the tenant's management, he may, by sequestration or poinding, make his right, which was before general upon the whole stock, special upon every individual. A superior has also a hypothec for his feu-duty, of the same kind with that just explained.

24. In tacks of houses, breweries, shops, and other tenements, which have no natural fruits, the furniture, and other goods brought into the subject set are hypothecated to the landlord for one year's rent. But the tenant may by sale impair this hypothec, as he might that of cattle in rural tenements; and indeed, in the particular case of a shop, the tenant rents it for no other purpose than as a place of sale.

SECT. VII. *Of the Transmission of Rights, by Confirmation and Resignation.*

clxviii.
Transmission of feudal rights.

1. A vassal may transmit his feu either to universal successors, as heirs; or to singular successors, i. e. those who acquire by gift, purchase, or other singular title. This last sort of transmission is either voluntary, by disposition; or necessary, by adjudication.

2. By the first feudal rules, no superior could be compelled to receive any vassal in the lands, other than the heir expressed in the investiture; for the superior alone had the power of ascertaining to what order of heirs the fee granted by himself was to descend. But this right of refusal in the superior did not take place, (1.) In the case of creditors appraisers or adjudgers, whom superiors were obliged to receive upon payment of a year's rent (1469, c. 37. 1672, c. 19.): (2.) In the case of purchasers of bankrupt estates, who were put on the same footing with adjudgers by 1690, c. 20. The crown refuses no voluntary disponee, on his paying a composition to the exchequer of a sixth part of the valued rent. Now, by 20 Geo. II. superiors are directed to enter all singular successors (except incorporations) who shall have got from the vassal a disposition, containing procuratory of resignation: they always receiving the fees or casualties that law entitles them to on a vassal's entry, i. e. a year's rent (A).

Law of
Scotland.

Base rights.

3. Base rights, i. e. dispositions to be holden of the disponer, are transmissions only of the property, the superiority remaining as formerly. As this kind of right might, before establishing the registers, have been kept quite concealed from all but the granter and receiver, a public right was preferable to it, unless clothed with possession: but as this distinction was no longer necessary after the establishment of the records, all infestments are declared preferable, according to the dates of their several registrations; without respect to the former distinction of base and public, or of being clothed and not clothed with possession.

4. Public rights, i. e. dispositions to be holden of the granter's superior, may be perfected either by confirmation or resignation; and therefore they generally contain both precept of seisin and procuratory of resignation. When the receiver is to complete his right in the first way, he takes seisin upon the precept: but such seisin is ineffectual without the superior's confirmation; for the disponee cannot be deemed a vassal till the superior receive him as such, or confirm the holding. By the usual style in the transmission of lands, the disposition contains an obligation and precept of infestment, both *à me* and *de me*, in the option of the disponee; upon which, if seisin is taken indefinitely, it is construed in favour of the disponee to be a base infestment, because a public right is null without confirmation: but if the receiver shall afterwards obtain the superior's confirmation, it is considered as if it had been from the beginning a public right.

5. Where two several public rights of the same subject are confirmed by the superior, their preference is governed by the dates of the confirmations, not of the infestments confirmed; because it is the confirmation which completes a public right.

6. Though a public right becomes, by the superior's confirmation, valid from its date; yet if any mid impediment intervene betwixt that period and the confirmation, to hinder the two from being conjoined, e. g. if the granter of a public right should afterwards grant a base right to another, upon which seisin is taken before the superior's confirmation of the first, the confirmation will have effect only from its own date; and consequently the base right first completed will carry the *property* of the lands preferable to the public one.

7. Resignation is that form of law, by which a vassal surrenders his feu to his superior; and it is either *ad perpetuam remanentiam*, or *in favorem*. In resignations *ad remanentiam*, where the feu is resigned, to the effect that it may remain with the superior, the superior, who before had the superiority, acquires, by the resignation, the property also of the lands resigned: and as his infestment in the lands still subsisted, notwithstanding the right by which he had given his vassal the property; therefore, upon the vassal's resignation, the superior's

(A) It was long matter of doubt how this composition due to the superior upon the entry of singular successors should be regulated. The matter at last received a solemn decision; finding, That the superior is entitled, for the entry of singular successors, in all cases where such entries are not taxed, to a year's rent of the subject, whether lands or houses, as the same are set, or may be set at the time; deducting the feu-duty and all public burdens, and likewise all annual burdens imposed on the lands by consent of the superior, with all reasonable annual repairs to houses and other perishable subjects.

Law of Scotland.

superior's right of property revives, and is consolidated with the superiority, without the necessity of a new investment; but the instrument of resignation must be recorded.

8. Resignations *in favorem* are made, not with an intention that the property resigned should remain with the superior, but that it should be again given by him, in favour either of the resigner himself, or of a third party; consequently the fee remains in the resigner, till the person in whose favour resignation is made gets his right from the superior perfected by feisin. And because resignations *in favorem* are but incomplete personal deeds, our law has made no provision for recording them. Hence, the first feisin on a second resignation is preferable to the last feisin upon the first resignation; but the superior, accepting a second resignation, whereupon a prior feisin may be taken in prejudice of the first resignatory, is liable in damages.

9. By our former decisions, one who was vested with a personal right of lands, i. e. a right not completed by feisin, effectually divested himself by disposing it to another; after which no right remained in the disposer, which could be carried by a second disposition, because a personal right is no more than a *jur obligatio-nis*, which may be transferred by any deed sufficiently expressing the will of the granter. But this doctrine, at the same time that it rendered the security of the records extremely uncertain, was not truly applicable to such rights as required feisin to complete them; and therefore it now obtains, that the granter even of a personal right of lands is not so divested by conveying the right to one person, but that he may effectually make it over afterwards to another; and the preference between the two does not depend on the dates of the dispositions, but on the priority of the feisins following upon them.

SECT. VIII. Of Redeemable Rights.

clxix.
Reversions
legal.

1. An heritable right is said to be redeemable, when it contains a right of reversion, or return, in favour of the person from whom the right flows. Reversions are either legal, which arise from the law itself, as in adjudications, which law declares to be redeemable within a certain term after their date; or conventional, which are constituted by the agreement of parties, as in wadsets, rights of annualrent, and rights in security. A wadset (from wad or pledge) is a right, by which lands, or other heritable subjects, are impignored by the proprietor to his creditor in security of his debt; and, like other heritable rights, is perfected by feisin. The debtor, who grants the wadset, and has the right of reversion, is called the *reverser*; and the creditor, receiver of the wadset, is called the *wad-setter*.

Wadset.

2. Wadsets, by the present practice, are commonly made out in the form of mutual contracts, in which one party sells the land, and the other grants the right of reversion. When the right of reversion is thus incorporated in the body of the wadset, it is effectual without registration; because the singular successor in the wadset is, in that case, sufficiently certified of the reversion, though it be not registered, by looking into his own right, which bears it *in gremio*. But where

Law of Scotland.

the right of reversion is granted in a separate writing, it is ineffectual against the singular successor of the wadset, unless it be registered in the register of feisins within 60 days after the date of the feisin upon the wadset.

3. Rights of reversion are generally esteemed *stricti-juris*; yet they go to heirs, though heirs should not be mentioned, unless there be some clause in the right, discovering the intention of parties, that the reversion should be personal to the reverser himself. In like manner, though the right should not express a power to redeem from the wadset's heir, as well as from himself, redemption will be competent against the heir. All our lawyers have affirmed, that reversions cannot be assigned, unless they are taken to assignees; but from the favour of legal diligence, they may be adjudged.

Reversion is
stricti-juris.

4. Reversions commonly leave the reverser at liberty to redeem the lands *quandocunque*, without restriction in point of time; but a clause is adjected to some reversions, that if the debt be not paid against a determinate day, the right of reversion shall be irritated, and the lands shall become the irredeemable property of the wadset. Nevertheless the irritancy being penal, as in wadsets, where the sum lent falls always short of the value of the lands, the right of redemption is by indulgence continued to the reverser, even after the term has expired, while the irritancy is not declared. But the reverser, if he does not take the benefit of this indulgence within 40 years after the lapse of the term, is cut out of it by prescription.

Redemp-tion.

5. If the reverser would redeem his lands, he must use an order of redemption against the wadset: the first step of which is premonition (or notice given under form of instrument) to the wadset, to appear at the time and place appointed by the reverser, then and there to receive payment of his debt, and thereupon to renounce his right of wadset. In the voluntary redemption of a right of wadset holden base, a renunciation duly registered re-establishes the reverser in the full right of the lands. Where the wadset was granted to be holden of the granter's superior, the superior must receive the reverser, on payment of a year's rent, if he produce a disposition from the wadset, containing procuratory of resignation. If, at executing the wadset, the superior has granted letters of regrefs, i. e. an obligation again to enter the reverser upon redemption of the lands, he will be obliged to receive him without payment of the year's rent. But letters of regrefs will not have this effect against singular successors in the superiority, if they are not registered in the register of reversions. All wadsets that remain personal rights, are extinguished by simple discharges, though they should not be recorded.

Letters of
regrefs.

6. If the wadset either does not appear at the time and place appointed, or refuses the redemption money, the reverser must consign it under form of instrument, in the hands of the person appointed in the right of reversion: or, if no person be named, in the hands of the clerk to the bills, a clerk of session, or any responsible person. An instrument of consignation, with the consignatory's receipt of the money consigned, completes the order of redemption, stops the farther currency of interest against the reverser, and

Redemp-tion money.

Law of
Scotland.

finds him in an action for declaring the order to be formal, and the lands to be redeemed in consequence of it.

7. After a decree of declarator is obtained, by which the lands are declared to return to the debtor, the consigned money, which comes in place of the lands, becomes the wadsetter's, who therefore can charge the consignatory upon letters of horning to deliver it up to him; but, because the reverser may, at any time before decree, pass from his order, as one may do from any other step of diligence, the consigned sums continue to belong to the reverser, and the wadsetter's interest in the wadset continues heritable till that period.

8. If the wadsetter chooses to have his money rather than the lands, he must require from the reverser, under form of instrument, the sums due by the wadset, in terms of the right. The wadset-sums may be heritable, notwithstanding requisition, which may be passed from the wadsetter even after the reverser has consigned the redemption money in consequence thereof.

Wadsets
proper and
improper.

9. Wadsets are either proper or improper. A proper wadset is that whereby it is agreed, that the use of the land shall go for the use of the money; so that the wadsetter takes his hazard of the rents, and enjoys them without accounting, in satisfaction, or *in solutum* of his interest.

10. In an improper wadset, the reverser, if the rent should fall short of the interest, is taken bound to make up the deficiency; if it amounts to more, the wadsetter is obliged to impute the excrement towards extinction of the capital: And, as soon as the whole sums, principal, and interest, are extinguished by the wadsetter's possession, he may be compelled to renounce, or divest himself in favour of the reverser.

11. If the wadsetter be entitled by his right to enjoy the rents without accounting, and if at the same time the reverser be subjected to the hazard of their deficiency, such contract is justly declared usurious: and also in all proper wadsets wherein any unreasonable advantage has been taken of the debtor, the wadsetter must (by act 1661), during the not requisition of the sum lent, either quit his possession to the debtor, upon his giving security to pay the interest, or subject himself to account for the surplus rents, as in improper wadsets.

Right of
annualrent.

12. Infeftments of annualrent, the nature of which has been explained, are also redeemable rights. A right of annualrent does not carry the property of the lands; but it creates a real *nexus* or burden upon the property, for payment of the interest or annualrent contained in the right; and consequently the bygone interests due upon it are *debita fundi*. The annualrenter may therefore either insist in a real action for obtaining letters of poiding the ground, or sue the tenant in a personal action towards the payment of his past interest: and in a competition for those rents, the annualrenter's preference will not depend on his having used a poiding of the ground, for his right was completed by the seisin; the power of poiding the ground, arising from that antecedent right, is *mera facultatis*, and need not be exercised, if payment can be otherwise got. As it is only the interest of the sum lent which is a burden upon the lands, the annualrenter, if he

wants his principal sum, cannot recover it either by poiding or by a personal action against the debtor's tenants; but must demand it from the debtor himself, on his personal obligation in the bond, either by requisition, or by a charge of letters of horning, according as the right is drawn.

Law of
Scotland.

13. Rights of annualrent, being servitudes upon the property, and consequently consistent with the right of property in the debtor, may be extinguished without resignation.

14. Infeftments in security are another kind of re- Rights of deemable rights (now frequently used in place of rights security. of annualrent), by which the receivers are infeft in the lands themselves, and not simply in an annualrent forth of them, for security of the principal sums, interest, and penalty, contained in the rights. If an infeftment in security be granted to a creditor, he may thereupon enter into the immediate possession of the lands or annualrent for his payment. They are extinguished as rights of annualrent.

15. All rights of annualrent, rights in security, and generally whatever constitutes a real burden on the fee, may be the ground of an adjudication, which is preferable to all adjudications, or other diligences, intervening between the date of the right and of the adjudication deduced on it; not only for the principal sum contained in the right, but also for the whole past interest contained in the adjudication. This preference arises from the nature of real debts, or *debita fundi*: but in order to obtain it for the interest of the interest accumulated in the adjudication, such adjudication must proceed on a process of poiding the ground.

SECT. IX. Of Servitudes.

1. Servitude is a burden affecting lands, or rather heritable subjects, whereby the proprietor is either restrained ^{clxx.} from the full use of what is his own, or is obliged to ^{Different} suffer another to do something upon it. ^{kinds of} Servitudes are either *natural*, *legal*, or *conventional*. ^{servitude.} Nature itself may be said to constitute a servitude upon inferior tenements, whereby they must receive the water that falls from those that stand on higher ground. *Legal* servitudes are established by nature or custom, from considerations of public policy; among which may be numbered the restraints laid upon the proprietors of tenements within the city of Edinburgh. There is as great a variety of *conventional* servitudes, as there are ways by which the exercise of property may be restrained by paction in favour of another.

2. *Conventional* servitudes are constituted, either by grant, where the will of the party burdened is expressed in writing: or by prescription, where his consent is presumed from his acquiescence in the burden for 40 years. A servitude constituted by writing, or grant, is not effectual against the grantor's singular successors, unless the grantee has been in the use or exercise of his right: but they are valid against the grantor and his heirs even without use. In servitudes that may be acquired by prescription, 40 years exercise of the rights is sufficient, without any title in writing, other than a charter and seisin of the lands to which the servitude is claimed to be due.

3. Servitudes constituted by grant are not effectual, in

Law of
Scotland.

in a question with the superior of the tenements burdened with the servitude, unless his consent be adhibited; for a superior cannot be hurt by his vassal's deed: but where the servitude is acquired by prescription, the consent of the superior, whose right afforded him a good title to interrupt, is implied. A servitude by grant, though followed only by a partial possession, must be governed, as to its extent, by the tenor of the grant; but a servitude by prescription is limited by the measure or degree of the use had by him who prescribes: agreeable to the maxim, *Tantum præscriptum, quantum possessum*.

Predial ser-
vitudes.

4. Servitudes are either *predial* or *personal*. *Predial* servitudes are burdens imposed upon one tenement, in favour of another tenement. That to which the servitude is due is called the *dominant*, and that which owes it is called the *servient tenement*. No person can have right to a predial servitude, if he is not proprietor of some dominant tenement that may have benefit by it; for that right is annexed to a tenement, and so cannot pass from one person to another, unless some tenement goes along with it.

Rural ser-
vitudes.

5. Predial servitudes are divided into *rural* servitudes, or of lands; and *urban* servitudes, or of houses. The rural servitudes of the Romans were *iter*, *actus*, *via*, *aquæductus*, *aquæhaustrus*, and *jus pascendi pecoris*. Similar servitudes may be constituted with us, of a foot-road, horse-road, cart-road, dams and aqueducts, watering of cattle, and pasturage. The right of a highway is not a servitude constituted in favour of a particular tenement, but is a right common to all travellers. The care of high-ways, bridges, and ferries, is committed to the sheriffs, justices of peace, and commissioners of supply in each shire.

6. Common pasturage, or the right of feeding one's cattle upon the property of another, is sometimes constituted by a general clause of pasturage in a charter or disposition, without mentioning the lands burdened; in which case, the right comprehends whatever had been formerly appropriated to the lands disposed of by the grantor's own property, and likewise all pasturage due to them out of other lands. When a right of pasturage is given to several neighbouring proprietors, on a moor or common belonging to the grantor, indefinite as to the number of cattle to be pastured, the extent of their several rights is to be proportioned according to the number that each of them can fodder in winter upon his own dominant tenement.

Urban ser-
vitudes.

7. The chief servitudes of houses among the Romans were those of support, viz. *tigni immittendi*, and *oneris ferendi*. The first was the right of fixing in our neighbour's wall, a joist or beam from our house: the second was that of resting the weight of one's house upon his neighbour's wall.

8. With us, where different floors or stories of the same house belong to different persons, as is frequent in the city of Edinburgh, the property of the house cannot be said to be entirely divided; the roof remains a common roof to the whole, and the area on which the house stands supports the whole; so that there is a communication of property, in consequence of which the proprietor of the ground floor must, without the constitution of any servitude, uphold it for the support of the upper, and the owner of the highest story must uphold that as a cover to the lower. When the high-

Law of
Scotland.

est is divided into garrets among the several proprietors, each proprietor is obliged, according to this rule, to uphold that part of the roof which covers his own garret.

6. No proprietor can build, so as to throw the rain water falling from his own house, immediately upon his neighbour's ground, without a special servitude, which is called *stillicide*; but, if it falls within his own property, though at the smallest distance from the march, the owner of the inferior tenement must receive it.

10. The servitudes *altius non tollendi, et non officien- di luminibus vel prospectui*, restrain proprietors from raising their houses beyond a certain height, or from making any building whatsoever that may hurt the light or prospect of the dominant tenement. These servitudes cannot be constituted by prescription alone: for, though a proprietor should have his house ever so low, or should not have built at all upon his grounds for 40 years together, he is presumed to have so for his own conveniency or profit; and therefore cannot be barred from afterwards building a house on his property, or raising it to what height he pleases, unless he be tied down by his own consent.

11. We have two predial servitudes to which the Romans were strangers, viz. that of fuel or feal and divot, and of thirlage. The first is a right, by which the owner of the dominant tenement may turn up peats, turfs, feals, or divots, from the ground of the servient, and carry them off either for fuel, or thatch, or the other uses of his own tenement.

Servitude of
feal and
divot.

12. THIRLAGE is that servitude, by which lands are restricted, or thirled, to a particular mill; and the possessors bound to grind their grain there, for payment of certain multures and sequels as the agreed price of grinding. In this servitude, the mill is the dominant tenement and the lands restricted (which are called also the *thirl* or *sucken*) the servient. Multure is the quantity of grain or meal payable to the proprietor of the mill, or to the multurer his tacksmen. The sequels are the small quantities given to the servants, under the name of *knave'ship*, *bannock*, and *lock* or *gowpen*. The quantities paid to the mill by the lands not restricted, are generally proportioned to the value of the labour, and are called *out-town* or *out-sucken multures*; but those paid by the thirl are ordinarily higher, and are called *in-town* or *in-sucken multures*.

Thirlage.

13. Thirlage may be constituted by a landholder, when, in the disposition of certain lands, he restricts them to his own mill; or when in the disposition of a mill, he restricts his own lands to the mill disposed; or when in letting his lands, he makes it a condition in the tacks. The grant of a mill with the general clause of multures, without specifying the lands restricted, conveys the thirlage of all the lands formerly restricted to that mill, whether they were the property of the grantor, or of a third party.

14. A less formal constitution serves to restrict barony lands to the mill of the barony, than is necessary in any other thirlage; which perhaps proceeds from the effects of the union betwixt the two. Hence, if a baron makes over the mill of a barony, *cum multuris*, or *cum restrictis multuris*, it infers an restriction of the barony lands to the mill conveyed, although they had not formerly been restricted. But if prior to the baron's conveyance

conveyance

Law of
Scotland.

conveyance of his mill *cum multuris*, he had sold any part of the barony lands to another *cum multuris*, the first purchaser's lands are not affected by the posterior grant; for a right of lands with the multures, implies a freedom of these lands from thirlage.

15. Thirlage is either, 1. Of grindable corns; or, 2. Of all growing corns; or, 3. Of the *invecta et illata*, i. e. of all the grain brought within the thirl, though of another growth. Where the thirlage is of grindable grain, it is in practice restricted to the corns which the tenants have occasion to grind, either for the support of their families, or for other uses; the surplus may be carried out of the thirl unmanufactured, without being liable in multure. Where it is of the *grana crescentia*, the whole grain growing upon the thirl is affected, with the exceptions, 1. Of seed and horse-corn, which are destined to uses inconsistent with grinding; and, 2. Of the farm duties due to the landlord, if they were delivered in grain not grinded. But, if the rent be payable in meal, flour, or malt, the grain of which these are made must be manufactured in the dominant mill.

16. The thirlage of *invecta et illata* is seldom constituted but against the inhabitants of a borough or village, that they shall grind all the unmanufactured grain they import thither at the dominant mill. Multure, therefore, cannot be exacted in a thirlage of *invecta et illata*, for flour or oatmeal brought into the servient tenement, unless the importer had bought it in grain, and grinded it at another mill. The same grain that owes multure, as *granum crescens*, to the mill in whose thirl it grew, if it shall be afterwards brought within a borough where the *invecta et illata* are thirled, must pay a second multure to the proprietor of that dominant tenement; but, where the right of these two thirlages is in the same proprietor, he cannot exact both. Where lands are thirled in general terms, without expressing the particular nature of the servitude, the lightest thirlage is presumed, from the favour of liberty; but in the restriction of a borough or village, where there is no growing grain which can be the subject of thirlage, the restriction of *invecta et illata* must be necessarily understood.

17. Thirlage, in the general case, cannot be established by prescription alone, for *ius que sunt mere facultatis non prescribitur*; but where one has paid for 40 years together the heavy in-sucken multures, the slightest title in writing will subject his lands. Thirlage may, contrary to the common rule, be constituted by prescription alone, 1. Where one pays to a mill a certain sum, or quantity of grain yearly, in name of multure, whether he grinds at it or not, (called *dry multure*). 2. In mills of the king's property; which is constituted *jure coronæ*, without titles in writing; and, where he derives right from another, his titles are more liable to be lost. This is extended in practice to mills belonging to church lands, where thirty years possession is deemed equivalent to a title in writing, from a presumption that their rights were destroyed at the Reformation. Though thirlage itself cannot be constituted by mere possession, the proportion of multure payable to the dominant tenement may be so fixed.

18. The possessors of the land affected are bound to uphold the mill, repair the dam dykes and aque-

ducts, and bring home the millstones. These services, though not expressed in the constitution, are implied. Law of Scotland.

19. Servitudes, being restraints upon property, are *stricti juris*: they are not therefore presumed if the acts upon which they are claimed can be explained consistently with freedom: and when servitudes are constituted, they ought to be used in the way least burdensome to the servient tenement. Hence, one who has a servitude of peats upon his neighbour's moss, is not at liberty to extend it for the use of any manufacture which may require an extraordinary expence of fuel: but must confine it to the natural uses of the dominant tenement.

20. Servitudes are extinguished, (1.) *Confusione*, when the person comes to be proprietor of the dominant and servient tenements; for *res sua nomini servit*, and the use the proprietor therefore makes of the servient tenement is not *jure servitutis*, but is an act of property. (2.) By the perishing either of the dominant or servient tenement. (3.) Servitudes are lost *non utendo*, by the dominant tenement neglecting to use the right of 40 years; which is considered as a dereliction of it, though he who has the servient tenement should have made no interruption by doing acts contrary to the servitude.

21. *Personal* servitudes are those by which the property of a subject is burdened, in favour, not of a tenement, but of a person. The only personal servitude known in our law, is usufruct or life-rent; which is a right to use and enjoy a thing during life, the substance of it being preserved. A life-rent cannot therefore be constituted upon things which perish in the use; and though it may upon subjects which gradually wear out by time, as household furniture, &c. yet with us, it is generally applied to heritable subjects. He whose property is burdened, is usually called the *fiar*. Life-rent.

22. Life-rents are divided into *convention* and *legal*. *Conventional* life-rents are either *simple*, or by *reservation*. A *simple* life-rent, or by a separate constitution, is that which is granted by the proprietor in favour of another: And this sort, contrary to the nature of predial servitudes, requires seisin in order to affect singular successors; for a life-rent of lands is, in strict speech, not a servitude, but a right resembling property which constitutes the life-renter vassal for life; and singular successors have no way of discovering a life-rent right, which perhaps is not yet commenced, but by the records: whereas, in predial servitudes, the constant use of the dominant tenement makes them public. The proper right of life-rent is intransmissible; *offibus usufructuarii inhæret*: When the profits of the life-rented subject are transmitted to another, the right becomes merely personal: for it entitles the assignee to the rent, not during his own life, but his cedent's; and is therefore carried by simple assignation, without seisin. Life-rents.

23. A life-rent *by reservation*, is that which a proprietor reserves to himself in the same writing by which he conveys the fee to another. It requires no seisin; for the grantor's former seisin, which virtually included the life-rent, still subsists as to the life-rent which is expressly reserved. In conjunct infeftments taken to husband and wife, the wife's right of conjunct fee resolves, in the general case, into a life-rent.

24. Life-rents, *by law*, are the *terce* and the *cour-terce*. Terce.

Law of
Scotland.

tesy. The *terce* (*tertia*) is a liferent competent by law to widows, who have not accepted of special provisions, in the third of the heritable subjects in which their husbands died infest; and takes place only where the marriage has subsisted for year and day, or where a child has been born alive of it (B).

25. The *terce* is not limited to lands, but extends to teinds, and to servitudes and other burdens affecting lands; thus, the widow is entitled, in the right of her *terce*, to a liferent of the third of the sums secured, either by rights of annualrent, or by rights in security. In improper wadsets, the *terce* is a third of the sum lent: In those that are proper, it is a third of the wadset lands; or, in case of redemption, a third of the redemption money. Neither right of reversion, superiority, nor patronage, fall under the *terce*; for none of these have fixed profits, and so are not proper subjects for the widow's subsistence; nor tacks, because they are not feudal rights. Burgage tenements are also excluded from it, the reason of which is not so obvious. Since the husband's seisin is both the measure and security of the *terce*, such debts or diligences alone, as exclude the husband's seisin, can prevail over it.

26. Where a *terce* is due out of lands burdened with a prior *terce* still subsisting, the second *tercer* has only right to a third of the two thirds that remain unaffected by the first *terce*. But upon the death of the first widow, whereby the lands are disburdened of her *terce*, the lesser *terce* becomes enlarged, as if the first had never existed. A widow, who has accepted of a special provision from her husband, is thereby excluded from the *terce*, unless such provision shall contain a clause that she shall have right to both.

27. The widow has no title of possession, and so cannot receive the rents in virtue of her *terce*, till she be served to it; and in order to this, she must obtain a brief out of the chancery, directed to the sheriff, who calls an inquest, to take proof that she was wife to the deceased, and that her husband died infest in the subjects contained in the brief. The service or sentence of the jury, finding these points proved, does, without the necessity of a return to the chancery, entitle the wife to enter into the possession; but she can only possess with the heir *pro indiviso*, and so cannot remove tenants till the sheriff kens her to her *terce*, or divides the lands between her and the heir. In this division, after determining by lot or kaval, whether to begin by the sun or the shade, i. e. by the east or the west, the sheriff sets off the two first acres for the heir, and the third for the widow. Sometimes the division is executed, by giving one entire farm to the widow, and two of equal value to the heir. The widow's right is not properly constituted by this service; it was constituted before by the husband's seisin, and fixed by his death;

the service only declares it, and so entitles her to the third part of the rents *retro* to her husband's death, preferable to any rights that may have affected the lands in the intermediate period between that and her own service. The relict, if she was reputed to be lawful wife to the deceased, must be served, notwithstanding any objections by the heir against the marriage, which may be afterwards tried by the commissary.

28. *Courtesy* is a liferent given by law, to the surviving husband, of all his wife's heritage in which she died infest, if there was a child of the marriage born alive. A marriage, though of the longest continuance gives no right to the courtesy, if there was no issue of it. The child born of the marriage must be the mother's heir: If she had a child of the former marriage, who is to succeed to her estate, the husband has no right to the courtesy while such child is alive; so that the courtesy is due to the husband, rather as father to an heir, than as husband to an heiress. Heritage is here opposed to conquest; and so is to be understood only of the heritable rights to which the wife succeeded as heir to her ancestors, excluding what she herself had acquired by singular titles.

29. Because the husband enjoys the liferent of his wife's whole heritage, on a lucrative title, he is considered as her temporary representative; and so is liable in payment of all the yearly burdens chargeable on the subject, and of the current interest of all her debts, real and personal, to the value of the yearly rent he enjoys by the courtesy. The courtesy needs no solemnity to its constitution: That right which the husband had to the rents of his wife's estate during the marriage, *jure mariti*, is continued with him after her death, under the name of *courtesy*, by an act of the law itself. As in the *terce*, the husband's seisin is the ground and measure of the wife's right; so in the courtesy, the wife's seisin is the foundation of the husband's; and the two rights are, in all other respects, of the same nature; if it is not that the courtesy extends to burgage holdings, and to superiorities.

30. All liferenters must use their right *salva rei substantia*: whatever therefore is part of the fee itself, cannot be encroached on by the liferenter, e. g. woods or growing timber, even for the necessary uses of the liferented tenement. But, where a coppice or *silva cædua* has been divided into hags, one of which was in use to be cut annually by the proprietor, the liferenter may continue the former yearly cuttings; because these are considered as the annual fruits the subject was intended to yield, and so the proper subject of a liferent.

31. Liferenters are bound to keep the subject liferented in proper repair. They are also burdened with the alimony of the heir, where he has not enough for maintaining himself. The bare right of apparen-
founds

(B) In the case referred to, when treating of the effects of the dissolution of marriage within the year without a living child, and where no special provisions had been granted to, or accepted by, the widow; she did not demand her legal provisions of *terce* or *jus relicte*, but merely insisted, that as widow she was entitled to be alimented out of the heritable estate of which her husband died possessed: So that the decision in that case cannot so properly be said to be an alteration in the law, as an equitable interposition of the court of session, in their capacity as a court of equity, in order to grant a subsistence to the widow of a man whose estate was fully sufficient, and who, it could not reasonably be presumed, would have inclined that his widow should be left destitute, when his estate went perhaps to a distant series of heirs.

Law of
Scotland.

Law of
Scotland.

found the action against the liferenter. It is a burden personal to the liferenter himself, and cannot be thrown upon his adjudging creditors as coming in his place by their diligences. Liferenters are also subjected to the payment of the yearly cesses, stipends, &c. falling due during their right, and to all other burdens that attend the subject liferented.

32. Liferent is extinguished by the liferenter's death. That part of the rents which the liferenter had a proper right to, before his death, falls to his executors; the rest, as never having been *in bonis* of the deceased, goes to the *fiar*. Martinmas and Whitsunday are, by our custom, the legal terms of the payment of rent: consequently, if a liferenter of lands survives the term of Whitsunday, his executors are entitled to the half of that year's rent, because it was due the term before his death; and if he survives the term of Martinmas, they have right to the whole. If the liferenter, being in the natural possession, and having first sowed the ground, should die, even before Whitsunday, his executors are entitled to the whole crop, in respect that both seed and industry were his. In a liferent of money constituted by a moveable bond, the executors have a right to the interest, down to the very day of the liferenter's death, where no terms are mentioned for the payment thereof; but in the case of an heritable bond, or of a money liferent secured on land, the interests of liferenter and *fiar* (or of heir and executor, for the same rules serve to fix the interests of both) are both governed by the legal terms of land rent, without regard to the conventional.

SECT. X. *Teinds*.

clxxi.
Teinds.

1. Teinds, or tithes, are that liquid proportion of our rents or goods, which is due to churchmen, for performing divine service, or exercising the other spiritual functions proper to their several offices. Most of the canonists affirm, that the precise proportion of a tenth, not only of the fruits of the ground, but of what is acquired by personal industry, is due to the Christian clergy, of divine right, which they therefore call the *proper patrimony of the church*; though it is certain that tithes, in their infancy, were given, not to the clergy alone, but to lay-monks who were called *pauperes*, and to other indigent persons. Charles the Great was the first secular prince who acknowledged this right in the church. It appears to have been received with us, as far back as David I.

2. The person employed by a cathedral church or monastery to serve the cure in any church annexed was called a *vicar*, because he held the church, not in his own right, but in the right or *vice* of his employers; and so was removeable at pleasure, and had no share of the benefice, other than what they thought fit to allow him: but, in the course of time, the appellation of *vicar* was limited to those who were made perpetual, and who got a stated share of the benefice for their incumbency; from whence arose the distinction of benefices into parsonages and vicarages.

3. Parsonage teinds are the teinds of corn; and they are so called because they are due to the parson or other titular of the benefice. Vicarage teinds are the small teinds of calves, lint, hemp, eggs, &c. which were commonly given by the titular to the vicar who

served the cure in his place. The first sort was universally due, unless in the case of their infeudation to laics, or of a pontifical exemption; but by the customs of almost all Christendom, the lesser teinds were not demanded where they had not been in use to be paid. By the practice of Scotland, the teinds of animals, or of things produced from animals, as lambs, wool, calves, herbs, &c. are not tithable, unless use of payment be proved: neither are personal teinds (i. e. the tenth of what one acquires by his own industry) acknowledged by our law: yet they have been found due, when supported by 40 years possession.

4. The parson who was entitled to the teind of corns, made his right effectual, either by accepting of a certain number of teind bolls yearly from the proprietor in satisfaction of it; or, more frequently by drawing or separating upon the field his own tenth part of the corns, after they were reaped, from the stock or the remaining nine-tenths of the crop, and carrying it off to his own granaries; which is called *drawn teind*.

5. After the Reformation, James VI. considered himself as proprietor of all the church lands; partly because the purposes for which they had been granted were declared superfluous; and partly, in consequence of the resignations which he, and Queen Mary his mother, had procured from the beneficiaries: and even as to the teinds, though our reformed clergy also claimed them as the patrimony of the church, our sovereign did not submit to that doctrine farther than extended to a competent provision for ministers. He therefore erected or secularized several abbacies and priories into temporal lordships; the grantees of which were called sometimes *lords of erection*, and sometimes *titulars*, as having by their grants the same title to the erected benefices that the monasteries had formerly.

Annexation
of church
lands to the
crown.

6. As the crown's revenue suffered greatly by these erections, the temporality of all church benefices (i. e. church lands) was, by 1587, c. 29. annexed to the crown. That statute excepts from the annexation such benefices as were established before the Reformation in laymen, whose rights the legislature had no intention to weaken. Notwithstanding this statute his majesty continued to make farther erections, which were declared null by 1592, c. 119. with an exception of such as had been made in favour of lords of parliament since the general act of annexation in 1587.

7. King Charles I. soon after his succession, raised a reduction of all these erections, whether granted before or after the act of annexation, upon the grounds mentioned at length by Mr Forbes in his Treatise of Tithes, p. 259. At last the whole matter was referred to the king himself by four several submissions or compromises; in which the parties on one side were the titulars and their tacksmen, the bishops with the inferior clergy, and the royal boroughs, for the interest they had in the teinds that were gifted for the provision of ministers, school, or hospitals within their boroughs; and, on the other part, the proprietors who wanted to have the leading of their own teinds. The submission by the titulars contained a surrender into his majesty's hands of the superiorities of their several erections.

8. Upon each of these submissions his majesty pronounced separate decrees arbitral, dated Sept. 2. 1629. which are subjoined to the acts of parliament of his reign.

Valuation
of teinds.

He

Law of
Scotland.Law of
Scotland.

He made it lawful for proprietors to sue the titulars for a valuation, and if they thought fit for a sale also, of their teinds, before the commissioners named or to be named for that purpose. The rate of teind, when it was possessed by the proprietor jointly with the stock, for payment of a certain duty to the titular, and so did not admit a separate valuation, was fixed at a fifth part of the constant yearly rent, which was accounted a reasonable *surrogatum*, in place of a tenth of the increase. Where it was drawn by the titular, and consequently might be valued separately from the stock, it was to be valued as its extent should be ascertained, upon a proof before the commissioners; but in this last valuation, the king directed the fifth part to be deducted from the proved teind, in favour of the proprietor, which was therefore call the *king's ease*. The proprietor suing for a valuation gets the leading of his own teinds as soon as his suit commences, providing he does not allow protestation to be extracted against him for not insisting.

9. Where the proprietor insisted also for a sale of his teinds, the titular was obliged to sell them at nine years purchase of the valued teind duty. If the pursuer had a tack of his own teinds, not yet expired; or if the defender was only tackman of the teinds, and so could not give the pursuer an heritable right; an abatement of the price was to be granted accordingly by the commissioners.

10. There is no provision in the decrees arbitral, for selling the teinds granted for the sustentation of ministers, universities, schools, or hospitals; because these were to continue, as a perpetual fund, for the maintenance of the persons or societies to whom they were appropriated; and they are expressly declared not subject to sale, by 1690, c. 30.—1693, c. 23. By the last of these acts, it is also provided, that the teinds belonging to bishops, which had then fallen to the crown upon the abolishing of Episcopacy, should not be subject to sale as long as they remained with the crown not disposed of; nor those which the proprietor, who had right both to stock and teind, reserved to himself in a sale or feu of the lands. But, though none of these teinds can be sold, they may be valued.

King's right
to the superi-
orities of
erection.

11. The king, by the decrees arbitral, declared his own right to the superiorities of erection which had been resigned to him by the submission, reserving to the titulars the feu duties thereof, until payment by himself to them of 1000 merks Scots for every chaldier of feu victual, and for each 100 merks of feu duty; which right of redeeming the feu duties was afterwards renounced by the crown. If the church vassal should consent to hold his lands of the titular, he cannot thereafter recur to the crown as his immediate superior.

Rules or
fixing the
rent in the
valuation of
teinds.

12. In explaining what the constant rent is by which the teind must be valued, the following rules are observed. The rent drawn by the proprietor from the sale of subjects, that are more properly parts of the land than of the fruits, e. g. quarries, minerals, mosses, &c. is to be deducted from the rental of the lands; and also the rent of supernumerary houses, over and above what is necessary for agriculture; and the additional rent that may be paid by the tenant, in consideration of the proprietor's undertaking any burden that law imposes on the tenant, e. g. uphold-

ing the tenant's houses, because none of these articles are paid properly on account of the fruits. Orchards must also be deducted, and mill rent, because the profits of a mill arise from industry; and the corns manufactured there suffer a valuation as rent payable by the tenant, and therefore ought not to be valued a second time against the titular as mill rent. The yearly expence of culture ought not to be deducted: for no rent can be produced without it: but, if an improvement of rent is made at an uncommon expence, e. g. by draining a lake, the proprietor is allowed a reasonable abatement on that account.

13. Notwithstanding the several ways of misapplying parochial teinds in the times of Popery, some few benefices remained entire in the hands of the parsons. The ministers planted in these, after the Reformation, continued to have the full right to them, as proper beneficiaries: but a power was afterwards granted to the patron, to redeem the whole teind from such beneficiaries, upon their getting a competent stipend modified to them; which teind so redeemed, the patron is obliged to sell to the proprietor, at six years purchase.

Teinds re-
deemable,
&c.

14. Some teinds are more directly subject to an allocation for the minister's stipend than others. The teinds in the hands of the lay titular fall first to be allocated, who, since he is not capable to serve the cure in his own person, ought to provide one who can; and if the titular, in place of drawing the teind, has set it in tack, the tack duty is allocated: this sort is called *free teind*. Where the tack duty, which is the titular's interest in the teinds, falls short, the tack itself is burdened, or, in other words, the surplus teind over and above the tack duty: but, in this case, the commissioners are empowered to recompense the tackman, by prorogating his tack for such a number of years as they shall judge equitable. Where this likewise proves deficient, the allocation falls on the teinds heritably conveyed by the titular, unless he has warranted his grant against future augmentations; in which case, the teinds of the lands belonging in property to the titular himself must be allocated in the first place.

15. Where there is sufficiency of free teinds in a parish, the titular may allocate any of them he shall think fit for the minister's stipend, since they are all his own; unless there has been a previous decree of locality: and this holds, though the stipend should have been paid immemorially out of the teinds of certain particular lands. This right was frequently abused by titulars, who, as soon as a proprietor had brought an action of sale of his teinds, allocated the pursuer's full teind for the stipend, whereby such action became ineffectual; it was therefore provided, that after citation in a sale of teinds, it shall not be in the titular's power to allocate the pursuer's teinds solely, but only in proportion with the other teinds in the parish.

16. Ministers glebes are declared free from the payment of teind. Lands *cum decimis inclusis* are also exempted from teind. But in order to exempt lands from payment of teind, it is necessary that the proprietor prove his right thereto, *cum decimis inclusis*, as far back as the above act of annexation 1587.

Ministers
glebes, &c.
exempted
from teinds.

17. Teinds are *debita fructuum*, not *fundi*. The action therefore for bygone teinds is only personal, against those who have intermeddled, unless where the

Law of
Scotland.

titular is infest in the lands, in security of the valued teind duty. Where a tenant is, by his tack, bound to pay a joint duty to the landlord for stock and teind, without distinguishing the rent of each, his defence of a *bona fide* payment of the whole to the landlord has been sustained in a suit at the instance of a laic titular, but repelled where a churchman was pursuer. In both cases the proprietor who receives such rent is liable as intermeddler.

Inhibition
of teinds.

18. In tacks of teinds, as of lands, there is place for tacit relocation: to stop the effect of which, the titular must obtain and execute an inhibition of teinds against the tacksmen; which differs much from inhibition of lands (explained under the next section), and is intended merely to interpel or inhibit the tacksmen from farther intermeddling. This diligence of inhibition may also be used at the suit of the titular, against any other possessor of the teinds; and if the tacksmen or possessor shall intermeddle after the inhibition is executed, he is liable in a *spuilzie*.

19. Lands and teinds pass by different titles: a disposition of lands, therefore, though granted by one who has also right to the teind, will not carry the teind, unless it shall appear from special circumstances that a sale of both was designed by the parties. In lands *cum decimis inclusis*, where the teinds are consolidated with the stock, the right of both must necessarily go together in all cases.

SECT. XI. Of Inhibitions.

clxxii.

1. The constitution and transmission of feudal rights being explained, and the burdens with which they are chargeable, it remains to be considered how these rights may be affected at the suit of creditors by legal diligence. Diligences are certain forms of law, whereby a creditor endeavours to make good his payment, either by affecting the person of his debtor, or by securing the subjects belonging to him from alienation, or by carrying the property of these subjects to himself. They are either real or personal. Real diligence is that which is proper to heritable or real rights; personal, is that by which the person of the debtor may be secured, or his personal estate affected. Of the first sort we have two, viz. inhibition and adjudication.

Diligences.

Inhibition.

2. Inhibition is a personal prohibition, which passes by letters under the signet, prohibiting the party inhibited to contract any debt, or do any deed, by which any part of his lands may be aliened or carried off in prejudice of the creditor inhibiting. It must be executed against the debtor, personally, or at his dwelling house, as summonses, and thereafter published and registered in the same manner with interdictions, (see N^o clxxxiii. 21.)

3. Inhibition may proceed, either upon a liquid obligation, or even on an action commenced by a creditor for making good a claim not yet sustained by the judge; which last is called *inhibition upon a depending action*. The summons, which constitutes the dependence, must be executed against the debtor before the letters of inhibition pass the signet; for no suit can be said to depend against one till he be cited in it as a defender: but the effect of such inhibition is suspended till decree be obtained in the action against

Law of
Scotland.

the debtor; and in the same manner, inhibitions on conditional debts have no effect till the condition be purified. Inhibitions are not granted, without a trial of the cause, when they proceed on conditional debts. And though, in other cases, inhibitions now pass of course, the lords are in use to stay, or recall them, either on the debtor's showing cause why the diligence should not proceed, or even *ex officio* where the ground of the diligence is doubtful.

4. Though inhibitions, by their uniform style, disable the debtor from selling his moveable as well as his heritable estate, their effect has been long limited to heritage, from the interruption that such an embargo upon moveables must have given to commerce; so that debts contracted after inhibition may be the foundation of diligence against the debtor's person and moveable estate. An inhibition secures the inhibitor against the alienation, not only of lands that belonged to his debtor when he was inhibited, but of those that he shall afterwards acquire: but no inhibition can extend to such after-purchases as lie in a jurisdiction where the inhibition was not registered; for it could not have extended to these through they had been made prior to the inhibition.

5. This diligence only strikes against the voluntary debts or deeds of the inhibited person: it does not restrain him from granting necessary deeds, i. e. such as he was obliged to grant anterior to the inhibition, since he might have been compelled to grant these before the inhibitor had acquired any right by his diligence. By this rule, a wadsetter or annualrenter might, after being inhibited, have effectually renounced his right to the reverser on payment, because law could have compelled him to it; but to secure inhibitors against the effect of such alienations, it is declared by act of federunt of the court of session, Feb. 19. 1680, that, after intimation of the inhibition to the reverser, no renunciation or grant of redemption shall be sustained, except upon declarator of redemption brought by him, to which the inhibitor must be made a party.

6. An inhibition is a diligence simply prohibitory, so that the debt, on which it proceeds, continues personal after the diligence; and consequently, the inhibitor, in a question with anterior creditors whose debts are not struck at by the inhibition, is only preferable from the period at which his debt is made real by adjudication: and where debts are contracted on heritable security, though posterior to the inhibition, the inhibitor's debt, being personal, cannot be ranked with them; he only draws back from the creditors ranked the sums contained in his diligence. The heir of the person inhibited is not restrained from alienation by the diligence used against his ancestor; for the prohibition is personal, affecting only the debtor against whom the diligence is used.

7. Inhibitions do not of themselves make void the posterior debts or deeds of the person inhibited; they only afford a title to the user of the diligence to set them aside, if he finds them hurtful to him: and even where a debt is actually reduced *ex capite inhibitionis*, such reduction, being founded solely in the inhibitor's interest, is profitable to him alone, and cannot alter the natural preference of the other creditors.

8. Inhibitions may be reduced upon legal nullities, arising from purging of inhibitions.

Law of
Scotland.

arising either from the ground of debt or the form of diligence. When payment is made by the debtor to the inhibitor, the inhibition is said to be *purged*. Any creditor, whose debt is struck at by the inhibition, may, upon making payment to the inhibitor, compel him to assign the debt and diligence in his favour, that he may make good his payment the more effectually against the common debtor.

SECT. XII. *Of Comprisings, Adjudications, and Judicial Sales.*

clxxii.

Appraising.

1. Heritable rights may be carried from the debtor to the creditor, either by the diligence of appraising (now adjudication), or by a judicial sale carried on before the court of session. Appraising, or comprising, was the sentence of a sheriff, or of a messenger who was specially constituted sheriff for that purpose, by which the heritable rights belonging to the debtor were sold for payment of the debt due to the appraiser; so that appraisings were, by their original constitution, proper sales of the debtor's lands to any purchaser who offered. If no purchaser could be found, the sheriff was to appraise or tax the value of the lands by an inquest (whence came the name of *appraising*), and to make over to the creditor lands to the value of the debt. A full history of appraisings will be found in the beginning of Mr Erskine's large *Institute* under this title; it being considered as unnecessary to enter into a deduction now no longer necessary, as by the act 1672 adjudications were substituted in their place.

2. That creditors may have access to affect the estate of their deceased debtor, though the heir should stand off from entering, it is made lawful (by 1540, c. 106.) for any creditor to charge the heir of his debtor to enter to his ancestor (year and day being past after the ancestor's death), within 40 days after the charge; and if the heir fails, the creditor may proceed to appraise his debtor's lands, as if the heir had been entered. Custom has so explained this statute, that the creditor may charge the heir, immediately after the death of his ancestor, provided that the summons which is to be founded on the charge be not raised till after the expiry both of the year and of the 40 days next ensuing the year, within which the heir is charged to enter.— But this statute relates only to such charges on which appraising is to be led against the ancestor's land; for in those which are to be barely the foundation of a common summons or process against the heir, action will be sustained if the year be elapsed from the ancestor's death before the execution of the summons, though the 40 days should not be also expired. Though the statute authorises such charges against majors only, practice has also extended it against minors, and the rule is extended to the case where the heir is the debtor. One must, in this matter, distinguish between a general and a special charge. A general charge serves only to fix the representation of the heir who is charged, so as to make the debt his which was formerly his ancestor's: but a special charge makes up for the want of a service (N^o clxxx. 25.); and states the heir, *fictioe juris*, in the right of the subjects to which he is charged to enter. Where, therefore, the heir is the debtor, a general charge for fixing the representation against him is unnecessary, since the only

Law of
Scotland.

concern of the creditor is, that his debtor make up titles to the ancestor's estate, which is done by a special charge: but where the deceased was the debtor, the creditor must first charge his heir to enter in general, that it may be known whether he is to represent the debtor: if he does not enter within forty days, the debt may be fixed against him by a decree of constitution; after which the heritable rights belonging to the ancestor will fall to be attached; in doing which, the diligence to be used is different, according to the state of the titles in the ancestor's person: for if the ancestor stood vested by infestment, the heir must be charged to enter heir in special; but if the ancestor had but a personal right to the subjects (i. e. not perfected by *seisin*), which would have been carried to the heir by a general service, then what is called a *general special charge* must be given to the heir. These charges either special or general special, as the circumstances of the case may require, are by the statute 1540 made equivalent to the heir's actual entry; and therefore an adjudication led after the *inducie* of the charges are elapsed, effectually carries to the creditor the subjects to which the heir was charged to enter.

3. Appraisings in course of time underwent many ^{Adjudica-} changes in their form and effect, till at length, by act ^{tions.} 1672, c. 19. adjudications were substituted in their place, and are carried on by way of action before the court of session. By that statute, such part of the debtor's lands is to be adjudged as is equivalent to the principal sum and interest of the debt, with the composition due to the superior and expences of infestment, and a fifth part more in respect the creditor is obliged to take land for his money. The debtor must deliver to the creditor a valid right of the lands to be adjudged, or transumps thereof, renounce the possession in his favour, and ratify the decree of adjudication: and law considers the rent of the houses as precisely commensurated to the interest of the debt; so that the adjudger lies under no obligation to account for the surplus rents. In this, which is called a *special adjudication*, the legal, or time within which the debtor may redeem, is declared to be five years; and the creditor attaining possession upon it can use no farther execution against the debtor, unless the lands be evicted from him.

4. Where the debtor does not produce a sufficient right to the lands, or is not willing to renounce the possession, and ratify the decree (which is the case that has most frequently happened), the statute makes it lawful for the creditor to adjudge all right belonging to the debtor in the same manner, and under the same reversion of ten years, as he could, by the former laws have appraised it. In this last kind, which is called a *general adjudication*, the creditor must limit his claim to the principal sum, interest, and penalty, without demanding a fifth part more. But no general adjudication can be insisted on, without libelling in the summons the other alternative of a special adjudication; for special adjudications are introduced by the statute in the place of appraisings; and it is only where the debtor refuses to comply with the terms thereof, that the creditor can lead a general adjudication.

5. Abbreviates are ordained to be made of all adjudications, which must be recorded within 60 days after the date of the decree. In every other respect,

Law of
Scotland.

general adjudications have the same effects that appraisings had: adjudgers in possession are accountable for the surplus rents; a citation in adjudications renders the subject litigious; superiors are obliged to enter adjudgers; the legal of adjudications does not expire during the debtor's minority, &c. Only it may be observed, that though appraisings could not proceed before the term of payment, yet where the debtor is *vergens ad inopiam*, the court *ex nobili officio* admit adjudication for the debt before it be payable. But this sort being founded solely in equity, subsists merely as a security, and cannot carry the property to the creditor by the lapse of any length of time.

Two kinds
of adjudica-
tions.

6. There are two kinds of adjudication, which took place at the same time with appraisings, and still obtain; viz. adjudications on a decree *cognitionis causa*, otherwise called *contra hereditatem jacentem*; and adjudications *in implement*. Where the debtor's apparent heir, who is charged to enter, formally renounces the succession, the creditor may obtain a decree *cognitionis causa*; in which, though the heir renouncing is cited for the sake of form, no sentence condemnatory can be pronounced against him, in respect of his renunciation; the only effect of it is to subject the *hereditas jacens* to the creditor's diligence.

7. Adjudications *contra hereditatem jacentem*, carry not only the lands themselves that belonged to the deceased, but the rents thereof fallen due since his death; for these, as an accessory to the estate belonging to the deceased, would have descended to the heir if he had entered, which rule is applied to all adjudications led on a special charge. This sort of adjudication is declared redeemable within seven years, by any co-adjudging creditor, either of the deceased debtor or of the heir renouncing. The heir himself, who renounces, cannot be restored against his renunciation, nor consequently redeem, if he be not a minor. But even a major may redeem indirectly, by granting a simulate bond to a confident person: the adjudication upon which, when conveyed to himself, is a good title to redeem all other adjudications against the lands belonging to his ancestor.

8. Adjudications *in implement* are deduced against those who have granted deeds without procuratory of resignation or precept of seisin, and refuse to divest themselves; to the end that the subject conveyed may be effectually vested in the grantee. These adjudications may be also directed against the heir of the grantee, upon a charge to enter. Here there is no place for a legal reversion; for, as the adjudication is led for completing the right of a special subject, it must carry that subject as irredeemably as if the right had been voluntarily completed.

9. All adjudications led within year and day of that one which has been made first effectual by seisin (where seisin is necessary), or exact diligence for obtaining seisin, are preferable *pari passu*. The year and day runs from the date of the adjudication, and not of the seisin or diligence, for obtaining it. After the days of that period, they are preferable according to their dates. All the co-adjudgers within the year are preferable *pari passu*, as if one adjudication had been led for all their debts. This makes the seisin or diligence on the first adjudication a common right to the rest, who must therefore refund to the owner of that dili-

Law of
Scotland.

gence his whole expence laid out in carrying on and completing it. And though that first adjudication should be redeemed, the diligence upon it still subsists as to the rest. This *pari passu* preference, however, does not destroy the legal preference of adjudications led on *debita fundi* (see N^o clxix. 15.); nor does it take place in adjudications in implement.

A new sort of adjudication has been lately introduced into the law of Scotland by the act of the 23d Geo. III. for rendering the payment of the creditors of insolvent debtors more equal and expeditious. Among the many other provisos in that statute for expediting the payment of creditors, and lessening the expence of diligence against the debtor's estate, it is enacted, That upon an order from the court of session or lord ordinary, the bankrupt shall be bound to execute a disposition or dispositions, making over to the trustee or trustees chosen by the creditors the whole estate real and personal, wherever situated; and in case of the bankrupt's refusal, or of the order not being complied with from any other reason, the court or the lord ordinary shall, upon the application of the trustee, issue an act or decree, adjudging the property of the whole sequestrated estate to be in the trustee for behoof of the creditors; which shall have the same effect as if the bankrupt had executed the conveyance: and by a subsequent clause in the statute, it is enacted, that this disposition of the heritable estate, together with the order of the court or lord ordinary on which it proceeds, or failing thereof, the decree of adjudication of the court or the lord ordinary, shall within 60 days of the date thereof be registered in the register of abbreviates of adjudications; and shall have the effect to entitle the trustee for behoof of the whole creditors to rank in the same manner upon the heritable estate as if it had been a proper decree of adjudication, obtained at the date of the interlocutor awarding the sequestration; accumulating the whole debts, principal and interest, as at that period, and adjudging for security or payment thereof, so as to rank *pari passu* with any prior effectual adjudication, and within year and day of the same. By this act also, in order to lessen the number of adjudications, and consequently the expence upon a bankrupt estate, it is declared, that intimation shall be made of the first adjudication which is called, so as all creditors who are in readiness may, within such a reasonable time as may be allowed, not exceeding twenty sederunt days, produce their grounds of debt, and be conjoined in the decree to follow on said first adjudication. At the same time it may be proper to mention, that this act is only temporary; and after eight years experience, will probably suffer very considerable alterations, when it shall become necessary to digest another bankrupt law for Scotland.

10. Before treating of judicial sales of bankrupts' Sequestrated estates, the nature of *sequestration* may be shortly explained, which is a diligence that generally ushers in actions of sale. Sequestration of lands is a judicial act of the court of session, whereby the management of an estate is put into the hands of a factor or steward named by the court, who gives security, and is to be accountable for the rents to all having interest. This diligence is competent, either where the right of the lands is doubtful, if it be applied for before either of the competitors has attained possession, or where the estate is heavily

Law of
Scotland.

heavily charged with debts: but, as it is an unfavourable diligence, it is not admitted, unless that measure shall appear necessary for the security of creditors. Subjects not brought before the court by the diligence of creditors, cannot fall under sequestration; for it is the competition of creditors which alone founds the jurisdiction of the court to take the disputed subject into their possession.

11. The court of session who decrees the sequestration has the nomination of the factor, in which they are directed by the recommendation of the creditors. A factor appointed by the session, though the proprietor had not been infeft in the lands, has a power to remove tenants. Judicial factors must, within six months after extracting their factory, make up a rental of the estate, and a list of the arrears due by tenants, to be put into the hands of the clerk of the process, as a charge against themselves, and a note of such alterations in the rental as may afterwards happen: and must also deliver to the clerk annually a scheme of their accounts, charge and discharge, under heavy penalties. They are, by the nature of their office, bound to the same degree of diligence that a prudent man adhibits in his own affairs; they are accountable for the interest of the rents, which they either have, or by diligence might have, recovered, from a year after their falling due. As it is much in the power of those factors to take advantage of the necessities of creditors, by purchasing their debts at an undervalue, all such purchases made either by the factor himself, or to his behoof, are declared equivalent to an acquittance or extinction of the debt. No factor can warrantably pay to any creditor, without an order of the court of session; for he is, by the tenor of his commission, directed to pay the rents to those who shall be found to have the best right to them. Judicial factors are entitled to a salary, which is generally stated at five per cent. of their intromissions: but it is seldom ascertained till their office expires, or till their accounting; that the court may modify a greater or smaller salary, or none, in proportion to the factor's integrity and diligence. Many cases occur, where the court of session, without sequestration, name a factor to preserve the rents from perishing; e. g. where an heir is deliberating whether to enter, where a minor is without tutors, where a succession opens to a person residing abroad; in all which cases the factor is subjected to the rules laid down in act of sederunt, Feb. 13. 1730.

As to sequestrations under the bankrupt act before recited, the reader must necessarily be referred to the act itself; for being only temporary, as before mentioned, it seems quite inconsistent with the plan of this work to enter into a minute detail of the different regulations thereby laid down in cases of sequestration under it.

12. The word *bankrupt* is sometimes applied to persons whose funds are not sufficient for their debts; and sometimes, not to the debtor, but to his estate. The court of session are empowered, at the suit of any real creditor, to try the value of a bankrupt's estate, and sell it for the payment of his debts.

13. No process of sale, at the suit of a creditor, can proceed without a proof of the debtor's bankruptcy, or at least that his lands are so charged with debts that no prudent persons will buy from him; and therefore

the summons of sale must comprehend the debtor's whole estate. The debtor, or his apparent heir, and all the real creditors in possession, must be made parties to the suit; but it is sufficient if the other creditors be called by an edictal citation. The summons of sale contains a conclusion of ranking, or preference of the bankrupt's creditors. In this ranking, first and second terms are assigned to the whole creditors for exhibiting in court (or producing) their rights and diligences; and the decree of certification proceeding thereupon, against the writings not produced, has the same effect in favour of the creditors who have produced their rights, as if that decree had proceeded upon an action of reduction improbatum. See N^o clxxxiii. 3.

By the late bankrupt act, the sale may precede the ranking of the creditors, unless the court, upon application of the creditors, or any of them, shall find sufficient cause to delay the sale. The irredeemable property of the lands is adjudged by the court to the highest offerer at the sale. The creditors receiving payment must grant to the purchaser absolute warrandice, to the extent of the sum received by them; and the lands purchased are declared disburdened of all debts or deeds of the bankrupt or his ancestors, either on payment of the price by the purchaser to the creditors according to their preference, or on consignment of it. By the act 1695, purchasers were bound to consign the price in the hands of the magistrates of Edinburgh; but by § 5. of the above act, they may consign it in the Royal Bank or Bank of Scotland. The only remedy provided to such creditors as judge themselves hurt by the sale or division of the price, even though they should be minors, is an action for recovering their share of the price against the creditors who have received it.

14. The expence of these processes is disbursed by the factor out of the rents in his hands; by which the whole burden of such expence falls upon the posterior creditors.

15. Apparent heirs are entitled to bring actions of sale of the estates belonging to their ancestors, whether bankrupt or not; the expence of which ought to fall upon the pursuer, if there is any excrescence of the price, after payment of the creditors: but if there be no excrescence, the creditors, who alone are gainers by the sale, ought to bear the charge of it.

16. As processes of ranking and sale are designed for the common interest of all the creditors, no diligence carried on or completed during their pendency ought to give any preference in the competition; *pendente lite, nihil innovandum*.

17. It is a rule in all real diligences, that where a creditor is preferable on several different subjects, he cannot use his preference arbitrarily, by favouring one creditor more than another; but must allocate his universal or catholic debt proportionally against all the subjects or parties whom it affects. If it is material to such creditor to draw his whole payment out of any one fund, he may apply his debt so as may best secure himself: but that inequality will be rectified as to the posterior creditors, who had likewise by their rights and diligences, affected the subjects out of which he drew his payment, by obliging him to assign in their favour his right upon the separate subjects which he did not use in the ranking; by which they may recur against these separate subjects for the shares which the debt

Law of
Scotland.Ranking of
creditors.Sale of
bankrupt
estates.

Law of
Scotland.

debt preferred might have drawn out of them. As the obligation to assign is founded merely in equity, the catholic creditor cannot be compelled to it, if this assigning shall weaken the preference of any separate debt vested in himself, affecting the special subject sought to be assigned. But if a creditor upon a special subject shall acquire from another a catholic right, or a catholic creditor shall purchase a debt affecting a special subject, with a view of creating to the special debt a higher degree of preference than was naturally due to it, by an arbitrary application of the catholic debt, equity cannot protect him from assigning in favour of the creditor excluded by such application, especially if, prior to the purchase, the subject has become litigious by the process of ranking.

II. MOVEABLE RIGHTS.

THE law of heritable rights being explained, *Moveable* Rights fall next to be considered; the doctrine of which depends chiefly on the nature of obligations.

SECT. XIII. *Of Obligations and Contracts in General.*

clxxiii.
Obligation.

An obligation is a legal tie, by which one is bound to pay or perform something to another. Every obligation on the person obliged implies an opposite right in the creditor, so that what is a burden in regard to the one is right with respect to the other; and all rights founded on obligation are called *personal*. There is this essential difference between a real and a personal right, that a *jus in re*, whether of property, or of an inferior kind, as servitude, entitles the person vested with it to possess the subject as his own; or if he is not in possession, to demand it from the possessors: whereas the creditor in a personal right has only *jus ad rem*, or a right to compel the debtor to fulfil his obligation; without any right in the subject itself, which the debtor is bound to transfer to him. One cannot oblige himself, but by a present act of the will. A bare resolution, therefore, or purpose, to be obliged, is alterable at pleasure.

Division of
obligations.

2. Obligations are either, (1.) Merely natural, where one person is bound to another by the law of nature, but cannot be compelled by any civil action to the performance. Thus, though deeds granted by a minor having curators, without their consent, are null, yet the minor is naturally obliged to perform such deeds; and parents are naturally obliged to provide their children in reasonable patrimonies. Natural obligations entitle the creditor to retain what he has got in virtue thereof, without being subjected to restore it. (2.) Obligations are merely civil, which may be sued upon by an action, but are elided by an exception in equity; this is the case of obligations granted through force or fear, &c. (3.) Proper or full obligations, are those which are supported both by equity and the civil sanction.

3. Obligations may also be divided into, (1.) Pure, to which neither day nor condition is adjoined. These may be exacted immediately. (2.) Obligations (*ex die*), which have a day adjoined to their performance. In these, *dies statim cedit, sed non venit*; a proper debt arises from the date of the obligation, because it is certain that the day will exist; but the execution is sus-

pending till the lapse of that day. (3.) Conditional obligations; in which there is no proper debt (*dies non cedit*) till the condition be purified, because it is possible the condition may never exist; and which therefore are said to create only the hope of a debt; but the granter, even of these, has no right to refuse. An obligation, to which a day is adjoined that possibly may never exist, implies a condition; *dies incertus pro conditione habetur*. Thus, in the case of a provision to a child, payable when he attains to the age of fourteen, if the child dies before that age, the provision falls.

4. Obligations, when considered with regard to their cause, were divided by the Romans into those arising from contract, quasi contract, delict, and quasi delict: but there are certain obligations, even full and proper ones, which cannot be derived from any of these sources, and to which Lord Stair gives the name of *obediential*. Such as the obligation on parents to aliment or maintain their children; which arises singly from the relation of parent and child, and may be enforced by the civil magistrate. Under parents are comprehended, the mother, grandfather, and grandmother, in their proper order. This obligation on parents extends to the providing of their issue in all the necessities of life, and giving them suitable education. It ceases, when the children can earn a livelihood by their own industry; but the obligation on parents to maintain their indigent children, and reciprocally on children to maintain their indigent parents, is perpetual. This obligation is, on the father's death, transferred to the eldest son, the heir of the family; who, as representing the father, must aliment his younger brothers and sisters: the brothers are only entitled to alimony till their age of twenty-one, after which they are presumed able to do for themselves; but the obligation to maintain the sisters continues till their marriage. In persons of lower rank, the obligation to aliment the sisters ceases after they are capable of subsisting by any service or employment.

5. All obligations, arising from the natural duty of restitution, fall under this class; thus, things given upon the view of a certain event, must be restored, if that event does not afterwards exist: thus also, things given *ob turpem causam*, where the turpitude is in the receiver and not in the giver, must be restored. And on the same principle, one upon whose ground a house is built or repaired by another, is obliged, without any covenant, to restore the expence laid out upon it, in so far as it has been profitable to him.

6. A contract is the voluntary agreement of two or more persons, whereby something is to be given or performed upon one part, for a valuable consideration, either present or future, on the other part. Consent, which is implied in agreement, is excluded, (1.) By error in the essentials of the contract: for, in such case, the party does not properly contract, but errs or is deceived; and this may be also applied to contracts which take their rise from fraud or imposition. (2.) Consent is excluded by such a degree of restraint upon any of the contracting parties, as extorts the agreement; for where violence or threatening are used against a person, his will has really no part in the contract.

7. Loan, or *mutuum*, is that contract which obliges a person, who has borrowed any fungible subject from another, to restore to him as much of the same kind,

Law of
Scotland.

and

Law of Scotland.

Law of Scotland.

and of equal goodness. Whatever receives its estimation in number, weight, or measure, is a fungible; as corn, wine, current coin, &c. The only proper subjects of this contract are things which cannot be used without either their extinction or alienation: hence the property of the thing lent is necessarily transferred by delivery to the borrower, who consequently must run all the hazards either of its deterioration or its perishing, according to the rule, *res perit suo domino*. Where the borrower neglects to restore at the time and place agreed on, the estimation of the thing lent must be made according to its price at that time and in that place; because it would have been worth so much to the lender, if the obligation had been duly performed. If there is no place nor time stipulated for, the value is to be stated according to the price that the commodity gave when and where it was demanded. In the loan of money, the value put on it by public authority, and not its intrinsic worth, is to be considered. This contract is one of those called by the Romans *unilateral*, being obligatory only on one part; for the lender is subjected to no obligation: the only action therefore that it produces, is pointed against the borrower, that he may restore as much in quantity and quality as he borrowed, together with the damage the lender may have suffered through default of due performance.

Commo-
date.

8. Commodate is a species of loan, gratuitous on the part of the lender, where the thing lent may be used, without either its perishing or its alienation. Hence, in this sort of loan, the property continues with the lender; the only right the borrower acquires in the subject is its use, after which he must restore the individual thing that he borrowed: consequently, if the subject perishes, it perishes to the lender, unless it has perished by the borrower's fault. What degree of fault or negligence makes either of the contracting parties liable to the other in damages, is comprehended under the following rules. Where the contract gives a mutual benefit to both parties, each contractor is bound to exhibit a middle sort of diligence, such as a man of ordinary prudence uses in his affairs. Where only one of the parties has benefit by the contract, that party must use exact diligence; and the other who has no advantage by it, is accountable only for dole, or for gross omissions, which the law construes to be dole. Where one employs less care on the subject of any contract which implies an exuberant trust, than he is known to employ in his own affairs, it is considered as dole.

9. Hence it will appear that this is a *bilateral* contract; the borrower must be exactly careful of the thing lent, and restore it at the time fixed by the contract, or after that use is made of it for which it was lent: if he puts it to any other use, or neglects to restore it at the time covenanted, and if the thing perishes thereafter, even by mere accident, he is bound to pay the value. On the other part the lender is obliged to restore to the borrower such of the expences disbursed by him on that subject as arose from any uncommon accident, but not those that naturally attend the use of it. Where a thing is lent gratuitously, without specifying any time of redelivery, it constitutes the contract of *precarium*, which is revocable at the lender's pleasure, and, being entered into from a personal regard to the borrower, ceases by his death,

10. Depositum is also a *bilateral* contract, by which one who has the custody of a thing committed to him (the depositary) is obliged to restore it to the depositor. If a reward is bargained for by the depositary for his care, it resolves into the contract of location. As this contract is gratuitous, the depositary is only answerable for the consequences of gross neglect; but after the deposit is redemanded, he is accountable even for casual misfortunes. He is entitled to a full indemnification for the losses he has sustained by the contract, and to the recovery of all sums expended by him on the subject.

Deposita-
tion.

11. An obligation arises without formal pactum, barely by a traveller's entering into an inn, ship, or stable, and there depositing his goods, or putting up his horses; whereby the innkeeper, shipmaster, or stableman, is accountable, not only for his own facts and those of his servants (which is an obligation implied in the very exercise of these employments), but of the other guests or passengers; and, indeed, in every case, unless where the goods have been lost *damno fatali*, or carried off by pirates or house-breakers. Not only the masters of ships, but their employers, are liable each of them for the share that he has in the ship; but by the present custom of trading nations, the goods brought into a ship must have been delivered to the master or mate, or entered into the ship books. Carriers fall within the intendment of this law; and practice has extended it to vintners within borough. The extent of the damage sustained by the party may be proved by his own oath *in litem*.

Nautæ,
cauponæ,
stabularii.

12. Sequestration, whether voluntarily consented to by the parties, or authorized by the judge, is a kind of depositum; but as to the office of sequestrator, to whose care the subject in dispute is committed, is not considered as gratuitous, he cannot throw it up at pleasure, as a common depositary may do; and he is liable in the middle degree of diligence. Consignation of money is also a depositum. It may be made, either where the debt is called in question by the debtor, as in suspensions; or where the creditor refuses to receive his money, as in wadsets, &c. The risk of the consigned money lies on the consigner, where he ought to have made payment, and not consignation; or has consigned only a part; or has chosen for consignatory, a person neither named by the parties nor of good credit. The charger, or other creditor, runs the risk, if he has charged for sums not due, or has without good reason refused payment, by which refusal the consignation became necessary. It is the office of a consignatory, to keep the money in safe custody till it be called for: if therefore he puts it out at interest, he must run the hazard of the debtor's insolvency; but for the same reason, though he should draw interest for it, he is liable in none to the consigner.

Consigna-
tion.

13. Pledge, when opposed to wadset, is a contract, by which a debtor puts into the hands of his creditor a special moveable subject in security of the debt, to be redelivered on payment. Where a security is established by law to the creditor, upon a subject which continues in the debtor's possession, it has the special name of an hypothec. Tradesmen and ship carpenters have an hypothec on the house or ship repaired, for the materials and other charges of reparation; but not for the expence of building a new ship. This, however,

Hypothec.

must

Law of
Scotland.

must not now be understood to apply universally: for the court of session, in different cases which lately occurred before them, and founding upon the law and practice of England in similar cases, have found, that no hypothec exists for the expence of repairs done in a home port. Owners of ships have an hypothec on the cargo for the freight; heritors on the fruits of the ground; and landlords on the *inveſta et illata*, for their rents. Writers also, and agents, have a right of hypothec, or more properly of retention, in their constituent's writings, for their claim of pains and disbursements. A creditor cannot, for his own payment, sell the subject impignorated, without applying to the judge ordinary for a warrant to put it up to public sale or roup; and to this application the debtor ought to be made a party.

SECT. XIV. *Of Obligations by Word or Writ.*

clxxiv.
Verbal
agreement.

1. The appellation of *verbal* may be applied to all obligations to the constitution of which writing is not essential, which includes both real and consensual contracts; but as these are explained under separate titles, obligations *by word*, in the sense of this rubric, must be restricted, either to promises, or to such verbal agreements as have no special name to distinguish them. Agreement implies the intervention of two different parties, who come under mutual obligations to one another. Where nothing is to be given or performed but on one part, it is properly called a *promise*; which, as it is gratuitous, does not require the acceptance of him to whom the promise is made. An offer, which must be distinguished from a promise, implies something to be done by the other party; and consequently is not binding on the offerer, till it be accepted, with its limitations or conditions, by him to whom the offer is made; after which, it becomes a proper agreement.

Writing.

2. Writing must necessarily intervene in all obligations and bargains concerning heritable subjects, though they should be only temporary; as tacks, which, when they are verbal, last but for one year. In these, no verbal agreement is binding, though it should be referred to the oath of the party; for, till writing is adhibited, law gives both parties a right to reſile, as from an unfinished bargain; which is called *locus pœnitentiæ*. If, upon a verbal bargain of lands, part of the price shall be paid by him who was to purchase, the *interventus rei*, the actual payment of money, creates a valid obligation, and gives a beginning to the contract of sale: and, in general, wherever matters are no longer entire, the right to reſile seems to be excluded. An agreement, whereby a real right is passed from, or restricted, called *pactum liberatorium*, may be perfected verbally; for freedom is favourable, and the purpose of such agreement is rather to dissolve than to create an obligation. Writing is also essential to bargains made under condition that they shall be reduced into writing; for in such cases, it is *pars contractus*, that, till writing be adhibited, both parties shall have liberty to withdraw. In the same manner, verbal or nuncupative testaments are rejected by our law; but verbal legacies are sustained, where they do not exceed 100l. Scots.

3. Anciently, when writing was little used, deeds

2

were executed by the party appending his seal to them in presence of witnesses. For preventing frauds that might happen by appending seals to false deeds, the subscription also of the granter was afterwards required, and, if he could not write, that of a notary. As it might be of dangerous consequences to give full force to the subscription of the parties by initials, which is more easily counterfeited; our practice, in order to sustain such subscription, seems to require a proof, not only that the granter used to subscribe in that way, but that *de facto* he had subscribed the deed in question; at least, such proof is required, if the instrumentary witnesses be still alive.

Law of
Scotland.

Solemnities
of written
obligations.

4. As a further check, it was afterwards provided, that all writings carrying any heritable right, and other deeds of importance, be subscribed by the principal parties, if they can subscribe; otherwise, by two notaries, before four witnesses specially designed. The subsequent practice extended this requisite of the designation of the witnesses to the case where the parties themselves subscribed. Custom has construed obligations for sums exceeding 100l. Scots, to be obligations of importance. In a divisible obligation, ex. gr. for a sum of money, though exceeding 100l. the subscription of one notary is sufficient, if the creditor restricts his claim to 100l: But in an obligation indivisible, e. g. for the performance of a fact, if it be not subscribed in terms of the statute, it is void. When notaries thus attest a deed, the attestation or docquest must specially express that the granter gave them a mandate to sign; nor is it sufficient that this be mentioned in the body of the writing.

5. In every deed, the name of him who writes it, with his dwelling place, or other mark of distinction, must be inserted. The witnesses must both subscribe as witnesses, and their names and designations be inserted in the body of the deed. And all subscribing witnesses must know the granter, and either see him subscribe, or hear him acknowledge his subscription; otherwise they are declared punishable as accessory to forgery. Deeds, decrees, and other securities, consisting of more than one sheet, may be written by way of book, in place of the former custom of pasting together the several sheets, and signing the joinings on the margin; provided each page be signed by the granter, and marked by its number, and the testing clause express the number of pages.

6. Instruments of feisin are valid, if subscribed by one notary, before a reasonable number of witnesses; which is extended by practice to instruments of resignation. Two witnesses are deemed a reasonable number to every deed that can be executed by one notary. It is not necessary that the witnesses to a notarial instrument or execution see the notary or messenger sign; for they are called as witnesses to the transaction which is attested, and not to the subscription of the person attesting.

Solemnities
of notarial
instruments
&c.

7. A new requisite has been added to certain deeds since the Union, for the benefit of the revenue: They must be executed on stamped paper, or parchment, paying a certain duty to the crown. These duties must also be paid before wrote upon, under a penalty; but they are so numerous and complex, that it would be tedious, even if it fell under our plan, to enter into an enumeration of them. They will be found at length,

length.

Law of
Scotland.Law of
Scotland.

length in Swinton's Abridgement, *vide Stamps*, to which the reader is referred. Certain judicial deeds, such as bail bonds, bonds of cautionry, in suspensions, &c. are exempted, and do not require stamps, as will be seen from the several acts referred to by the compiler of the above abridgement of the statutes.

Blank
bonds.

8. The granter's name and designation are essential, not properly as solemnities, but because no writing can have effect without them. Bonds were, by our ancient practice, frequently executed without filling up the creditor's name; and they passed from hand to hand, like notes payable to the bearer: But as there was no method for the creditor of a person possessed of these to secure them for his payment, all writings taken blank in the creditor's name are declared null, as covers to fraud; with the exception of indorsations of bills of exchange.

Privileged
deeds.

9. Certain privileged writings do not require the ordinary solemnities. 1. Holograph deeds (written by the granter himself) are effectual without witnesses. The date of no holograph writing, except a bill of exchange (see next parag.), can be proved by the granter's own assertion, in prejudice either of his heir or his creditors, but must be supported by other adminicles. 2. Testaments, if executed where men of skill and business cannot be had, are valid though they should not be quite formal: and let the subject of a testament be ever so valuable, one notary signing for the testator, before two witnesses, is in practice sufficient. Clergymen were frequently notaries before the Reformation; and, though they were afterwards prohibited to act as notaries, the case of testaments is excepted; so that these are supported by the attestation of one minister, with two witnesses. 3. Discharges to tenants are sustained without witnesses, from their presumed rusticity, or ignorance in business. 4. Missive letters *in re mercatoria*, commissions, and fitted accounts in the course of trade, and bills of exchange, though they are not holograph, are, from the favour of commerce, sustained without the ordinary solemnities.

Bills of ex-
change.

10. A bill of exchange is an obligation in the form of a mandate, whereby the drawer or mandate desires him to whom it is directed, to pay a certain sum, at the day and place therein mentioned, to a third party. Bills of exchange are drawn by a person in one country to his correspondent in another; and they have that name, because it is the exchange, or the value of money in one place compared with its value in another, that generally determines the precise extent of the sum contained in the draught. The creditor in the bill is sometimes called the possessor, or *porteur*. As parties to bills are of different countries, questions concerning them ought to be determined by the received custom of trading nations, unless where special statute interposes. For this reason, bills of exchange, though their form admits not of witnesses, yet prove their own dates, in questions either with the heir or creditors of the debtor; but this doctrine is not extended to inland bills payable to the drawer himself.

Their so-
lemnities
and obli-
gations.

11. A bill is valid, without the designation either of the drawer or of the person to whom it is made payable: It is enough, that the drawer's subscription appears to be truly his; and one's being possessor of a bill marks him out to be the creditor if he bears the name given in the bill to the creditor: Nay, though

the person drawn on should not be designed, his acceptance presumes that it was he whom the drawer had in his eye. Bills drawn blank, in the creditor's name, fall under the statutory nullity; for though indorsations of bills are excepted from it, bills themselves are not. Not only the person drawn upon must sign his acceptance, but the drawer must sign his draught, before any obligation can be formed against the acceptor: Yet it is sufficient in practice, that the drawer signs before the bill be produced in judgement; though it should be after the death both of the creditor and acceptor. A creditor in a bill may transmit it to another by indorsation, though the bill should not bear *to his order*; by the same rule that other rights are transmissible by assignation, though they do not bear *to assignees*.

12. The drawer, by signing his draught, becomes liable for the value to the creditor in the bill, in case the person drawn upon either does not accept, or after acceptance does not pay; for he is presumed to have received value from the creditor at giving him the draught, though it should not bear *for value received*: But, if the drawer was debtor to the creditor in the bill before the draught, the bill is presumed to be given towards payment of the debt, unless it expressly bears *for value*. The person drawn upon, if he refuse to accept, while he has the drawer's money in his hands, is liable to him in damages. As a bill presumes value from the creditor, indorsation presumes value from the indorsee; who therefore, if he cannot obtain payment from the acceptor, has recourse against the indorser, unless the bill be indorsed in these words, *without recourse*.

13. Payment of a bill, by the acceptor, acquits both the drawer and him at the hands of the creditor: but it entitles the acceptor, if he was not the drawer's debtor, to an action of recourse against him; and, if he was, to a ground of compensation. Where the bill does not bear value in the hands of the person drawn upon, it is presumed that he is not the drawer's debtor, and consequently he has recourse against the drawer, *ex mandato*.

14. Bills, when indorsed, are considered as so many bags of money delivered to the onerous indorsee; which therefore carry right to the contents, free of all burdens that do not appear on the bills themselves. Hence, a receipt or discharge, by the original creditor, if granted on a separate paper, does not exempt the acceptor from second payment to the indorsee; hence, also, no ground of compensation competent to the acceptor against the original creditor can be pleaded against the indorsee: but, if the debtor shall prove, by the oath of the indorsee, either that the bill is indorsed to him for the indorser's own behoof, or that he paid not the full value for the indorsation, the indorsee is justly considered as but a name; and therefore all exceptions, receivable against the original creditor, will be sustained against him. A protested bill, after registration, cannot be transmitted by indorsation, but by assignation.

15. Bills must be negotiated by the possessor, against the person drawn upon, within a precise time, in order to preserve recourse against the drawer. In bills payable so many days after sight, the creditor has a discretionary power of fixing the payment somewhat sooner or later, as his occasions shall require. Bills payable on a day certain, need not be presented for acceptance till the day of payment, because that day can

Law of
Scotland.

neither be prolonged nor shortened by the time of acceptance. For the same reason, the acceptance of bills, payable on a precise day, need not be dated: but, where a bill is drawn payable so many days after sight, it must; because there the term of payment depends on the date of acceptance.

Days of
grace.

16. Though bills are, in strict law, due the very day on which they are made payable, and may therefore be protested on the day thereafter; yet there are three days immediately following the day of payment, called *days of grace*, within any of which the creditor may protest the bill; but if he delay protesting till the day after the last day of grace, he loses his recourse. Where a bill is protested, either from not acceptance or not payment, the dishonour must be notified to the drawer or indorser, within three posts at farthest. This strictness of negotiation is confined to such bills as may be protested by the possessor upon the third day of grace: where, therefore, bills are indorsed after the days of grace are expired, the indorsee is left more at liberty, and does not lose his recourse, though he should not take a formal protest for not payment, if, within a reasonable time, he shall give the indorser notice of the acceptor's refusing to pay. Not only does the possessor, who neglects strict negotiation, lose his recourse against the drawer, where the person drawn upon becomes afterwards bankrupt; but though he should continue solvent: for he may in that case recover payment from the debtor, and so is not to be indulged in an unnecessary process against the drawer, which he has tacitly renounced by his negligence. Recourse is preserved against the drawer, though the bill should not be duly negotiated, if the person drawn upon was not his debtor; for there the drawer can qualify no prejudice by the neglect of diligence, and he ought not to have drawn on one who owed him nothing.

Privileges
of bills by
statute.

17. The privileges superadded to bills by statute are, that though, by their form, they can have no clause of registration, yet, if duly protested, they are registrable within six months after their date in case of not acceptance, or in six months after the term of payment in the case of not payment; which registration is made the foundation of summary diligence, either against the drawer or indorser in the case of not acceptance, or against the acceptor in the case of not payment. This is extended to inland bills, i. e. bills both drawn and made payable in Scotland. After acceptance, summary diligence lies against no other than the acceptor; the drawer and indorser must be pursued by an ordinary action. It is only the principal sum in the bill, and interest, that can be charged for summarily: the exchange, when it is not included in the draught, the re-exchange incurred by suffering the bill to be protested and returned, and the expence of diligence, must all be recovered by an ordinary action; because these are not liquid debts, and so must be previously constituted.

Inland bills.

Certain
bills not
privileged.

18. Bills, when drawn payable at any considerable distance of time after date, are denied the privileges of bills: for bills are intended for currency, and not to lie as a security in the creditor's hands. Bills are not valid which appear *ex facie* to be donations. No extrinsic stipulation ought to be contained in a bill which deviates from the proper nature of bills: hence, a bill to which a penalty is adjoined, or with a clause of interest from the date is, null. Inland precepts drawn,

not for money the medium of trade, but for fungibles, are null, as wanting writer's name and witnesses. It is not an agreed point whether promissory notes, without writer and witnesses, unless holograph, are probative.

Law of
Scotland.

19. So stood the law of Scotland, in regard to bills and promissory notes, previous to the statute 12 Geo. III. By that statute, however, the law of Scotland has undergone very material alterations. They are declared to have the same privileges, and to prescribe in six years after the term of payment. Bank notes and post bills are excepted from this prescription: nor does it run during the years of the creditor's minority. Inland bills and promissory notes must be protested within the days of grace, to secure recourse; and the dishonour notified within 14 days after the protest. Summary diligence may pass not only against the acceptor, but likewise against the drawer, and all the indorsees jointly and severally; and at the instance of any indorsee, though the bill was not protested in his name, upon his producing a receipt or letter from the protesting indorsee. This act was in force only for seven years after 15th May 1772, and to the end of the then next session of parliament. But as it was found by experience that it had been of great advantage to Scotland, it was made perpetual by the late act 23 Geo. III. so that it has now become a permanent part of the law of Scotland.

Later alter-
ations as to
bills and
promissory
notes.

20. As for the solemnities essential to deeds signed in a foreign country, where they come to receive execution in Scotland, it is a general rule, that no law can be of authority beyond the dominions of the lawgiver. Hence, in strictness, no deed, though perfected according to the law of the place where it is signed, can have effect in another country where different solemnities are required to a deed of that sort. But this rigour is softened *ex comitate*, by the common consent of nations, that all personal obligations granted according to the law of that country where they are signed, are effectual everywhere; which obtains in obligations to convey heritage. Conveyances themselves, however, of heritable subjects must be perfected according to the law of the country where the heritage lies, and from which it cannot be removed.

Solemnities
of deeds
signed in a
foreign
country.

21. A writing, while the granter keeps it under his own power or his doer's, has no force; it becomes obligatory, only after it is delivered to the grantee himself, or found in the hands of a third person. As to which last, the following rules are observed. A deed found in the hands of one who is doer both for the granter and grantee, is presumed to have been put in his hands as doer for the grantee. The presumption is also for delivery, if the deed appears in the hands of one who is a stranger to both. Where a deed is deposited in the hands of a third person, the terms of depositation may be proved by the oath of the depositary, unless where they are reduced into writing. A deed appearing in the custody of the grantee himself is considered as his absolute right; inasmuch that the granter is not allowed to prove that it was granted in trust, otherwise than by a written declaration signed by the trustee, or by his oath.

Delivery
and deposit-
ation of
deeds.

22. The following deeds are effectual without delivery. (1.) Writings containing a clause dispensing with the delivery; these are of the nature of revocable deeds, where the death of the granter is equivalent to delivery,

What deeds
effectual
without de-
livery.

Law of
Scotland.Law of
Scotland.

delivery, because after death there can be no revocation. (2.) Deeds in favour of children, even natural ones; for parents are the proper custodians or keepers of their children's writings. From a similar reason, postnuptial settlements by the husband to the wife need no delivery. (3.) Rights which are not to take effect till the grantor's death, or even where he reserves an interest to himself during his life; for it is presumed he holds the custody of these, merely to secure to himself such reserved interest. (4.) Deeds which the grantor lay under an antecedent natural obligation to execute, *e. g.* rights granted to a cautioner for his relief. (5.) Mutual obligations, *e. g.* contracts for every such deed, the moment it is executed, is a common evident to all the parties contractors. Lastly, The publication of a writing by registration is equivalent to delivery.

SECT. XV. *Of Obligations and Contracts arising from Consent, and of accessory Obligations.*

elxxv.
Consensual
contracts.

1. Contracts consensual (*i. e.* which might, by the Roman law, be perfected by the sole consent, without the intervention either of things or of writing,) are *sale, permutation, location, society, and mandate.* Where the subject of any of these contracts is heritable, writing is necessary.

Sale.

2. *Sale* is a contract, by which one becomes obliged to give something to another, in consideration of a certain price in current money to be paid for it. Things consisting merely in hope, may be the subject of this contract, as the draught of a net. Commodities, where their importation or use is absolutely prohibited, cannot be the subject of sale; and even in run goods, no action lies against the vender for the delivery, if the buyer knew the goods were run. So far indeed has this principle been carried, and so anxious have our judges been to put a stop to the practice of smuggling, that in different cases which have occurred of action being brought at the distance of a foreign merchant against persons resident in Scotland for payment of goods which had been smuggled, a distinction has been made betwixt the case of the foreign merchant being or not being a native of Scotland. Where the foreign merchant was a native of Scotland, it has been presumed that he was acquainted with the revenue law of the country, and that he was in a manner *versans in re illicita*; and therefore action has been denied for recovery of the price of such goods: but where, on the other hand, the foreign merchant was not a native of Scotland, nowise amenable to, and even presumed ignorant of its laws, he has with justice been allowed action for the price of such goods, unless it were shown that he had in fact been *particeps criminis*, by aiding the smuggle. The same principle has regulated the decisions in the courts of England in cases of a similar nature, which have within these few years come before them.

3. Though this contract may be perfected before delivery of the subject, the property remains till then with the vender: (See N^o clxii. 9.) Yet till delivery, the hazard of its deterioration falls on the purchaser, because he has all the profits arising from it after the sale. On the other hand, the subject itself perishes to the vender: (1.) If it should perish through his fault, or after his undue delay to deliver it. (2.) If a subject is sold as a fungible, and not as an individual, or *corpus*, *e. g.* a

quantity of farm-wheat, sold without distinguishing the parcel to be delivered from the rest of the farm. (3.) The *periculum* lies on the vender till delivery, if he be obliged by a special article in the contract to deliver the subject at a certain place.

4. *Location* is that contract where a hire is stipulated for the use of things, or for the service of persons. He who lets his work or the use of his property to hire, is the locator or lessor; and the other, the conductor or lessee. In the location of things, the lessor is obliged to deliver the subject, fitted to the use it was let for; and the lessee must preserve it carefully, put it to no other use, and, after that is over, restore it. Where a workman or artificer lets his labour, and if the work is either not performed according to contract, or if it be insufficient, even from mere unskillfulness, he is liable to his employer in damages, for he ought not, as an artificer, to have undertaken a work to which he was not equal. A servant hired for a certain term is entitled to his full wages, though from sickness or other accident he should be disabled for a part of his time: but if he die before the term, his wages are only due for the time he actually served. If a master dies, or without good reason turns off, before the term, a servant who eats in his house, the servant is entitled to his full wages, and to his maintenance till that term; and, on the other part, a servant who without ground deserts his service, forfeits his wages and maintenance, and is liable to his master in damages.

5. *Society or copartnership* is a contract, whereby the several partners agree concerning the communication of loss and gain arising from the subject of the contract. It is formed by the reciprocal choice which the partners make one of another; and so is not constituted in the case of co-heirs, or of several legatees in the same subject. A copartnership may be so constituted, that one of the partners shall, either from his sole right of property in the subject, or from his superior skill, be entitled to a certain share of the profits, without being subjected to any part of the loss; but a society, where one partner is to bear a certain proportion of loss, without being entitled to any share of the profits, called by the Romans *societas leonina*, is justly reprobated. All the partners are entitled to shares of profit and loss proportioned to their several stocks where it is not otherwise covenanted.

6. As partners are united, from a *delectus personæ*, in a kind of brotherhood, no partner can, without a special power contained in the contract, transfer any part of his share to another. All the partners are bound *in solidum* by the obligation of any one of them, if he subscribe by the *first* or social name of the company; unless it be a deed that falls not under the common course of administration. The company effects are the common property of the society subjected to its debts; so that no partner can claim a division thereof, even after the society is dissolved, till they are paid; and, consequently, no creditor of a partner can, by diligence, carry to himself the property of any part of the common stock, in prejudice of a company creditor: but he may, by arrestment, secure his debtor's share in the company's hands, to be made forthcoming to him at the close of the copartnership, in so far as it is not exhausted by the company debts.

7. Society being founded in the mutual confidence

Law of
Scotland.

among the *socii*, is dissolved, not only by the renunciation, but by the death of any one of them, if it be not otherwise specially covenanted. A partner who renounces upon unfair views, or at a critical time, when his withdrawing may be fatal to the society, loses his partners from all their engagements to him, while he is bound to them for all the profits he shall make by his withdrawing, and for the loss arising thereby to the company. Not only natural, but civil death, *e. g.* arising from a sentence inflicting capital punishment, makes one incapable to perform the duties of a partner, and consequently dissolves the society. In both cases of death and renunciation, the remaining partners may continue the copartnership, either expressly, by entering into a new contract; or tacitly, by carrying on their trade as formerly. Public trading companies are now every day constituted, with rules very different from those which either obtained in the Roman law, or at this day obtain in private societies. The proprietors or partners in these, though they may transfer their shares, cannot renounce; nor does their death dissolve the company, but the shares of the deceased descend to his representative.

A joint
trade.

8. A *joint trade* is not a copartnership, but a momentary contract, where two or more persons agree to contribute a sum, to be employed in a particular course of trade, the produce whereof is to be divided among the adventurers; according to their several shares, after the voyage is finished. If, in a joint trade, that partner who is intrusted with the money for purchasing the goods, should, in place of paying them in cash, buy them upon credit, the furnisher who followed his faith alone in the sale, has no recourse against the other adventurers, he can only recover from them what of the buyer's share is yet in their hands. Where any one of the adventurers in a joint trade becomes bankrupt, the others are preferable to his creditors, upon the common stock, as long as it continues undivided, for their relief of all the engagements entered into by them on account of the adventure.

Mandate.

9. *Mandate* is a contract, by which one employs another to manage any business for him; and by the Roman law, it must have been gratuitous. It may be constituted tacitly, by one's suffering another to act in a certain branch of his affairs, for a tract of time together, without challenge. The mandatory is at liberty not to accept of the mandate; and, as his powers are solely founded in the mandant's commission, he must, if he undertakes it, strictly adhere to the directions given him: Nor is it a good defence, that the method he followed was more rational; for in that his employer was the proper judge. Where no special rules are prescribed, the mandatory, if he acts prudently, is secure, whatever the success may be; and he can sue for the recovery of all the expences reasonably disbursed by him in the execution of his office.

10. Mandate may be general, containing a power of administering the mandant's whole affairs; but no mandate implies a power of disposing gratuitously of the constituent's property, nor even of selling his heritage for an adequate price; but a general mandatory may sell such of the moveables as must otherwise perish. No mandatory can, without special powers, transact doubtful claims belonging to his constituent, or refer them to arbiters.

Law of
Scotland.

11. Mandates expire, (1.) By the revocation of the employer, though only tacit, as if he should name another mandatory for the same business. (2.) By the renunciation of the mandatory; even after he has executed a part of his commission, if his office be gratuitous. (3.) By the death either of the mandant or mandatory: But if matters are not entire, the mandate continues in force, notwithstanding such revocation, renunciation, or death. Procuratories of resignation and precepts of seisin are made out in the form of mandates; but, because they are granted for the sole benefit of the mandatory, all of them, excepting precepts of *clarè constat*, are declared (by act 1693) to continue after the death either of the granter or grantee. Deeds which contain a clause or mandate for registration, are for the same reason made registrable after the death of either (by act 1693 and 1696.)

12. The favour of commerce has introduced a tacit mandate, by which masters of ships are empowered to contract in name of their exercitors or employers, for repairs, ship-provisions, and whatever else may be necessary for the ship or crew; so as to oblige not themselves only, but their employers. Whoever has the actual charge of the ship is deemed the master, though he should have no commission from the exercitors, or should be substituted by the master in the direction of the ship without their knowledge. Exercitors are liable, whether the master has paid his own money to a merchant for necessaries, or has borrowed money to purchase them. The furnisher or lender must prove that the ship needed repairs, provision, &c. to such an extent; but he is under no necessity to prove the application of the money or materials to the ship's use. If there are several exercitors, they are liable *singuli in solidum*. In the same manner the undertaker of any branch of trade, manufacture, or other land negotiation is bound by the contracts of the infititors whom he sets over it, in so far as relates to the subject of the *prepositura*.

13. Contracts and obligations, in themselves imperfect, receive strength by the contractor or his heirs doing any act thereafter which imports an approbation of them, and consequently supplies the want of an original legal consent. This is called *homologation*; and it takes place even in deeds intrinsically null, whether the nullity arises from the want of statutory solemnities, or from the incapacity of the granter. It cannot be inferred, (1.) By the act of a person who was not in the knowledge of the original deed; for one cannot approve what he is ignorant of. (2.) Homologation has no place where the act or deed, which is pleaded as such, can be ascribed to any other cause; for an intention to come under an obligation is not presumed.

14. *Quasi-contracts* are formed without explicit consent, by one of the parties doing something which by its nature either obliges him to the other party, or the other party to him. Under this class may be reckoned tutory, &c. the entry of an heir, *negotiorum gestio, indebiti solutio*, communion of goods between two or more common proprietors, and *mercium jactus levandæ navis causa*. *Negotiorum gestio* forms those obligations which arise from the management of a person's affairs, in his absence, by another, without an mandate. As such manager acts without authority from the proprietor, he ought to be liable in exact diligence, unless he has from

Law of
Scotland.

from friendship interposed in affairs which admitted no delay: and he is accountable for his intromissions with interest. On the other part, he is entitled to the recovery of his necessary disbursements on the subject, and to be relieved of the obligations in which he may have bound himself in consequence of the management.

15. *Indebiti solutio*, or the payment to one of what is not due to him, if made through any mistake, either of fact, or even of law, founds him who made the payment in an action against the receiver for repayment (*condictio indebiti*.) This action does not lie, (1.) If the sum paid was due *ex equitate*, or by a natural obligation: for the obligation to restore is founded solely in equity. (2.) If he who made the payment knew that nothing was due: for *qui consilio dat quod non debebat, presumitur donare*.

Right of di-
viding com-
mon proper-
ty.

16. Where two or more persons become common proprietors of the same subject, either by legacy, gift, or purchase, without the view of copartnership, an obligation is thereby created among the proprietors to communicate the profit and loss arising from the subject, while it remains common: And the subject may be divided at the suit of any having interest. This division, where the question is among the common proprietors, is according to the valuation of their respective properties: But where the question is between the proprietors and those having servitudes upon the property, the superficies is only divided, without prejudice to the property. Commonities belonging to the king, or to royal boroughs, are not divisible. Lands lying runrig, and belonging to different proprietors, may be divided, with the exception of borough and incorporated acres; the execution of which is committed to the judge ordinary, or justices of the peace.

Lex Rhodia
de jactu.

17. The throwing of goods overboard, for lightening a ship in a storm, creates an obligation, whereby the owners of the ship and goods saved are obliged to contribute for the relief of those whose goods were thrown overboard, that so all may bear a proportional loss of the goods ejected for the common safety. In this contribution, the ship's provisions suffer no estimation. A master who has cut his mast, or parted with his anchor, to save the ship, is entitled to this relief: but if he has lost them by the storm, the loss falls only on the ship and freight. If the ejection does not save the ship, the goods preserved from shipwreck are not liable in contribution. Ejection may be lawfully made, if the master and a third part of the mariners judge that measure necessary, though the owner of the goods should oppose it: and the goods ejected are to be valued at the price that goods of the same sort which are saved shall be afterwards sold for.

Accessory
obligations.

18. There are certain obligations which cannot subsist by themselves, but are *accessions* to, or make a part of, other obligations. Of this sort are *fidejussio*, and the *obligation to pay interest*. *Cautionry*, or *fidejussio*, is that obligation by which one becomes engaged as security for another, that he shall either pay a sum, or perform a deed.

Cautionry.

19. A cautioner for a sum of money may be bound, either simply as cautioner for the principal debtor, or conjunctly and severally for and with the principal debtor. The first has, by our customs, the *beneficium ordinis*, or of discussion; by which the creditor is obliged to discuss the proper debtor, before he can in-

Law of
Scotland.

sist for payment against the cautioner. Where one is bound as full debtor with and for the principal, or conjunctly and severally with him, the two obligants are bound equally in the same obligation, each *in solidum*; and consequently, the cautioner, though he is but an accessory, may be sued for the whole, without either discussing or even citing the principal debtor. Cautioners for performance of facts by another, or for the faithful discharge of an office (e. g. for factors, tutors, &c.), cannot by the nature of their engagement be bound conjunctly and severally with the principal obligant, because the fact to which the principal is bound cannot possibly be performed by any other. In such engagements, therefore, the failure must be previously constituted against the proper debtor, before action can be brought against the cautioner for making up the loss of the party suffering.

20. The cautioner, who binds himself at the desire of the principal debtor, has an *actio mandati* or of relief against him, for recovering the principal and interest paid by himself to the creditor, and for necessary damages: which action lies *de jure*, though the creditor should not assign to him on payment. As relief against the debtor is implied in fidejussory obligations, the cautioner, where such relief is cut off, is no longer bound: hence the defence of prescription frees the cautioner, as well as the principal debtor.

21. But (1.) Where the cautionry is interposed to an obligation merely natural, the relief is restricted to the sums that have really turned to the debtor's profit. (2.) A cautioner who pays without citing the debtor, loses his relief, in so far as the debtor had a relevant defence against the debt, in whole or in part. Relief is not competent to the cautioner, till he either pays the debt, or is distressed for it; except, 1st, Where the debtor is expressly bound to deliver to the cautioner his obligation cancelled, against a day certain, and has failed; or, 2dly, Where the debtor is *vergens ad inopiam*; in which case the cautioner may, by proper diligence, secure the debtor's funds for his own relief, even before payment or distress.

22. A right of relief is competent *de jure* to the cautioner who pays, against his co-cautioners, unless where the cautioner appears to have renounced it. In consequence of this implied relief, a creditor, if he shall grant a discharge to any one of the cautioners, must, in demanding the debt from the others, deduct that part as to which he has cut off their relief by that discharge. Where the principal debtor, in a bond in which a cautioner is bound, grants bond of corroboration with a new cautioner, both cautioners, as they intervene for the same debt, and at the desire of the same debtor, have a mutual relief against each other; but where the cautioner in the first bond signs as a principal obligant in the corroboration, the cautioner in the new bond, it would seem, would be entitled to a total relief against the first cautioner. At same time, the decisions of the court of session are not perfectly at one upon this branch of the doctrine of cautionry.

23. Cautionry is also *judicial*, as in a suspension. It is sufficient to loose the cautioner, that when he became cautioner, the suspender had good reason to suspend, e. g. if the charger had at that period no title, or had not then performed his part, though these grounds of sus-
pension

Law of
Scotland.

pension should be afterwards taken off. In all maritime causes, where the parties are frequently foreigners, the defender must give caution *judicio fisci et judicatum solvi*: such cautioner gets free by the death of the defender before sentence; but he continues bound, though the cause should be carried from the admiral to the court of session. This sort of caution is only to be exacted in causes strictly maritime.

24. It happens frequently, that a creditor takes two or more obligants bound to him, all as principal debtors, without fidejussion. Where they are so bound, for the performance of facts that are in themselves indivisible, they are liable each for the whole or *singuli in solidum*. But, if the obligation be for a sum of money, they are only liable *pro rata*; unless, (1.) Where they are in express words bound conjunctly and severally; or, (2.) In the case of bills or promissory notes. One of several obligants of this sort, who pays the whole debt, or fulfils the obligation, is entitled to a proportional relief against the rest; in such manner, that the loss must, in every case, fall equally upon all the solvent obligants.

Interest of
money.

25. Obligations for sums of money are frequently accompanied with an obligation for the annual rent or interest thereof. *Interest (usura)* is the profit due by the debtor, of a sum of money to the creditor for the use of it. The canon law considered the taking of interest as unlawful: the law of Moses allowed it to be exacted from strangers: and all the reformed nations of Europe have found it necessary, after the example of the Romans, to authorize it at certain rates fixed by statute. Soon after the Reformation, our legal interest was fixed at the rate of 10 per cent. per annum; from which time it had been gradually reduced, till at last, by 12 Ann. stat. 2. c. 16. it was brought to five per cent. and has continued at that rate ever since.

26. Interest is due, either *by law* or *by paction*. It is due *by law*, either *from the force of statute*, under which may be included acts of federunt, or *from the nature of the transaction*. Bills of exchange, and inland bills, though they should not be protested, carry interest from their date in case of not acceptance; or from the day of their falling due, in case of acceptance and not payment. Where a bill is accepted, which bears no term of payment, or which is payable on demand, no interest is due till demand be made of the sum, the legal voucher of which is a notorial protest. Interest is due by a debtor after denunciation, for all the sums contained in the diligence, even for that part which is made up of interest. Sums paid by cautioners on distresses carry interest, not only as to the principal sum in the obligation, but as to the interest paid by the cautioner. Factors named by the court of session are liable for interest, by a special act of federunt; see N° clxxii. 11.

27. It arises *ex lege*, or from the nature of the transaction, that a purchaser in a sale is liable in interest for the price of the lands bought from the term of his entry, though the price should be arrested in his hands, or though the seller should not be able to deliver to him a sufficient progress or title to the lands; for no purchaser can in equity enjoy the fruits of the lands, while at the same time he retains the interest of the price: but lawful consignation of the

Law of
Scotland.

price made by a purchaser, upon the refusal of the person's having right to receive it, stops the currency of interest. Where one intermeddles with money belonging to another which carries interest, he ought to restore it *cum omni obventionem et causa*; and is therefore liable in the interest of it, as being truly an accessory of the subject itself. It is also from the nature of the transaction, that interest is in certain cases allowed to merchants or others in name of damages.

28. Interest is due *by express paction*, where there is a clause in a bond or obligation, by which money is made to carry interest. An obligation is not lawful, where it is agreed on, that the yearly interest of the sum lent, if it should not be paid punctually as it falls due, shall be accumulated into a principal sum bearing interest; but an obligation may be lawfully granted, not only for the sum truly lent, but for the interest to the day at which the obligation is made payable, whereby the intermediate interest is accumulated into a principal sum from the term of payment. Interest may be also due *by implied paction*: Thus where the interest upon a debt is by a letter promised for time past, such promise implies a paction for interest as long as the debt remains unpaid; thus also the use of payment of interest presumes a paction, and when interest is expressed for one term, it is presumed to be bargained for till payment.

29. The subject matter of all obligations consists either of *things* or of *facts*. Things exempted from commerce cannot be the subject of obligation. (See N° clxii. 2.) One cannot be obliged to the performance of a fact naturally impossible; nor of a fact in itself immoral, for that is also in the judgement of law impossible. Since impossible obligations are null, no penalty or damage can be incurred for non-performance: but it is otherwise, if the fact be in itself possible, though not in the debtor's power; in which case the rule obtains, *locum facti impræstabilis subit damnum et interesse*.

30. An obligation, to which a condition is objected, either naturally or morally impossible, is in the general case null; for the parties are presumed not to have been serious. But such obligation is valid, and the condition thereof held *pro non scripta*, (1.) In testaments: (2.) In obligations, to the performance of which the granter lies under a natural tie, as in bonds of provision to a child. Where an obligation is granted under a condition, lawful but unfavourable, e. g. that the creditor shall not marry without the consent of certain friends, no more weight is given to the condition than the judge thinks reasonable. A condition, which is in some degree in the power of the creditor himself, is held as fulfilled, if he has done all he could to fulfil it. Implement or performance cannot be demanded in a mutual contract, by that party who himself declines or cannot fulfil the counterpart.

31. *Donation*, so long as the subject is not delivered to the donee, may be justly ranked among obligations; and it is that obligation which arises from the mere good will and liberality of the granter. Donations imply no warrandice, but from the future facts of the donor. They are hardly revocable by our law for ingratitude, though it should be of the grossest kind: those betwixt man and wife are revocable by the

Law of
Scotland.Law of
Scotland.

the donor, even after the death of the donee; but remuneratory grants, not being truly donations, cannot be so revoked. That special sort of donation, which is constituted verbally, is called a *promise*. The Roman law entitled all donors to the *beneficium competentia*, in virtue of which they might retain such part of the donation as was necessary for their own subsistence. Our law allows this benefit to fathers, with respect to the provisions granted to their children; and to grandfathers, which is a natural consequence of children's obligation to aliment their indigent parents; but to no collateral relation, not even to brothers.

32. Donations made in contemplation of death, or *mortis causa*, are of the nature of legacies, and like them revocable: consequently, not being effectual in the granter's life, they cannot compete with any of his creditors; not even with those whose debts were contracted after the donation. They are understood to be given from a personal regard to the donee, and therefore fall by his predecease. No deed, after delivery, is to be presumed a *donatio mortis causa*; for revocation is excluded by delivery.

33. Deeds are not presumed, *in dubio*, to be donations. Hence, a deed by a debtor to his creditor, if donation be not expressed, is presumed to be granted in security or satisfaction of the debt; but bonds of provision to children are, from the presumption of paternal affection, construed to be intended as an additional patrimony; yet a tocher, given to a daughter in her marriage contract, is presumed to be in satisfaction of all former bonds and debts; because marriage contracts usually contain the whole provisions in favour of the bride. One who alimments a person that is come of age, without an express paction for board, is presumed to have entertained him as a friend, unless in the case of those who earn their living by the entertainment or board of strangers. But alimony given to minors, who cannot bargain for themselves, is not accounted a donation; except either where it is presumed from the near relation of the person alimmenting, that it was given *ex pietate*; or where the minor had a father or curators, with whom a bargain might have been made.

SECT. XVI. *Of the Dissolution or Extinction of Obligations.*

1. Obligations may be dissolved by *performance*, or *implement*, *consent*, *compensation*, *novation*, and *confusion*. (1.) By *specific performance*: thus, an obligation for a sum of money is extinguished by payment. The creditor is not obliged to accept of payment by parts, unless where the sum is payable by different divisions. If a debtor in two or more separate bonds to the same creditor, made an indefinite payment, without ascribing it at the time to any one of the obligations, the payment is applied, 1st, To interest, or to sums not bearing interest. 2dly, To the sums that are least secured, if the debtor thereby incurs no rigorous penalty. But, 3dly, If this application be penal on the debtor, e. g. by suffering the legal of an adjudication to expire, the payment will be applied so as to save the debtor from that forfeiture. Where one of the debts is secured by a cautioner, the other not, the appli-

cation is to be so made, *cæteris paribus*, that both creditor and cautioner may have equal justice done to them.

2. Payment made by the debtor upon a mistake in fact, to one whom he believed, upon probable grounds, to have the right of receiving payment, extinguishes the obligation. But payment made to one, to whom the law denies the power of receiving it, has not this effect; as if a debtor, seized by letters of caption, should make payment to the messenger; for *ignorantia juris neminem excusat*. In all debts, the debtor, if he be not interpellated, may safely pay before the term, except in tack duties or feu duties; the payment whereof, before the terms at which they are made payable, is construed to be collusive, in a question with a creditor of the landlord or superior. Payment is *in dubio* presumed, by the voucher of the debt being in the hands of the debtor; *chirographum, apud debiorem repertum, præsumitur solutum*.

3. Obligations are extinguishable by the *consent* of the creditor, who, without full implement, or even any implement, may renounce the right constituted in his own favour. Though a discharge or acquittance granted by one whom the debtor *bona fide* took for the creditor, but who was not, extinguishes the obligation, if the satisfaction made by the debtor was real; yet where it is imaginary, the discharge will not screen him from paying to the true creditor the debt for which he had made no prior satisfaction. In all debts which are constituted by writing, the extinction, whether it be by specific performance or bare consent, must be proved, either by the oath of the creditor, or by a discharge in writing; and the same solemnities which law requires in the obligation, are necessary in the discharge: but, where payment is made, not by the debtor himself, but by the creditor's intromission with the rents of the debtor's estate, or by delivery to him of goods in name of the debtor, such delivery or intromission, being *facti*, may be proved by witnesses, though the debt should have been not only constituted by writing, but made real on the debtor's lands by adjudication.

4. A discharge, though it should be general, of all that the granter can demand, extends not to debts of an uncommon kind, which are not presumed to have been under the granter's eye. This doctrine applies also to general assignations. In annual payments, as of rents, feu-duties, interest, &c. three consecutive discharges by the creditor, of the yearly or termly duties, presume the payment of all precedings. Two discharges by the ancestor, and the third by the heir, do not infer this presumption, if the heir was ignorant of the ancestor's discharges. And discharges by an administrator, as a factor, tutor, &c. presume only the payment of all preceding duties incurred during his administration. This presumption arises from repeating the discharges thrice successively; and so does not hold in the case of two discharges, though they should include the duties of three or more terms.

5. Where the same person is both creditor and debtor to another, the mutual obligations, if they are for equal sums, are extinguished by *compensation*; if for unequal, still the lesser obligation is extinguished, and the greater diminished, as far as the concurrence of debit and credit goes. To found compensation,

clxxvi.
Extinction
of obligations
as,
performance.

Law of
Scotland.

tion, (1.) Each of the parties must be debtor and creditor at the same time. (2.) Each of them must be debtor and creditor in his own right. (3.) The mutual debts must be of the same quality: hence, a sum of money cannot be compensated with a quantity of corns; because, till the prices are fixed, at which the corns are to be converted into money, the two debts are incommensurable. Lastly, Compensation cannot be admitted, where the mutual debts are not clearly ascertained, either by a written obligation, the sentence of a judge, or the oath of the party. Where this requires but a short discussion, sentence for the pursuer is delayed for some time, *ex æquitate*, that the defender may make good his ground of compensation. Where a debt for fungibles is ascertained in money by the sentence of a judge, the compensation can have no effect farther back than the liquidation; because, before sentence, the debts were incommensurable: but, where a debt for a sum of money is, in the course of a suit, constituted by the oath of the debtor, the compensation, after it is admitted by the judge, operates *retro*, in so far as concerns the currency of interest, to the time when, by the parties acknowledgement, the debt became due: for, in this case, the debtor's oath is not what creates the debt, or makes it liquid: it only declares that such a liquid sum was truly due before. Compensation cannot be offered after decree, either by way of suspension or reduction; unless it has been formerly pleaded, and unjustly repelled. Decrees in absence are excepted.

By reten-
tion.

6. The right of *retention*, which bears a near resemblance to compensation, is chiefly competent, where the mutual debts, not being liquid, cannot be the ground of compensation; and it is sometimes admitted *ex æquitate* in liquid debts, where compensation is excluded by statute: thus, though compensation cannot be pleaded after decree, either against a creditor or his assignee; yet, if the original creditor should become bankrupt, the debtor, even after decree, may retain against the assignee, till he gives security for satisfying the debtor's claim against the cedent. This right is frequently founded in the expence disbursed on work employed on the subject retained, and so arises from the mutual obligations incumbent on the parties. It has never been disputed that retention of goods was competent, until payment or satisfaction of the debt incurred in relation to these goods; but it was found, by the court of session, in a case which was very lately before them, that goods could not be retained by a manufacturer until payment of a prior debt; the debt incurred upon the goods in his hands being offered; and although the debtor had become bankrupt, and the manufacturer must otherwise rank as a common creditor for his prior debt. But retention may be sustained, though the debt due to him who claims it does not arise from the nature of the obligation by which he is debtor: thus, a factor on a land estate may retain the sums levied by him in consequence of his factory, not only till he be paid of the disbursements made on occasion of such estate, but also till he be discharged from the separate engagements he may have entered into on his constituent's account.

By nova-
tion.

7. Obligations are dissolved by *novation*, whereby one obligation is changed into another, without chan-

ging either the debtor or creditor. The first obligation being thereby extinguished, the cautioners in it are loosed, and all its consequences discharged; so that the debtor remains bound only by the last. As the creditor to whom a right is once constituted, ought not to lose it by implication, novation is not easily presumed, and the new obligation is construed to be merely corroborative of the old; but, where the second obligation expressly bears to be *in satisfaction* of the first, these words must necessarily be explained into novation. Where the creditor accepts of a new debtor, in place of the former who is discharged, this method of extinction is called *delegation*.

By delega-
tion.

8. Obligations are extinguished *confusione*, where the debit and credit meet in the same person, either by succession or singular title, e. g. when the debtor succeeds to the creditor, or the creditor to the debtor, or a stranger to both; for one cannot be debtor to himself. If the succession, from which the *confusio* arises, happens afterwards to be divided, so as the debtor and creditor come again to be different persons; the *confusio* does not produce an extinction, but only a temporary suspension, of the debt.

By confu-
sion.

SECT. XVII. Of Assignations.

1. Heritable rights, when they are clothed with investment, are transmitted by disposition, which is a writing containing procuratory of resignation and precept of seisin; but those which either require no seisin, or on which seisin has not actually followed, are transmissible by simple *assignation*. He who grants the assignation is called the *cedent*; and he who receives it, the *assignee* or *cessionary*: if the assignee conveys his right to a third person, the deed of conveyance is called a *translation*; and if he assigns it back to the cedent, a *retrocession*. Certain rights are, from the uses to which they are destined, incapable of transmission, as alimentary rights: others cannot be assigned by the person invested in them, without special powers given to him; as tacks, reversions: the transmission of a third sort, is not presumed to be intended, without an express conveyance; as of paraphernal goods, which are so proper to the wife, that a general assignation, by her to her husband, of all that did or should belong to her at her decease, does not comprehend them. A lifeferent right is, by its nature, incapable of a proper transmission; but its profits may be assigned while it subsists.

clxxvii.
Assigna-
tions.

2. Assignations must not only be delivered to the assignee, but intimated by him to the debtor. Intimations are considered as so necessary for completing the conveyance, that in a competition between two assignations, the last, if first intimated, is preferred.

Intima-
tion of assigna-
tions.

3. Though, regularly, intimation to the debtor is made by an instrument, taken in the hands of a notary, by the assignee or his procurator; yet the law admits equipollencies, where the notice of the assignment given to the debtor is equally strong. Thus, a charge upon letters of horning at the assignee's instance, or a suit brought by him against the debtor, supplies the want of intimation; these being judicial acts, which expose the conveyance to the eyes both of the judge and of the debtor; or the debtor's promise of payment by writing to the assignee, because that is in effect a corroborating

What noti-
fication is
equivalent
to intima-
tion.

Law of
Scotland.Law of
Scotland.

roborating of the original debt. The assignee's possession of the right, by entering into payment of the rents or interest, is also equal to an intimation; for it imports, not only notice to the debtor, but his actual compliance: but the debtor's private knowledge of the assignment is not sustained as intimation.

In what
cases not
necessary.

4. Certain conveyances need no intimation. (1.) Indorsements of bills of exchange; for these are not to be fettered with forms, introduced by the laws of particular states. (2.) Bank notes are fully conveyed by the bare delivery of them; for as they are payable to the bearer, their property must pass with their possession. (3.) Adjudication, which is a judicial conveyance, and marriage, which is a legal one, carry the full right of the subjects thereby conveyed, without intimation: nevertheless, as there is nothing in these conveyances which can of themselves put the debtor *in mala fide*, he is therefore *in tuto* to pay to the wife, or to the original creditor in the debt adjudged, till the marriage or adjudication be notified to him. Assignments of moveable subjects, though they be intimated, if they are made *retenta possessione*, (the cedent retaining the possession), cannot hurt the cedent's creditors; for such rights are presumed, in all questions with creditors, to be collusive, and granted in trust for the cedent himself.

Effects of
assignment.

5. An assignation carries to the assignee the whole right of the subject conveyed, as it was in the cedent; and consequently he may use diligence, either in his cedent's name while he is alive, or in his own.

6. After an assignation is intimated, the debtor cannot prove a payment, or compensation, by the oath of the cedent, who has no longer any interest in the debt; unless the matter has been made litigious by an action commenced prior to the intimation: but the debtor may refer to the oath of the assignee, who is in the right of the debt, that the assignment was gratuitous, or in trust for the cedent: either of which being proved, the oath of the cedent will affect the assignee. If the assignation be in part onerous, and in part gratuitous, the cedent's oath is good against the assignee, only in so far as his right is gratuitous. All defences competent against the original creditor in a moveable debt, which can be proved otherwise than by his oath, continue relevant against even an onerous assignee; whose right can be no better than that of his author, and must therefore remain affected with all the burdens which attended it in the author's person.

SECT. XVIII. Of Arrestments and Poindings.

cxxxviii.
Arrestment.

1. The diligences, whereby a creditor may affect his debtor's moveable subjects, are *arrestment* and *poinding*. By *arrestment* is sometimes meant the securing of a criminal's person till trial; but as it is understood in the rubric of this title, it is the order of a judge, by which he who is debtor in a moveable obligation to the arrester's debtor, is prohibited to make payment or delivery till the debt due to the arrester be paid or secured. The arrester's debtor is usually called the common debtor; because, where there are two or more competing creditors, he is debtor to all of them. The person in whose hands the diligence is used is styled the arrestee.

2. Arrestment may be laid on by the authority either

VOL. XI. Part II.

of the supreme court, or of an inferior judge. In the first case, it proceeds either upon special letters of arrestment, or on a warrant contained in letters of horning; and it must be executed by a messenger. The warrants granted by inferior judges are called precepts of arrestment, and they are executed by the officer proper to the court. Where the debtor to the common debtor is a pupil, arrestment is properly used in the hands of the tutor, as the pupil's administrator: this doctrine may perhaps extend to other general administrators, as commissioner, &c. But arrestment, used in the hands of a factor or steward, cannot found an action of forthcoming without calling the constituent. Where the debtor to the common debtor is a corporation, arrestment must be used in the hands of the directors or treasurer, who represent the whole body. Arrestment, when it is used in the hands of the debtor himself, is inept; for that diligence is intended only as a restraint upon third parties.

3. All debts in which one is personally bound, though they should be heritably secured, are grounds upon which the creditor may arrest the moveable estate belonging to his debtor. Arrestment may proceed on a debt, the term of payment whereof is not yet come, in case the debtor be *vergens ad inopiam*. If a debt be not yet constituted by decree or registration, the creditor may arise and execute a summons against his debtor for payment, on which pending action arrestment may be used, in the same manner as inhibition, which is called *arrestment upon a dependence*. If one's ground of credit be for the performance of a fact, or if his depending process be merely declaratory, without a conclusion of payment or delivery, such claims are not admitted to be sufficient grounds for arrestment.

4. Moveable debts are the proper subject of arrestment; under which are comprehended conditional debts, and even depending claims. For lessening the expence of diligence to creditors, all bonds which have not been made properly heritable by feisin are declared arrestable: but this does not extend to adjudications, wadsets, or other personal rights of lands, which are not properly debts. Certain moveable debts are not arrestable. (1.) Debts due by bill, which pass from hand to hand as bags of money. (2.) Future debts; for though inhibition extends to *adquirenda* as well as *adquisita*, yet arrestment is limited, by its warrant, to the debt due at the time of serving it against the arrestee. Hence, an arrestment of rents or interest carries only those that have already either fallen due or at least become current. Claims, depending on the issue of a suit, are not considered as future debts; for the sentence, when pronounced, has a retrospect to the period at which the claim was first founded. The like doctrine holds in conditional debts. (3.) Alimentary debts are not arrestable; for these are granted on personal considerations, and so are not communicable to creditors: but the past interest due upon such debt may be arrested by the person who has furnished the alimony. One cannot secure his own effects to himself for his maintenance, so as they shall not be affectable by his creditors. Salaries annexed to offices granted by the king, and particularly those granted to the judges of the session, and the fees of servants, are considered as alimentary funds; but the surplus fee, over

Law of
Scotland.

and above what is necessary for the servant's personal uses, may be arrested. It has also been found, that a wadset sum consigned after an order of redemption used, but before decret of declarator, is not arrestable.

Effect of
breach of
arrestment.

5. If, in contempt of the arrestment, the arrestee shall make payment of the sum, or deliver the goods arrested, to the common debtor, he is not only liable criminally for breach of arrestment, but he must pay the debt again to the arrester. As the law formerly stood, an arrestment used at the market cross of Edinburgh, pier and shore of Leith, against a person furth of the kingdom, was good; so that if the arrestee made payment to his creditor after the date of the arrestment, he was found liable in second payment to the arrester, because he had done all in his power to notify his diligence. This, however, is very properly altered by § 3. of the act of the 23d Geo. III. which declares that an arrestment used at the market cross of Edinburgh, pier and shore of Leith, in the hands of any person out of the kingdom, without other sufficient notification, shall not interpel the arrestee from paying *bona fide* to the original creditor. Arrestment is not merely prohibitory, as inhibitions are; but is a step of diligence which founds the user in a subsequent action whereby the property of the subject arrested may be adjudged to him. It therefore does not, by our latter practice, fall by the death of the arrestee; but continues to subsist, as a foundation for an action of forthcoming against his heir, while the subject arrested remains *in medio*. Far less is arrestment lost, either by the death of the arrester, or of the common debtor.

Loosing of
arrestment.

6. Where arrestment proceeds on a depending action, it may be loosed by the common debtor's giving security to the arrester for his debt in the event it shall be found due. Arrestment founded on decrees, or on registered obligations, which in the judgement of law are decrees, cannot be loosed but upon payment or consignation; except, (1.) Where the term of payment of the debt is not yet come, or the condition has not yet existed. (2.) Where the arrestment has proceeded on a registered contract, in which the debts or mutual obligations are not liquid. (3.) Where the decree is suspended, or turned into a libel; for, till the suspension be discussed, or the pending action concluded, it cannot be known whether any debt be truly due. A loosing takes off the *nexus* which had been laid on the subject arrested; so that the arrestee may thereafter pay safely to his creditor, and the cautioner is substituted in place of the arrestment, for the arrester's security: yet the arrester may, while the subject continues with the arrestee, pursue him in a forthcoming, notwithstanding the loosing.

Forthcom-
ing on ar-
restment.

7. Arrestment is only an inchoated or begun diligence; to perfect it, there must be an action brought by the arrester against the arrestee, to make the debt or subject arrested forthcoming. In this action, the common debtor must be called for his interest, that he may have an opportunity of excepting to the lawfulness or extent of the debt on which the diligence proceeded. Before a forthcoming can be pursued, the debt due by the common debtor to the arrester must be liquidated; for the arrester can be no further entitled to the subject arrested than to the extent of the debt due to him by the common debtor. Where the sub-

ject arrested is a sum of money, it is, by the decree of forthcoming, directed to be paid to the pursuer towards satisfying his debt; where goods are arrested, the judge ordains them to be exposed to sale, and the price to be delivered to the pursuer. So that, in either case, decrees of forthcoming are judicial assignations to the arrester of the subject arrested.

Law of
Scotland.

8. In all competitions, regard is had to the dates, not of the grounds of debt, but of the diligences proceeding upon them. In the competition of arrestments, the preference is governed by their dates, according to the priority even of hours, where it appears with any certainty which is the first. But, as arrestment is but a begun diligence, therefore if a prior arrester shall neglect to insist in an action of forthcoming for such a time as may be reasonably construed into a desertion of his begun diligence, he loses his preference. But, as dereliction of diligence is not easily presumed, the distance of above two years, between the first arrestment and the decree of forthcoming, was found not to make such a *mora* as to entitle the posterior arrester to a preference. This rule of preference, according to the dates of the several arrestments, holds, by our present practice, whether they have proceeded on a decree or on a dependence; on debts not yet payable, or on debts already payable; provided the pendency shall have been closed, or the debt have become payable, before the issue of the competition.

Preference
in ar-
rest-
ments.

By act 23d Geo. III. § 2. it is enacted, that when a debtor is made bankrupt, in terms of the act 1696, as thereby extended (clxxxiii. 13.), all arrestments which shall have been used for attaching any personal effects of such bankrupt within thirty days prior to the bankruptcy, or within four kalendar months immediately subsequent, shall be *pari passu* preferable: and in order to save as far as possible the expence of a multiplicity of arrestments, it is declared, that where the effects of a debtor are arrested by any creditor within thirty days before the bankruptcy, or within four months after it, and a process of forthcoming or multiplepointing is brought in which such arrestment is founded on, it shall be competent for any other creditor producing his interest, and making his claim in the said process, at any time before the expiration of the said four months, to be ranked in the same manner as if he had used the form of arrestment; the expence of raising the process, and of the diligence at the instance of the creditor who raises it, being always paid out of the common fund. We here again repeat, that the enactments of this statute are only temporary, and not yet a permanent part of the law of Scotland, whatever they may become when the subject is resumed by the legislature upon the expiry of the act.

9. In the competition of arrestments with assignations, an assignation by the common debtor, intimated before arrestment, is preferable to the arrestment. If the assignation is granted before arrestment, but not intimated till after it, the arrester is preferred.

10. **POINTING** is that diligence affecting moveable subjects, by which their property is carried directly to the creditor. No pointing can proceed, till a charge be given to the debtor to pay or perform, and the days thereof be expired, except pointings against vassals for their feu-duties, and pointings against tenants for rent, proceeding upon the landlord's own decree; in which the

Pointing.

Law of Scotland.

Law of Scotland.

the ancient custom of pointing without a previous charge continues. A debtor's goods may be pointed by one creditor, though they have been arrested before by another; for arrestment being but an imperfect diligence, leaves the right of the subject still in the debtor, and so cannot hinder any creditor from using a more perfect diligence, which has the effect of carrying the property directly to himself.

11. No cattle pertaining to the plough, nor instruments of tillage, can be pointed in the time of labouring or tilling the ground, unless where the debtor has no other goods. By labouring time is understood, that time, in which that tenant, whose goods are to be pointed, is ploughing, though he should have been earlier or later than his neighbours; but summer fallowing does not fall under this rule.

Form thereof.

12. In the execution of pointing, the debtor's goods must be appraised, first, on the ground of the lands where they are laid hold on, and a second time at the market cross of the jurisdiction, by the stated appraisers thereof; or, if there be none, by persons named by the messenger or other officer employed in the diligence. Next, the messenger must, after public intimation by three oyeses, declare the value of the goods according to the second appraisement, and require the debtor to make payment of the debt, including interest and expenses. If payment shall be offered to the creditor, or in his absence to his lawful attorney; or if, in case of refusal by them, consignation of the debt shall be made in the hands of the judge ordinary or his clerk, the goods must be left with the debtor; if not, the messenger ought to adjudge and deliver them over, at the appraised value, to the user of the diligence towards his payment: and the debtor is entitled to a copy of the warrant and executions, as a voucher that the debt is discharged in whole or in part by the goods pointed.

Powers of messengers in pointing.

13. Ministers may point for their stipends, upon one appraisement on the ground of the lands, and landlords were always in use to point so, for their rents. Appraisement of the goods at the market cross of the next royal borough, or even of the next head borough of stewartry or regality, though these jurisdictions be abolished, is declared as sufficient as if they were carried to the head borough of the shire. Pointing, whether it be considered as a sentence, or as the execution of a sentence, must be proceeded in between sun-rising and sun-setting; or at least it must be finished before the going off of day-light.—The powers of the officer employed in the execution of pointings are not clearly defined by custom, in the case of a third party claiming the property of the goods to be pointed. This is certain, that he may take the oath of the claimant, upon the verity of his claim; and if from thence it shall appear that the claimant's title is collusive, he ought to proceed in the diligence; but if there remains the least doubt, his safest course is to deliver the goods to the claimant, and to express in his execution the reasons why pointing did not proceed.

14. Any person who stops a pointing *via facti*, on groundless pretences, is liable, both criminally, in the pains of deforcement (see N^o clxxxvi. 15.), and civilly, in the value of the goods which might have been pointed by the creditor.

By the foresaid statute 23 Geo. III. § 4. it is declared, that after a person is rendered bankrupt, as

thereby directed, no pointing of the moveables belonging to such bankrupt, within 30 days before his bankruptcy, or within four kalender months thereafter, shall give a preference to such pointer over the other lawful creditors of the bankrupt; but the goods so pointed shall be considered as *in medio*, and the person receiving the price of them shall be liable to make the same forthcoming, so as that all the other creditors of the bankrupt who are possessed of liquidate grounds of debt or decrees for payment, shall be entitled to their proportion of the same; provided they make their claim by summoning the pointer at any time before the expiration of the said four months, deducting always the expence of such pointing from the first end of the price of such goods, together with 20 per cent. on the appraised value, which the pointer shall retain to account of his debt in preference to the other creditors; reserving liberty to him to rank on the remaining sum for the full amount of the debt contained in his diligence. And it is by the said act further declared, that where any person concerned in trade or manufactures is bankrupt, as before-mentioned, it may be lawful for any creditor, to the amount of 100l. or any two creditors to the amount of 150l. or any three or more creditors to the amount of 200l. or upwards, to apply for sequestration of the estate real and personal belonging to the debtor; after awarding which, an interim factor, and then a trustee, shall be chosen by the creditors, who is to conduct the business of the sequestration, according to the various rules fixed and laid down by the statute. The act, however, expressly excludes all others, except those concerned in trade or manufactures, from the benefit of the sequestration; but it is probable, when it comes to be renewed or digested in another form, this part of it will suffer an alteration.

SECT. XIX. Of Prescription.

clxxix.

1. Prescription, which is a method, both of establishing and of extinguishing property, is either *positive* or *negative*. *Positive* prescription is generally defined, as the Roman *usucapio*, The acquisition of property (it should rather be, when applied to our law, the securing it against all further challenge) by the possessor's continuing his possession for the time which law has declared sufficient for that purpose: *negative*, is the loss or amission of a right, by neglecting to follow it forth, or use it, during the whole time limited by law. The doctrine of prescription, which is, by some writers, condemned as contrary to justice, has been introduced, that the claims of negligent creditors might not subsist forever, that property might be at last fixed, and forgeries discouraged, which the difficulty of detecting must have made exceeding frequent, if no length of time had limited the legal effect of writings.

Prescription.

2. Positive prescription was first introduced into our law by 1617, c. 12. which enacts, that whoever shall have possessed his lands, annualrents, or other heritages, peaceably in virtue of infeftments, for 40 years continually after their dates, shall not thereafter be disquieted in his right by any person pretending a better title. Under *heritages* are comprehended every right that is *fundo annexum*, and capable of continual possession.

Positive.

Law of
Scotland.

tion. Continued possession, if proved as far back as the memory of man, presumes possession upwards to the date of the investment. The whole course of possession must by the act be founded on seifins; and consequently no part thereof on the bare right of apparençy: but 40 years possession, without seifin, is sufficient in the prescription of such heritable rights as do not require seifin. The possession must also be without any *lawful* interruption, i. e. it must neither be interrupted *via facti*, nor *via juris*. The prescription of subjects not expressed in the investment as part and pertinent of another subject specially expressed, has been explained, N^o clxviii. 6.

3. The act requires, that the possessor produce, as his title of prescription, a charter of the lands preceding the 40 years possession, with the seifin following on it: and where there is no charter extant, seifins, one or more, standing together for 40 years, and proceeding either on retours or precepts of *clarè constat*. This has given rise to a reasonable distinction observed in practice, between the prescription of a singular successor, and of an heir. Singular successors must produce for their title of prescription, not only a seifin, but its warrant, as a charter, disposition, &c. either in their own person, or in that of their author: but the production, by an heir of seifins, one or more, standing together for 40 years, and proceeding on retours or precepts of *clarè constat*, is sufficient. The heir is not obliged to produce the retours or precepts on which his seifins proceed, nor is the singular successor obliged to produce the ground of his charter: so that if the title of prescription produced be a fair deed, and a sufficient title of property, the possessor is secure by the act, which admits no ground of challenge, but falsehood. A special statute, for establishing the positive prescription in moveable rights, was not necessary: for, since a title in writing is not requisite for the acquiring of these, the negative prescription, by which all right of action for recovering their property is cut off, effectually secures the possessor.

Negative
prescription.

4. The negative prescription of obligations, by the lapse of 40 years, was introduced into our law long before the positive, (1469, c. 29.—1474, c. 55.) This prescription is now amplified by the foresaid act (1617), which has extended it to all actions competent upon heritable bonds, reversions, and others whatsoever; unless where the reversions are either incorporated in the body of the wadset-right, or registered in the register of reversions: And reversions so incorporated, or registered, are not only exempted from the negative prescription, but they are an effectual bar against any person from pleading the positive.

A shorter
negative
prescription.

5. A shorter negative prescription is introduced by statute, in certain rights and debts. Actions of spuilzie, ejection, and others of that nature, must be pursued within three years after the commission of the fact on which the action is founded. As in spuilzies and ejections, the pursuer was entitled, *in odium* of violence, to a proof by his own oath *in liem*, and to the violent profits against the defender, the statute meant only to limit these special privileges by a three years prescription, without cutting off the right of action, where the claim is restricted to simple restitution. Under the general words, and others of that nature, are comprehended all

actions where the pursuer is admitted to prove his libel by his own oath *in liem*.

Law of
Scotland.

6. Servants fees, house rents, men's ordinaries, (i. e. money due for board), and merchants accounts, fall under the triennial prescription, (by 1579, c. 83.) There is also a general clause subjoined to this statute, of *other the like debts*, which includes alimentary debts, wages due to workmen, and accounts due to writers, agents, or procurators. These debts may, by this act, be proved after the three years, either by the writing or oath of the debtor; so that they prescribe only as to the mean of proof by witnesses: but after the three years it behooves the creditor to refer to the debtor's oath, not only the constitution, but the subsistence of the debt. In the prescription of house rents, servants fees, and alimony, each term's rent, fee, or alimony, runs a separate course of prescription; so that in an action for these the claim will be restricted to the arrears incurred within the three years immediately before the citation: But, in accounts, prescription does not begin till the last article; for a single article cannot be called an account. Actions of removing must also be pursued within three years after the warning. Reductions of erroneous retours prescribe, if not pursued within 20 years.

Prescription
of ser-
vants fees,
&c.

7. Ministers stipends and multures prescribe in five years after they are due; and arrears of rent, five years after the tenant's removing from the lands. As the prescription of mails and duties was introduced in favour of poor tenants, that they might not suffer by neglecting to preserve their discharges, a proprietor of lands subject to a liferent, who had obtained a lease of all the liferent lands from the liferenter, is not entitled to plead it, nor a tackfman of one's whole estate, who had by the lease a power of removing tenants. Bargains concerning moveables, or sums of money which are proveable by witnesses, prescribe in five years after the bargain. Under these are included sales, locations, and all other consensual contracts, to the constitution of which writing is not necessary. But all the above-mentioned debts, may, after the five years, be proved, either by the oath or the writing of the debtor; of which above, (par. 6.) A quinquennial prescription is established in arrestments, whether on decrees or depending actions: The first prescribe in five years after using the arrestment, and the last in five years after sentence is pronounced on the depending action.

Of mini-
sters sti-
pends, &c.

8. No person binding for or with another, either as cautioner or co-principal, in a bond or contract for a sum of money, continues bound after seven years from the date of the bond, provided he has either a clause of relief in the bond, or a separate bond of relief, intimated to the creditor, at his receiving the bond. But all diligence used within the seven years against the cautioner shall stand good. As this is a public law, intended to prevent the bad consequences of rash engagements, its benefit cannot, before the lapse of the seven years, be renounced by the cautioner: As it is correctory, it is strictly interpreted: Thus, bonds bearing a mutual clause of relief *pro rata*, fall not under it; nor bonds of corroboration, nor obligations, where the condition is not purified, or the term of payment not come within the seven years; because no diligençe

Limitation
of cautionry

Law of
Scotland.

ligence can be used on these. The statute excludes all cautionaries for the faithful discharge of offices; these not being obligations in a bond or contract for sums of money. And practice has denied the benefit of it to all judicial cautioners, as cautioners in a suspension.—Actions of count and reckoning, competent either to minors against their tutors or curators, or *vice versa*, prescribe in ten years after the majority or death of the minor.

Prescrip-
tion of ho-
lograph
writings.

9. Holograph bonds, missive letters, and books of account, not attested by witnesses, prescribe in 20 years, unless the creditor shall thereafter prove the verity of the subscription by the debtor's oath. It is therefore sufficient to save from the effect of this prescription, that the constitution of the debt be proved by the party's oath after the 20 years; whereas, in stipends, merchants accounts, &c. not only the constitution, but the subsistence of the debt, must be proved by writing or the debtor's oath, after the term of prescription. Some lawyers extend this prescription of holograph writings to all obligations for sums not exceeding 100l. Scots, which are not attested by witnesses; because though these are in practice sustained, yet they ought not to have the same duration with deeds attested by witnesses. Though in the short prescriptions of debts, the right of action is for ever lost, if not exercised within the time limited: yet where action was brought on any of those debts, before the prescription was run, it subsisted, like any other right, for 40 years. As this defeated the purpose of the acts establishing these prescriptions, all processes upon warnings, spuilzies, ejections, or arrestments, or for payment of the debts contained in act 1669, c. 9. are by the said act joined with 1685, c. 14. declared to prescribe in five years, if not wakened within that time; see N^o clxxxiii. 26.

Extinction
of obliga-
tions by ta-
stintury.

10. Certain obligations are lost by the lapse of less than 40 years, without the aid of statute, where the nature of the obligation, and the circumstances of parties justify it: thus, bills which are not intended for lasting securities, produced no action, where the creditor had been long silent, unless the subsistence of the debt be proved by the debtor's oath; but the precise time was not fixed by practice. But the duration of bills is now limited to six years by the 12 Geo. III.; rendered perpetual by 23 Geo. III. Thus also, a receipt for bills granted by a writer to his employer, not insisted upon for 23 years, was found not productive of an action. The prescriptions of the restitution of minors, of the benefit of inventory, &c. are explained in their proper places.

Bona fides
prescrip-
tion.

11. In the positive prescription, as established by the act 1617, the continued possession for 40 years, proceeding upon a title of property not chargeable with falsehood, secures the possessor against all other grounds of challenge, and so presumes *bona fides, presumptione juris et de jure*. In the long negative prescription, *bona fides* in the debtor is not required: the creditor's neglecting to insist for so long a time, is construed as an abandoning of his debt, and so is equivalent to a discharge. Hence, though the subsistence of the debt should be referred to the debtor's own oath, after the 40 years, he is not liable.

12. Prescription runs *de momento in momentum*: the whole time defined by law must be completed, before

a right can be either acquired or lost by it; so that interruption, made on the last day of the 40th year, breaks its course. The positive prescription runs against the sovereign himself, even as to his annexed property; but it is generally thought he cannot suffer by the negative: he is secured against the negligence of his officers in the management of processes, by express statute, 1600, c. 14. The negative, as well as the positive prescription, runs against the church, though churchmen have but a temporary interest in their benefices. But because the rights of beneficiaries to their stipends are liable to accidents, through the frequent change of incumbents, 13 years possession does, by a rule of the Roman chancery which we have adopted, found a presumptive title in the beneficiary: but this is not properly prescription; for if by titles recovered, perhaps out of the incumbent's own hands, it shall appear that he has possessed tithes or other subjects to a greater extent than he ought, his possession will be restricted accordingly. This right must not be confounded with that established in favour of churchmen, which is confined to church lands and rents, and constitutes a proper prescription upon a possession of 30 years.

Law of
Scotland.Prescrip-
tion, against
whom it
runs.

13. The clause in the act 1617, saving minors from prescription, is extended to the positive, as well as to the negative prescription; but the exception of minority is not admitted in the case of hospitals for children, where there is a continual succession of minors, that being a *casus insolitus*. Minors are expressly excepted in several of the short prescriptions, as 1579, c. 18.—1669, c. 9.; but where law leaves them in the common case, they must be subject to the common rules.

14. Prescription does not run *contra non valentem agere*, against one who is barred by some legal incapacity, from pursuing; for in such case, neither negligence nor dereliction can be imputed to him. This rule is, by a favourable interpretation, extended to wives, who *ex reverentia maritali* forbear to pursue actions competent to them against their husbands. On the same ground, prescription runs only from the time that the debt or right could be sued upon. Thus, inhibition prescribes only from the publishing of the deed granted to the inhibitor's prejudice; and in the prescription of removings, the years are computed only from the term at which the defender is warned to remove. Neither can prescription run against persons who are already in possession, and so can gain nothing by a pursuit. Thus, where a person, who has two adjudications affecting the same lands, is in possession upon one of them, prescription cannot run against the other during such possession.

15. Certain rights are incapable of prescription: Certain rights incapable of prescription.
(1.) Things that law has exempted from commerce.
(2.) *Res meræ facultatis*, e. g. a faculty to charge a subject with debts, to revoke, &c. cannot be lost by prescription; for faculties may, by their nature, be exercised at any time: hence, a proprietor's right of using any act of property on his own grounds cannot be lost by the greatest length of time. (3.) Exceptions competent to a person for eliding an action, cannot prescribe, unless the exception is founded on a right productive of an action, e. g. compensation; such right must be insisted on within the years of prescription.

(4.) Obliga-

Law of
Scotland.

(4.) Obligations of yearly pensions or payments, though no demand has been made on them for 40 years, do not suffer a total prescription, but still subsist as to the arrears fallen due within that period; because prescription cannot run against an obligation till it be payable, and each year's pension or payment is considered as a separate debt.

16. No right can be lost *non utendo* by one, unless the effect of that prescription be to establish it in another. Hence the rule arises, *juri sanguinis nunquam prescribitur*. Hence also, a proprietor of land cannot lose his property by the negative prescription, unless he who objects it can himself plead the positive. On the same ground, a superior's right of feu duties cannot be lost *non utendo*; because, being inherent in the superiority, it is truly a right of lands that cannot suffer the negative prescription, except in favour of one who can plead the positive; which the vassal cannot do, being destitute of a title. This rule applies also to parsonage tithes, which are an inherent burden upon all lands not specially exempted; and from which therefore the person liable cannot prescribe an immunity by bare non-payment: but such vicarage tithes as are only due where they are established by usage, may be lost by prescription. In all these cases, though the radical right cannot suffer the negative prescription, the bygone duties, not demanded within the 40 years, are lost to the proprietor, superior, or titular.

Interruption of prescription.

17. Prescription may be interrupted by any deed whereby the proprietor or creditor uses his right or ground of debt. In all interruptions, notice must be given to the possessor of the subject, or the debtor, that the proprietor or creditor intends to sue upon his right. All writings whereby the debtor himself acknowledges the debt, and all processes for payment brought, or diligences used against him upon his obligation by horning, inhibition, arrestment, &c. must be effectual to interrupt prescription.

18. Interruptions, by citation upon libelled summonses, where they are not used by a minor, prescribe, if not renewed every seven years: but where the appearance of parties, or any judicial act has followed thereupon, it is no longer a bare citation, but an action which subsists for 40 years. It has been found, that the sexennial prescription of bills is not interrupted by a blank citation, as practised in the court of admiralty. Citations for interrupting the prescription of real rights must be given by messengers; and the summonses, on which such citations proceed, must pass the signet upon the bill, and be registered within 60 days after the execution, in a particular register appointed for that purpose: and where interruption of real rights is made *via facti*, an instrument must be taken upon it, and recorded in the said register; otherwise it can have no effect against singular successors.

19. Interruption has the effect to cut off the course of prescription, so that the person prescribing can avail himself of no part of the former time, but must begin a new course, commencing from the date of the interruption. Minority, therefore, is no proper interruption: for it neither breaks the course of prescription, nor is it a document or evidence taken by the minor on his right: it is a personal privilege competent to him, by which the operation of the prescription is in-

deed suspended during the years of minority, which are therefore discounted from it; but it continues to run after majority, and the years before and after the minority may be conjoined to complete it. The same doctrine applies to the privilege arising from one's incapacity to act.

Law of
Scotland.

20. Diligence used upon a debt, against any one of two or more co-obligants, preserves the debt itself, and so interrupts prescription against all of them; except in the special case of cautioners, who are not affected by any diligence used against the principal debtor. In the same manner, a right of annualrent, constituted upon two separate tenements, is preserved as to both from the negative prescription, by diligence used against either of them. But whether such diligence has also the effect to hinder the possessor of the other tenement by singular titles from the benefit of the positive prescription, may be doubted.

III. OF SUCCESSION.

SECT. XX. Of Succession in Heritable Rights.

clxxx.

1. Singular successors are those who succeed to a person yet alive, in a special subject by singular titles; but succession, in its proper sense, is a method of transmitting rights from the dead to the living. Heritable rights descend by succession to the *heir* properly so called; moveable rights to the *executors*, who are sometimes said to be heirs in moveables. Succession is either by *special destination*, which descends to those named by the proprietor himself; or *legal*, which devolves upon the persons whom the law marks out for successors, from a presumption, that the proprietor would have named them had he made a destination. The first is in all cases preferred to the other, as presumption must yield to truth.

2. In the succession of heritage, the heirs at law are otherwise called heirs general, heirs whatsoever, or heirs of line; and they succeed by the right of blood, in the following order. First, Descendants; among these, sons are preferred to daughters, and the eldest son to all the younger. Where there are daughters only, they succeed equally, and are called heirs portioners. Failing immediate descendants, grandchildren succeed; and in default of them, great-grandchildren; and so on *in infinitum*; preferring, as in the former case, males to females, and the eldest male to the younger.

3. Next after descendants, collaterals succeed; among whom the brothers *german* of the deceased have the first place. But as, in no case, the legal succession of heritage is, by the law of Scotland, divided into parts, unless where it descends to females; the immediate younger brother of the deceased excludes the rest, according to the rule, *heritage descends*. Where the deceased is himself the youngest, the succession goes to the immediate elder brother, as being the least deviation from this rule. If there are no brothers german, the sisters german succeed equally: then brothers *consanguinean*, in the same order as brothers german; and failing them, sisters *consanguinean* equally. Next, the father succeeds. After him, his brothers and sisters, according to the rules already explained; then the grandfather; failing him, his brothers and sisters; and

Law of Scotland.
No succession by the mother.

so upwards, as far back as propinquity can be proved. Though children succeed to their mother, a mother cannot to her child: nor is there any succession by our law through the mother of the deceased; inasmuch that one brother *uterine*, i. e. by the mother only, cannot succeed to another, even in that estate which flowed originally from their common mother.

Succession in capita and in stirpe.

4. In heritage there is a *right of representation*, by which one succeeds, not from any title in himself, but in the place, and as representing some of his deceased ascendants. Thus, where one leaves a younger son, and a grandchild by his eldest, the grandchild, though farther removed in degree from the deceased than his uncle, excludes him, as coming in place of his father the eldest son. Hence arises the distinction between succession *in capita*, where the division is made into as many equal parts as there are *capita* or heirs, which is the case of heirs portioners; and succession *in stirpes*, where the remoter heirs draw no more among them than the share belonging to their ascendants or *stirps*, whom they represent; an example of which may be figured in the case of one who leaves behind him a daughter alive, and two grand-daughters by a daughter deceased. In which case the two grand-daughters would succeed equally to that half which would have belonged to their mother had she been alive.

Succession of heirs-portioners.

5. In the succession of heirs portioners, indivisible rights, e. g. titles of dignity, fall to the eldest sister. A single right of superiority goes also to the eldest; for it hardly admits a division, and the condition of the vassal ought not to be made worse by multiplying superiors upon him. Where there are more such rights, the eldest may perhaps have her election of the best; but the younger sisters are entitled to a recompense, in so far as the divisions are unequal; at least, where the superiorities yield a constant yearly rent. The principal seat of the family falls to the eldest, with the garden and orchard belonging to it, without recompense to the younger sisters; but all other houses are divided amongst them, together with the lands on which they are built, as parts and pertinents of these lands. A *præcipuum*, however, is due only in the case of succession of heirs portioners *ab intestato*; and therefore there is no place for it where the succession is taken under a deed.

Heir of conquest.

6. Those heritable rights, to which the deceased did himself succeed as heir to his father or other ancestor, get sometimes the name of heritage in a strict sense, in opposition to the *feuda nova*, or feus of conquest, which he had acquired by singular titles, and which descend not to his heir of line, but of conquest. This distinction obtains only where two or more brothers or uncles, or their issue, are next in succession; in which case, the immediate younger brother, as heir of line, succeeds to the proper heritage, because that descends; whereas the conquest ascends to the immediate elder brother. It has no place in female succession, which the law divides equally among the heirs portioners. Where the deceased was the younger brother, the immediate elder brother is heir both of line and of conquest. An estate disposed by a father to his eldest son, is not conquest in the son's person, but heritage; because the son would have succeeded to it, though there had been no disposition. The heir of conquest succeeds to all rights affecting land, which require seisin to perfect them. But

teinds go to the heir of line; because they are merely a burden on the fruits, not the land. Tacks do not fall under conquest, because they are complete rights without seisin; nor personal bonds taken to heirs secluding executors.

Law of Scotland.

7. The heir of line is entitled to the succession, not only of subjects properly heritable, but to that sort of moveables called *heirship*, which is the best of certain kinds. This doctrine has been probably introduced, that the heir might not have a house and estate to succeed to, quite dismantled by the executor. In that sort is the heirship. There is no heirship in fungibles, or things estimated by quantity; as grain, hay, current money, &c. To entitle an heir to this privilege, the deceased must have been either, (1.) A prelate: (2.) A baron, i. e. who stood in feft at his death in lands, though not erected into a barony; or even in a right of annualrent: Or, (3.) A burgher; not an honorary one, but a trading burgher of a royal borough, or at least one entitled to enter burgher in the right of his ancestor. Neither the heir of conquest, nor of tailzie, has right to heirship moveables.

Heirship-moveables.

8. As to succession by destination, no proprietor can settle any heritable estate, in the proper form of a testament; not even bonds secluding executors, though these are not heritable *ex sua natura*: But, where a testament is in part drawn up in the style of a deed *inter vivos*, such part of it may contain a settlement of heritage, though executors should be named in the testamentary part. The common method of settling the succession of heritage is by disposition, contract of marriage, or simple procuratory of resignation: and, though a disposition settling heritage should have neither precept nor procuratory, it founds an action against the heir of line to complete his titles to the estate; and thereafter divest himself in favour of the disponent. The appellation of tailzie, or entail, is chiefly used in the case of a land estate, which is settled on a long series of heirs substituted one after another. The person first called in the tailzie is the institute; the rest, the heirs of tailzie, or the substitutes.

Succession by destination.

9. Tailzies, when considered in relation to their several degrees of force, are either, (1.) Simple destinations. (2.) Tailzies with prohibitory clauses. (3.) Tailzies with prohibitory, resolutive, and irritant clauses. That is a simple destination, where the persons called to the succession are substituted one after another, without any restraint laid on the exercise of their property. The heirs, therefore, succeeding to such estate, are absolute heirs, and consequently may alter the destination at pleasure.

Tailzies.

10. In tailzies with clauses prohibitory, e. g. declaring that it shall not be lawful to the heirs to contract debts or alien the lands in prejudice of the succession, none of the heirs can alien gratuitously. But the members of entail may contract debts which will be effectual to the creditors, or may dispose of the estate for onerous causes. In both these sorts the maker himself may alter the tailzie: except, (1.) Where it has been granted for an onerous cause, as in mutual tailzies: or, (2.) Where the maker is expressly disabled, as well as the institute or the heirs.

11. Where a tailzie is guarded with irritant and resolutive clauses, the estate entailed cannot be carried off by

Law of
Scotland.

by the debt, or deed, of any of the heirs succeeding thereto, in prejudice of the substitutes. It was long doubted, whether such tailzies ought to be effectual, even where the superior's consent was adhibited; because they sunk the property of estates, and created a perpetuity of liferents. They were first explicitly authorized by 1685, c. 22. By this statute, the entail must be registered in a special register established for that purpose; and the irritant and resolutive clauses must be inserted, not only in the procuratories, precepts, and seifins, by which the tailzies are first constituted, but in all the after conveyances thereof; otherwise they can have no force against singular successors. But a tailzie, even without these requisites, is effectual against the heir of the granter, or against the institute who accepts of it. It has been found, that an entail, though completed by infestment before the act 1685, was ineffectual, because not recorded in terms of the act.

Their re-
quisites.

Heirs of
entail, their
powers and
restrictions.

12. An heir of entail has full power over the entailed estate, except in so far as he is expressly fettered; and as entails are an unfavourable restraint upon property, and a frequent snare to trading people, they are *strictissimi juris*; so that no prohibition or irritancies are to be inferred by implication. By 10 George III. c. 51. heirs of entail are entitled (notwithstanding any restrictions in the deed of entail) to improve their estates by granting leases, building farm houses, draining, enclosing, and excambing, under certain limitations, and to claim repayment of three-fourths of the expence from the next heir of entail.—This act extends to all tailzies, whether made prior or posterior to the 1685.

Contraven-
tion, by
whom in-
ferred.

13. An heir, who counteracts the directions of the tailzie, by aliening any part of the estate, charging it with debt, &c. is said to contravene. It is not the simple contracting of debt that infers contravention; the lands entailed must be actually adjudged upon the debt contracted. An heir may, where he is not expressly barred, settle rational provisions on his wife and children, without incurring contravention. It is not quite clear whether the heirs also of the contravener would forfeit their right from the acts or deeds of their predecessor where there is no express clause in the entailed settling it; and though the words of the act 1685 (which declares, that entails executed according to the directions of it, shall be effectual not only against the contravener and his heirs, but against creditors), may seem to favour the idea that heirs also would forfeit, the more favourable opinion has received the sanction of our supreme court. For the greater security, however, a clause is now usually inserted in tailzies, declaring, that the contravention of the heir in possession shall not affect his descendants, when such is the intention of the granter.

In what
cases an
heir may
sell.

14. When the heirs of the last person specially called in a tailzie come to succeed, the irritancies have no longer any person in favour of whom they can operate, and consequently, the fee, which was before tailzied, becomes simple and unlimited in the person of such heirs. By the late act 20th George II. for abolishing wardholdings, the king may purchase lands within Scotland, notwithstanding the strictest entail; and where the lands are in the hands of minors or fatuous persons, his majesty may purchase them from the curators or guardians. And heirs of entail may sell to their vas-

als the superiorities belonging to the entailed estate; but in all these cases, the price is to be settled in the same manner that the lands or superiorities sold were settled before the sale.

Law of
Scotland.

15. Rights, not only of land estates, but of bonds, are sometimes granted to two or more persons in conjunct fee. Where a right is so granted to two strangers, without any special clause adjected to it, each of them has an equal interest in the fee, and the part of the deceased descends to his own heir. If the right be taken to the two jointly, and the *longest liver* and their heirs, the several shares of the conjunct fiars are affectable by their creditors during their lives; but, on the death of any one of them, the survivor has the fee of the whole, in so far as the share of the predeceased remains free, after payment of his debts. Where the right is taken to the two in conjunct fee, and to the heirs of one of them, he to whose heirs the right is taken is the only fiar; the right of the other resolves into a simple liferent: yet where a father takes a right to himself and his son jointly, and to the son's heirs, such right being gratuitous, is not understood to strip the father of the fee, unless a contrary intention shall plainly appear from the tenor of the right.

Rights
taken in
conjunct
fee.

16. Where a right is taken to a husband and wife, in conjunct fee and liferent, the husband, as the *persona dignior*, is the only fiar: the wife's right resolves into a liferent, unless it be presumable, from special circumstances, that the fee was intended to be in the wife. Where a right of moveables is taken to husband and wife, the heirs of both succeed equally, according to the natural meaning of the words.

17. Heirs of provision are those who succeed to any subject, in virtue of a provision in the investiture, or other deed of settlement. This appellation is given most commonly to heirs of a marriage. These are more favourably regarded than heirs by simple destination, who have only the hope of succession; for heirs of a marriage, because their provisions are constituted by an onerous contract, cannot be disappointed of them by any gratuitous deed of the father. Nevertheless, as their right is only a right of succession, which is not designed to restrain the father from granting onerous or rational deeds, he continues to have the full power of selling the subject, or charging it with debts, unless a proper right of credit be given to the heir by the marriage contract, e. g. if the father should oblige himself to infest the heir in the lands, or make payment of the sum provided against a day certain, or when the child attains a certain age, &c.; for such rights, when perfected by infestment, or secured by diligence, are effectual against all the posterior deeds of the father, even onerous.

18. Though all provisions to children, by a marriage contract conceived in the ordinary form, being merely rights of succession, are postponed to every onerous debt of the granter, even to those contracted posterior to the provisions; yet where a father executes a bond of provision to a child actually existing, whether such child be the heir of a marriage or not, a proper debt is thereby created, which, though it be without doubt gratuitous, is not only effectual against the father himself and his heirs, but is not reducible at the instance even of his prior onerous creditors, if he was solvent at the time of granting it. A father may, notwithstanding,

Effects of
provision to
children.

Law of
Scotland.

withstanding a first marriage contract, settle a jointure on a second wife, or provide the children of a second marriage; for such settlements are deemed onerous; but where they are exorbitant, they will be restricted to what is rational: and in all such settlements, where the provisions of the first marriage contract are encroached upon, the heirs of that marriage have recourse against the father, in case he should afterwards acquire a separate estate, which may enable him to fulfil both obligations.

Provision
to heirs.

19. In marriage contracts, the conquest, or a certain part of it, is frequently provided to the issue; by which is understood whatever real addition shall be made to the father's estate during the marriage by purchase or donation. Conquest therefore must be free, i. e. what remains after payment of debts due by the father. As in other provisions, so in conquest, the father is still *fiar*, and may therefore dispose of it for onerous or rational causes. Where heritable rights are provided to the *heirs* of a marriage, they fall to the eldest son, for he is the heir at law in heritage. Where a sum of money is so provided, the word *heir* is applied to the subject of the provision, and so marks out the executor, who is the heir in moveables. When an heritable right is provided to the *bairns* (or issue) of a marriage, it is divided equally among the children, if no division be made by the father; for such destination cuts off the exclusive right of the legal heir. No provision granted to bairns gives a special right of credit to any one child as long as the father lives: the right is granted *familie*; so that the whole must indeed go to one or other of them; but the father has a power inherent in him, to divide it among them in such proportions as he thinks best, yet so as none of them may be entirely excluded, except in extraordinary cases.

To bairns.

Clause of
return.

20. A clause of return is that, by which a sum in a bond or other right, is in a certain event limited to return to the granter himself, or his heirs. When a right is granted for onerous causes, the creditor may defeat the clause of return, even gratuitously. But, where the sum in the right flows from the granter, or where there is any other reasonable cause for the provision of return in his favour, the receiver cannot disappoint it gratuitously. Yet since he is *fiar*, the sum may be either assigned by him for an onerous cause, or affected by his creditors.

Heirs.

21. An heir is, in the judgement of law, *eadem persona cum defuncto*, and so represents the deceased universally, not only in his rights, but in his debts: in the first view, he is said to be an heir *actiue*; in the second, *passiue*. From this general rule are excepted, heirs substituted in a special bond, and even substituted in a disposition *omnium bonorum*, to take effect at the granter's death; for such substitutes are considered as singular successors, and their right as an universal legacy, which does not subject the legatee *ultra valorem*: but heirs male or of tailzie, though their right be limited to special subjects, are liable, not merely to the extent of the subject entailed or provided, but *in solidum*; because such rights are designed to carry a universal character, and so infer a universal representation of the granter. The heir of line is primarily liable for the debts of his predecessor; for he is the most proper heir, and so must be discussed before any other can be pursued; next to him the heir of conquest, because he also succeeds to

Law of
Scotland.

the *universitas* of the whole heritable rights which his predecessor had acquired by singular titles; then, the heir male, or of a marriage; for their propinquity of blood subjects them more directly than any other heir of tailzie, who may possibly be a stranger; and who for that reason is not liable to be discussed, except for such of the predecessor's debts or deeds as relate specially to the lands tailzied; as to which he is liable even before the heir of line. Heirs portioners are liable *pro rata* for their predecessor's debts; but if any of them prove insolvent, the creditors may, after discussing her, insist for her share against the rest, who will be liable in so far as they are *lucratæ* by the succession. Where an heir, liable *subsidiarie*, pays the predecessor's debt, he has relief against the heir who is more directly liable, in respect of whom he is not co-heir, but creditor.

22. Before an heir can have an active title to his ancestor's rights, he must be entered by service and retour. He who is entitled to enter heir, is, before his actual entry, called *apparent heir*. The bare right of ^{Apparent} _{heirs.} *apparent* carries certain privileges with it. An *apparent* heir may defend his ancestor's titles against any third party who brings them under challenge. Tenants may safely pay him their rents; and after they have once acknowledged him by payment, he may compel them to continue it; and the rents not uplifted by the apparent heir belong to his executors, upon his death.

23. As an heir is, by his entry, subjected universally to his ancestor's debts, ^{*Jus deli-*} _{*berandi.*} *apparent* heirs have therefore a *year* (*annus deliberandi*) allowed to them from the ancestor's decease, to deliberate whether they will enter or not: till the expiry of which, though they may be charged by creditors to enter, they cannot be sued in any process founded upon such charge. Though declaratory actions, and others which contain no personal conclusion, may be pursued against the apparent heir without a previous charge, action does not lie even upon these, within the year, if the heir cannot make the proper defences without incurring a passive title. But judicial sales, commenced against an ancestor, may by special act of federunt be continued upon a citation of the heir, without waiting the year of deliberating. This *annus deliberandi* is computed, in the case of a posthumous heir, from the birth of such heir. An *apparent* heir, who, by immixing with the estate of his ancestor, is as much subjected to his debts as if he had entered, can have no longer a right to deliberate whether he will enter or not.

24. All services proceed from the chancery, which are called *briefes of inquest*, and have been ^{heirs,} long known in Scotland. The judge, to whom the brief is directed, is required to try the matter by an inquest of 15 sworn men. The inquest, if they find the claim verified, must declare the claimant heir to the deceased, by a verdict or service, which the judge must attest, and return the brief, with the service proceeding on it, to the chancery; from which an extract is obtained called the *retour of the service*.

25. The service of heirs is either *general* or *special*, ^{general and} _{special.} A *general* service vests the heir in the right of all heritable subjects, which either do not require seisin, or which have not been perfected by seisin in the person of the ancestor. A public right, therefore, according to

Law of
Scotland.

the feudal law, though followed by feisin, having no legal effects till it be confirmed by the superior, must, as a personal right, be carried by a general service. A *special* service, followed by feisin, vests the heir in the right of the special subjects in which the ancestor died infest.

Entry by
inventory.

26. If an heir, doubtful whether the estate of his ancestor be sufficient for clearing his debts, shall, at any time within the *annus deliberandi*, exhibit upon oath a full inventory of all his ancestor's heritable subjects to the clerk of the shire where the lands lie; or, if there is no heritage requiring feisin, to the clerk of the shire where he died; and if, after the same is subscribed by the sheriff or sheriff-depute, the clerk, and himself, and registered in the sheriff's books, the extract thereof shall be registered within forty days after expiry of the *annus deliberandi* in the general register appointed for that purpose, his subsequent entry will subject him no farther than to the value of such inventory. If the inventory be given up and registered within the time prescribed, the heir may serve on it, even after the year.

27. Creditors are not obliged to acquiesce in the value of the estate given up by the heir; but, if they be real creditors, may bring the estate to a public sale, in order to discover its true value; since an estate is always worth what can be got for it. An heir by inventory, as he is in effect a trustee for the creditors, must account for that value to which the estate may have been improved since the death of the ancestor, and he must communicate to all the creditors the cases he has got in transacting with any one of them.

Entry upon
a precept of
clare constat.

28. Practice has introduced an anomalous sort of entry, without the interposition of an inquest, by the sole consent of the superior; who, if he be satisfied that the person applying to him is the next heir, grants him a precept (called *clare constat*, from the first words of its recital), commanding his bailie to infest him in the subjects that belonged to his ancestor. The heir, by taking feisin on this precept, becomes *passive*, liable for all the debts of his ancestor; and on the other hand, acquires an active title, as to the subjects contained in the precept in questions with the superior or his heirs; and they may, when followed by feisin, afford a title of prescription: But as no person can be declared an heir by private authority, they cannot bar the true heir from entering after 20 years, as a legal entry would have done; the true heir, in such case, having it still in his power to set aside that right, and obtain himself regularly served at any time within the years of prescription. Of the same nature is the entry by hasp and staple, commonly used in burgage tenements of houses; by which the bailie, without calling an inquest, cognosces or declares a person heir, upon evidence brought before himself; and, at the same time, infests him in the subject, by the symbol of the hasp and staple of the door. Charges given by creditors to apparent heirs to enter, stand in the place of an actual entry, so as to support the creditor's diligence (clxxii. 2.)

A special
service in-
cludes a ge-
neral one.

29. A general service cannot include a special one; since it has no relation to any special subject, and carries only that class of rights on which feisin has not proceeded: but a special service implies a general one of the same kind or character, and consequently carries

even such rights as have not been perfected by feisin. Service is not required to establish the heir's right in titles of honour, or offices of the highest dignity; for these descend *jure sanguinis*.

Law of
Scotland.

30. An heir, by immixing with his ancestor's estate without entry, subjects himself to his debts, as if he had entered; or, in our law phrase, incurs a passive title. The only passive title by which an apparent heir becomes liable universally for all his ancestor's debts, is *gestio pro hærede*, or his behaving as none but as heir has right to do. Behaviour as heir is inferred from the apparent heir's intromission, after the death of the ancestor, with any part of the lands or other heritable subjects belonging to the deceased, to which he himself might have completed an active title by entry.

31. This passive title is excluded, if the heir's intromission be by order of law; or if it be founded on singular titles, and not as heir to the deceased. But an apparent heir's purchasing any right to his ancestor's estate, otherwise than at public roup (auction), or his possessing it in virtue of rights settled in the person of any near relation of the ancestor, to whom he himself may succeed as heir, otherwise than upon purchase by public sale, is deemed behaviour as heir.

32. Behaviour as heir is also excluded, where the intromission is small, unless an intention to defraud the ancestor's creditors be presumable from the circumstances attending it. Neither is behaviour inferred against the apparent heir, from the payment of his ancestor's debt, which is a voluntary act, and profitable to the creditors: nor by his taking out of brieves to serve; for one may alter his purpose, while it is not completed: nor by his assuming the titles of honour belonging to his ancestor, or exercising an honorary office hereditary in the family; for these are rights annexed to the blood, which may be used without proper representation. But the exercising an heritable office of profit, which may pass by voluntary conveyance, and consequently is adjudgeable, may reasonably be thought to infer a passive title. Lastly, As passive titles have been introduced, merely for the security of creditors; therefore, where questions concerning behaviour arise among the different orders of heirs, they are liable to one another no farther than *in valorem* of their several intromissions.

33. Another passive title in heritage, may be incurred by the apparent heir's accepting a gratuitous right from the ancestor, to any part of the estate to which he himself might have succeeded as heir; and it is called *præceptio hæreditatis*, because it is a taking of the succession by the heir before it opens to him by the death of his ancestor. If the right be onerous, there is no passive title; if the consideration paid for it does not amount to its full value, the creditors of the deceased may reduce it, in so far as it is gratuitous, but still it infers no passive title.

34. The heir incurring this passive title is no farther liable, than if he had at the time of his acceptance entered heir to the granter, and so subjected himself to the debts that were then chargeable against him; but with the posterior debts he has nothing to do, not even with those contracted between the date of the right and the infestment taken upon it, and he is therefore called *successor titulo lucrativo post contractum debitum*.

35. Neither

Law of Scotland.

35. Neither of these passive titles takes place, unless the subject intermeddled with or disposed be such as the intronmitter or receiver would succeed to as heir. In this also, these two passive titles agree, that the intronmission in both must be after the death of the ancestor; for there can be no *termini habiles* of a passive title, while the ancestor is alive. But in the following respect they differ: *Gestio pro hærede*, being a vicious passive title founded upon a quasi delict, cannot be objected against the delinquent's heir, if process has not been litifcontested while the delinquent himself was alive; whereas the *successor titulo lucrativo* is by the acceptance of the disposition understood to have entered into a tacit contract with the granter's creditors, by which he undertakes the burden of their debts; and all actions founded on contract are transmissible against heirs.

Other passive titles.

36. An apparent heir, who is cited by the ancestor's creditor in a process for payment, if he offers any peremptory defence against the debt, incurs a passive title; for he can have no interest to object against it, but in the character of heir. In the same manner, the heir's not renouncing upon a charge to enter heir, infers it: But the effect of both these is limited to the special debt pursued for, or charged upon. This passive title, which is inferred from the heir's not renouncing, has no effect till decree pass against him; and even a renunciation offered after decree, if the decree be in absence, will entitle the heir to a suspension of all diligence against his person and estate, competent upon his ancestor's debts.

37. By the principles of the feudal law, an heir, when he is to complete his titles by special service, must necessarily pass over his immediate ancestor, e. g. his father, if he was not infest; and serve heir to that ancestor who was last vest and seized in the right, and in whose *hæreditatis jacens* the right must remain, till a title be connected thereto from him. As this bore hard upon creditors who might think themselves secure in contracting with a person whom they saw for some time in the possession of an estate, and from thence concluded that it was legally vested in him; it is therefore provided by act 1695, that every person, passing over his immediate ancestor who had been three years in possession, and serving heir to one more remote, shall be liable for the debts and deeds of the person interjected, to the value of the estate to which he is served. This being correctory of the feudal maxims, has been strictly interpreted, so as not to extend to the gratuitous deeds of the person interjected, nor to the case where the interjected person was a naked fiar, and possessed only civilly through the liferenter.

Reduction by the heir *ex capite lecti*.

38. Our law, from its jealousy of the weakness of mankind while under sickness, and of the importunity of friends on that occasion, has declared that all deeds affecting heritage, if they be granted by a person on deathbed, (i. e. after contracting that sickness which ends in death), to the damage of the heir, are ineffectual, except where the debts of the granter have laid him under a necessity to alien his lands. As this law of deathbed is founded solely in the privilege of the heir, deathbed deeds, when consented to by the heir, are not reducible. The term properly opposed to deathbed is *liege poustie*, by which is understood a state of health; and it gets the name, because persons in

health have the *legitima potestas*, or lawful power, of disposing of their property at pleasure.

Law of Scotland.

39. The two extremes being proved, of the granter's sickness immediately before signing, and of his death following it, though at the greatest distance of time, did, by our former law, found a presumption that the deed was granted on deathbed, which could not have been elided but by a positive proof of the granter's convalescence; but now the allegation of deathbed is also excluded, by his having lived 60 days after signing the deed. The legal evidence of convalescence is the granter's having been, after the date of the deed, at kirk OR market unsupported; for a proof of either will secure the deed from challenge. The going to kirk or market must be performed when the people are met together in the church or churchyard for any public meeting, civil or ecclesiastical, or in the market place at the time of public market. No other proof of convalescence is receivable, because at kirk and market there are always present unsuspected witnesses, which we can hardly be sure of in any other case.

What constitutes a deathbed deed.

40. The privilege of setting aside deeds *ex capite lecti*, is competent to all heirs, not to heirs of line only, but of conquest, tailzie, or provision; not only to the immediate, but to remoter heirs, as soon as the succession opens to them. But, where it is consented to or ratified by the immediate heir, it is secured against all challenge, even from the remoter. Yet the immediate heir cannot, by any antecedent writing, renounce his right of reduction, and thereby give strength to deeds that may be afterwards granted *in lecto* to his hurt; for no private renunciation can authorize a person to act contrary to a public law; and such renunciation is presumed to be extorted through the fear of exheredation. If the heir should not use this privilege of reduction, his creditor may, by adjudication, transfer it to himself; or he may, without adjudication, reduce the deed, libelling upon his interest as creditor to the heir: But the granter's creditors have no right to this privilege, in regard that the law of deathbed was introduced, not in behalf of the granter himself, but of his heir.

To what heirs this reduction is competent.

41. The law of deathbed strikes against dispositions of every subject to which the heir would have succeeded, or from which he would have had any benefit, had it not been so disposed. Deathbed deeds granted in consequence of a full or proper obligation in *liege poustie*, are not subject to reduction; but, where the antecedent obligation is merely natural, they are reducible. By stronger reason, the deceased cannot, by a deed merely voluntary, alter the nature of his estate on deathbed to the prejudice of his heir, so as from heritable to make it moveable; but if he should, in *liege poustie*, exclude his apparent heir, by an irrevocable deed containing reserved faculties, the heir cannot be heard to quarrel the exercise of these faculties on deathbed.

What rights may be thus set aside.

42. In a competition between the creditors of the deceased and of the heir, our law (act 1661) has justly preferred the creditors of the deceased, as every man's estate ought to be liable, in the first place, for his own debt. But this preference is, by the statute, limited to the case where the creditors of the deceased have used diligence against their debtor's estate, within three years from his death; and therefore the heir's

Law of
Scotland.

creditors may, after that period, affect it for their own payment. All dispositions by an heir, of the ancestor's estate, within a year after his death, are null, in so far as they are hurtful to the creditors of the ancestor. This takes place, though these creditors should have used no diligence, and even where the dispositions are granted after the year: It is thought they are ineffectual against the creditors of the deceased who have used diligence within the three years.

clxxxi.

SECT. XXI. *Of Succession in Moveables.*Moveable
succession
by law.

1. In the succession of moveable rights, it is an universal rule, that the next in degree to the deceased (or next of kin) succeeds to the whole; and if there are two or more equally near, all of them succeed by equal parts, without that prerogative, which takes place in heritage, of the eldest son over the younger, or of males over females. Neither does the right of representation (explained N^o clxxx. 4.) obtain in the succession of moveables, except in the single case of a competition between the full blood and the half blood; for a niece by the full blood will be preferred before a brother by the half blood, though she is by one degree more remote from the deceased than her uncle. Where the estate of a person deceased consists partly of heritage, and partly of moveables, the heir in the heritage has no share of the moveables, if there are others as near in degree to the deceased as himself: But where the heir, in such case, finds it his interest to renounce his exclusive claim to the heritage, and betake himself to his right as one of the next of kin, he may collate or communicate the heritage with the others, who in their turn must collate the moveables with him; so that the whole is thrown into one mass, and divided equally among all of them. This doctrine holds, not only in the line of descendants, but of collaterals; for it was introduced, that the heir might in no case be worse than the other next of kin.

Succession
in move-
ables by def-
inition.

2. One may settle his moveable estate upon whom he pleases, excluding the legal successor, by a testament; which is a written declaration of what a person wills to be done with his moveable estate after his death. No testamentary deed is effectual till the death of the testator; who may therefore revoke it at pleasure, or make a new one, by which the first loses its force, according to the rule, *voluntas testatoris est ambulatoria usque ad mortem*; and hence testaments are called *last* or *latter wills*. Testaments, in their strict acceptation, must contain a nomination of executors, i. e. of persons appointed to administer the succession according to the will of the deceased: Yet nothing hinders one from making a settlement of moveables, in favour of an universal legatee, though he should not have appointed executors; and on the other part, a testament where executors are appointed is valid, though the person who is to have the right of succession should not be named. In this last case, if the executor nominated be a stranger, i. e. one who has no legal interest in the moveable estate, he is merely a trustee, accountable to the next of kin; but he may retain a third of the dead's part (explained par. 6.) for his trouble in executing the testament; in payment of which, lega-

Law of
Scotland.

cies, if any be left to him, must be imputed. The heir, if he be named executor, has right to the third as a stranger; but if one be named who has an interest in the legal succession, he has no allowance, unless such interest be less than a third. Nuncupative or verbal testaments are not, by the law of Scotland, effectual for supporting the nomination of an executor, let the subject of the succession be ever so small: But verbal legacies, not exceeding 100l. Scots, are sustained: and even where they are granted for more, they are ineffectual only as to the excess.

3. A legacy is a donation by the deceased, to be paid by the executor to the legatee. It may be granted either in the testament or in a separate writing. Legacies are not due till the grantor's death; and consequently they can transmit no right to the executors of the legatee, in the event that the grantor survives him. A case occurred some years ago, where a testator left a legacy payable when the legatee arrived at a certain age. The legatee survived the testator, but died before the legacy was payable. It was found, chiefly upon the authority of the Roman law, that the legacy vested in the legatee *à morte testatoris*, and upon his decease was due to the legatee's next of kin.

4. Legacies, where they are general, i. e. of a certain sum of money indefinitely, give the legatee no right in any one debt or subject; he can only insist in a personal action against the executor for payment out of the testator's effects. A special legacy, i. e. of a particular debt due to the deceased, or of a particular subject belonging to him, is of the nature of an assignation, by which the property of the special debt or subject vests, upon the testator's death, in the legatee, who can therefore directly sue the debtor or possessor: Yet as no legacy can be claimed till the debts are paid, the executor must be cited in such process, that it may be known, whether there are free effects sufficient for answering the legacy. Where there is not enough for payment of all the legacies, each of the general legatees must suffer a proportional abatement: But a special legatee gets his legacy entire, though there should be nothing over for payment of the rest; and, on the contrary, he has no claim, if the debt or subject bequeathed should perish, whatever the extent of the free executry may be.

5. Minors, after puberty, can test without their curators, wives without their husbands, and persons interdicted without their interdictors: but bastards cannot test, except in the cases afterwards set forth, N^o clxxii. 3. As a certain share of the goods, falling under the communion that is consequent on marriage, belongs, upon the husband's decease, to his widow, *jure relicte*, and a certain share to the children, called the *legitime*, *portion natural*, or *bairns part of gear*; one who has a wife or children, though he be the absolute administrator of all these goods during his life, and consequently may alien them by a deed *inter vivos*, in *liege poussie*, even gratuitously, if no fraudulent intention to disappoint the wife or children shall appear, yet cannot impair their shares gratuitously on deathbed: nor can he dispose of his moveables to their prejudice by testament, though it should be made in *liege poussie*; since testaments do not operate till the death of the testator,

Law of Scotland. at which period the division of the goods in communion have their full effect in favour of the widow and children.

Division of a testament. 6. If a person deceased leaves a widow, but no child, his testament, or, in other words, the goods in communion, divide in two: one half goes to the widow: the other is the dead's part, i. e. the absolute property of the deceased, on which he can test, and which falls to his next of kin, if he dies intestate. Where he leaves children, one or more, but no widow, the children get one half as their legitime: the other half is the dead's part; which falls also to the children, if the father has not tested upon it. If he leaves both widow and children, the division is tripartite: the wife takes one third by herself; another falls, as legitime, to the children equally among them, or even to an only child, though he should succeed to the heritage; the remaining third is the dead's part. Where the wife predeceases without children, one half is retained by the husband, the other falls to her next of kin: Where she leaves children, the division ought also to be bipartite, by the common rules of society, since no legitime is truly due on a mother's death: yet it is in practice tripartite; two-thirds remain with the surviving father, as if one-third were due to him *proprio nomine*, and another as administrator of the legitime for his children; the remaining third, being the wife's share, goes to her children, whether of that or any former marriage; for they are all equally her next of kin.

What debts affect the executry. 7. Before a testament can be divided, the debts owing by the deceased are to be deducted; for all executry must be free. As the husband has the full power of burdening the goods in communion, his debts affect the whole, and so lessen the legitime and the share of the relict, as well as the dead's part. His funeral charges, and the mournings and alimony due to the widow, are considered as his proper debts; but the legacies, or other gratuitous rights granted by him on deathbed, affect only the dead's part. Bonds bearing interest, due by the deceased, cannot diminish the relict's share, because such bonds, when due to the deceased, do not increase it. The funeral charges of the wife predeceasing, fall wholly on her executors, who have right to her share. Where the deceased leaves no family, neither husband, wife, nor child, the testament suffers no division, but all is the dead's part.

8. The whole issue of the husband, not only by that marriage which was dissolved by his death, but by any former marriage, has an equal interest in the legitime; otherwise the children of the first marriage would be cut out, as they could not claim the legitime during their father's life. But no legitime is due, (1.) Upon the death of a mother. (2.) Neither is it due to grandchildren, upon the death of a grandfather. Nor, (3.) To children forisfamiliarized, i. e. to such as, by having renounced the legitime, are no longer considered as *in familia*, and so are excluded from any farther share of the moveable estate than they have already received.

Renunciation of the legitime. 9. As the right in legitime is strongly founded in nature, the renunciation of it is not to be inferred by implication. Renunciation by a child of his claim of legitime has the same effect as his death, in favour of the other children entitled thereto; and consequently the share of the renouncer divides among the rest; but he does not thereby lose his right to the dead's part, if

he does not also renounce his share in the father's executry. Nay, his renunciation of the legitime, where he is the only younger child, has the effect to convert the whole subject thereof into dead's part, which will therefore fall to the renouncer himself as next of kin, if the heir be not willing to collate the heritage with him. Yet it has been found that the renunciation of the only younger child made the whole legitime accrue to the heir without collation.

10. For preserving an equality among all the children who continue entitled to the legitime, we have adopted the Roman doctrine of *collatio bonorum*, whereby the child, who has got a provision from his father, is obliged to collate it with the others, and impute it towards his own share of the legitime; but if from the deed of provision, the father shall appear to have intended it as a *præcipuum* to the child, collation is excluded. A child is not bound to collate an heritable subject provided to him, because the legitime is not impaired by such provision. As this collation takes place only in questions among children who are entitled to the legitime, the relict is not bound to collate donations given her by her husband, in order to increase the legitime; and on the other part, the children are not obliged to collate their provisions, in order to increase her share.

11. As an heir in heritage must complete his titles by entry, so an executor is not vested in the right of the moveable estate of the deceased without confirmation. Confirmation is a sentence of the commissary or bishop's court, empowering an executor, one or more, upon making inventory of the moveables pertaining to the deceased, to recover, possess, and administer them, either in behalf of themselves, or of others interested therein. Testaments must be confirmed in the commissariat where the deceased had his principal dwelling house at his death. If he had no fixed residence, or died in a foreign country, the confirmation must be at *Edinburgh*, as the *commune forum*; but if he went abroad with an intention to return, the commissariat within which he resided before he left Scotland, is the only proper court.

12. Confirmation proceeds upon an edict, which is affixed on the door of the parish church where the deceased dwelt, and serves to intimate to all concerned the day of confirmation, which must be nine days at least after publishing the edict. In a competition for the office of executor, the commissary prefers, *primo loco*, the person named to it by the deceased himself, whose nomination he ratifies or confirms, without any previous decerniture: this is called the confirmation of a testamentary. In default of an executor named by the deceased, universal disponees are by the present practice preferred; after them the next of kin; then the relict; then creditors; and, lastly, special legatees. All these must be decerned executors, by a sentence called a *decree-dative*; and if afterwards they incline to confirm, the commissary authorizes them to administer, upon their making inventory, and giving security to make the subject thereof forthcoming to all having interest; which is called the confirmation of a testament dative.

13. A creditor, whose debtor's testament is already confirmed, may sue the executor, who holds the office for all concerned, to make payment of his debt. Where

Law of Scotland.

Collation among younger children.

Confirmation.

Confirmation qua executor-creditor.

Law of Scotland.

there is no confirmation, he himself may apply for the office, and confirm as executor-creditor; which entitles him to sue for and receive the subject confirmed, for his own payment: and where one applies for a confirmation as executor-creditor, every co-creditor may apply to be conjoined with him in the office. As this kind of confirmation is simply a form of diligence, creditors are exempted from the necessity of confirming more than the amount of their debts.

14. A creditor, whose debt has not been constituted or his claim not closed by decree, during the life of his debtor, has no title to demand directly the office of executor *qua* creditor: but he may charge the next of kin who stands off, to confirm, who must either renounce within twenty days after the charge, or be liable for the debt; and if the next of kin renounces, the pursuer may constitute his debt, and obtain a decree *cognitionis causa*, against the *hereditas jacens* of the moveables, upon which he may confirm as executor-creditor to the deceased. Where one is creditor, not to the deceased, but to his next of kin who stands off from confirming, he may affect the moveables of the deceased, by obtaining himself decerned executor-dative to the deceased, as if he were creditor to him, and not to his next of kin.

Confirmation *ad omnia* &c.

15. Where an executor has either omitted to give up any of the effects belonging to the deceased in inventory, or has estimated them below their just value, there is place for a new confirmation, *ad omnia, vel male apprehensata*, at the suit of any having interest; and if it appears that he has not omitted or undervalued any subject *dolose*, the commissary will ordain the subjects omitted, or the difference between the estimations in the principal testament and the true values, to be added thereto; but if *dole* shall be presumed, the whole subject of the testament *ad omnia vel male apprehensata*, will be carried to him who confirms it, to the exclusion of the executor in the principal testament.

Legitimate &c. transmit without confirmation.

16. The legitimate and relict's share, because they are rights arising *ex lege*, operate *ipso jure*, upon the father's death, in favour of the relict and children; and consequently pass from them, though they should die before confirmation, to their next of kin: whereas the dead's part, which falls to the children or other next of kin in the way of succession, remains, if they should die before confirming, *in bonis* of the first deceased; and so does not descend to their next of kin, but may be confirmed by the person who, at the time of confirmation, is the next of kin to the first deceased. Special assignations, though neither intimated nor made public during the life of the granter, carry to the assignee the full right of the subjects assigned, without confirmation. Special legacies are really assignations, and so fall under this rule. The next of kin, by the bare possession of the *ipsa corpora* of moveables, acquires the property thereof without confirmation, and transmits it to his executors.

Partial confirmation.

17. The confirmation of any one subject by the next of kin, as it proves his right of blood, has been adjudged to carry the whole executry out of the testament of the deceased, even what was omitted, and to transmit all to his own executors. The confirmation of a stranger, who is executor nominated, as it is merely a trust for the next of kin, has the effect to establish the right of the next of kin to the subjects

confirmed, in the same manner as if himself had confirmed them.

Law of Scotland

18. Executry, though it carries a certain degree of representation of the deceased, is properly an office: Executors, therefore are not subjected to the debts due how far liable by the deceased, beyond the value of the inventory; but, at the same time, they are liable in diligence for making the inventory effectual to all having interest. An executor-creditor who confirms more than his debt amounts to, is liable in diligence for what he confirms. Executors are not liable in interest, even upon such bonds recovered by them as carried interest to the deceased, because their office obliges them to retain the sums they have made effectual, in order to a distribution thereof among all having interest. This holds though they should again lend out the money upon interest, as they do it at their own risk.

19. There are certain debts of the deceased called In what privileged debts, which were always preferable to every cases they other. Under that name are comprehended, medicines may pay furnished to the deceased on deathbed, physicians fees without during that period, funeral charges, and the rent of his sentence. house, and his servants wages for the year or term current at his death. These the executors are in safety to pay on demand. All the other creditors, who either obtain themselves confirmed, or who cite the executor already confirmed, within six months after their debtor's death, are preferred, *pari passu*, with those who have done more timely diligence; and therefore no executor can either retain for his own debt, or pay a testamentary debt, so as to exclude any creditor, who shall use diligence within the six months, from the benefit of the *pari passu* preference; neither can a decree for payment of debt be obtained, in that period, against an executor, because, till that term be elapsed, it cannot be known how many creditors may be entitled to the fund in his hands. If no diligence be used within the six months, the executor may retain for his own debt, and pay the residue *primo venienti*. Such creditors of the deceased as have used diligence within a year after their debtor's death, are preferable on the subject of his testament to the creditors of his next of kin.

20. The only passive title in moveables is vitious intromission; which may be defined, an unwarrantable intermeddling with the moveable estate of a person deceased, without the order of law. This is not confined, as the passive titles in heritage are, to the persons interested in the succession, but strikes against all intromitters whatever. Where an executor confirmed intromits with more than he has confirmed, he incurs a passive title; fraud being in the common case presumed from his not giving up in inventory the full subject intermeddled with. Vitious intromission is also presumed, where the repositories of a dying person are not sealed up, as soon as he becomes incapable of sense, by his nearest relations; or, if he dies in a house not his own, they must be sealed by the master of such house, and the keys delivered to the judge ordinary, to be kept by him, for the benefit of all having interest.

21. The passive title of vitious intromission does not take place where there is any probable title or circumstance that takes off the presumption of fraud. In consequence of this rule, necessary intromission, or *custodie causa*,

Law of Scotland.

Law of Scotland.

causa, by the wife or children, who only continue the possession of the deceased, in order to preserve his goods for the benefit of all concerned, infers no passive title. And, upon the same principle, an intromitter, by confirming himself executor, and thereby subjecting himself to account, before action be brought against him on the passive titles, purges the vitiosity of his prior intromission: and where the intromitter is one who is interested in the succession, e. g. next of kin, his confirmation, at any time within a year from the death of the deceased, will exclude the passive title, notwithstanding a prior citation. As this passive title was intended only for the security of creditors, it cannot be sued upon by legatees; and since it arises *ex delicto*, it cannot be pleaded against the heir of the intromitter. As in delicts, any one of many delinquents may be subjected to the whole punishment, so any one of many intromitters may be sued *in solidum* for the pursuer's debt, without calling the rest; but the intromitter who pays, has an action of relief against the others for their share of it. If the intromitters are sued jointly, they are liable, not *pro rata* of their several intromissions, but *pro virili*.

Mutual relief betwixt the heir and executor.

22. The whole of a debtor's estate is subjected to the payment of his debts; and therefore, both his heirs and executors are liable for them, in a question with creditors: but a succession is by law divided into the heritable and the moveable estate, each of these ought, in a question between the several successors, to bear the burdens which naturally affect it. Action of relief is accordingly competent to the heir who has paid a moveable debt, against the executor; and *vice versa*. This relief is not cut off by the deceased's having disposed either his land estate or his moveables, with the burden of his *whole* debts; for such burden is not to be construed as an alteration of the legal succession, but merely as a farther security to creditors, unless the contrary shall be presumed from the special style of the disposition.

clxxxii.

IV. OF LAST HEIRS AND BASTARDS.

Where there is no heir, the king succeeds.

1. BY our ancient practice, feudal grants taken to the vassal, and to a special order of heirs, without settling the last termination upon *heirs whatsoever*, returned to the superior, upon failure of the special heirs therein contained: but now that feus are become patrimonial rights, the superior is, by the general opinion, held to be fully divested by such grant, and the right descends to the vassal's heirs at law. And even where a vassal dies without leaving any heir who can prove the remotest propinquity to him, it is not the superior, as the old law stood, but the king, who succeeds as last heir, both in the heritable and moveable estate of the deceased, in consequence of the rule, *Quod nullius est, cedit domino Regi*.

2. If the lands to which the king succeeds be holden immediately of himself, the property is consolidated with the superiority, as if resignation had been made in the sovereign's hand. If they are holden of a subject, the king, who cannot be vassal to his own subject, names a donatory; who, to complete his title, must obtain a decree of declaratory; and thereafter he is presented to the superior, by letters of presentation from the king under the quarter seal, in which the supe-

rior is charged to enter the donatory. The whole estate of the deceased is, in this case, subject to his debts, and to the widow's legal provisions. Neither the king nor his donatory is liable beyond the value of the succession. A person who has no heir to succeed to him, cannot alien his heritage *in leeto*, to the prejudice of the king, who is entitled to set aside such deed, in the character of *ultimus heres*.

3. A bastard can have no legal heirs, except those of his own body; since there is no succession but by the father, and a bastard has no certain father. The king therefore succeeds to him, failing his lawful issue, as last heir. Though the bastard, as absolute proprietor of his own estate, can dispose of his heritage in *liege poustie*, and of his moveables by any deed *inter vivos*; yet he is disabled, *ex defectu natalium*, from bequeathing by testament, without letters of legitimation from the sovereign. If the bastard has lawful children, he may test without such letters, and name tutors and curators to his issue. Letters of legitimation, let their clauses be ever so strong, cannot enable the bastard to succeed to his natural father, to the exclusion of lawful heirs.

4. The legal rights of succession, being founded in marriage, can be claimed only by those who are born in lawful marriage; the issue therefore of an unlawful marriage are incapable of succession. A bastard is excluded, (1.) From his father's succession; because law knows no father who is not marked out by marriage. (2.) From all heritable succession, whether by the father or mother; because he cannot be pronounced lawful heir by the inquest, in terms of the brief. And, (3.) From the moveable succession of his mother; for though the mother be known, the bastard is not her lawful child, and legitimacy is implied in all succession conferred by law. A bastard, though he cannot succeed *jure sanguinis*, may succeed by destination, where he is specially called to the succession by an entail or testament.

5. Certain persons, though born in lawful marriage, are incapable of succession. Aliens are, from their allegiance to a foreign prince, incapable of succeeding in *feudal rights*, without naturalization. Children born in a foreign state, whose fathers were natural born subjects, and not attainted, are held to be natural born subjects. Persons educated in, or professing, the Popish religion, if they shall neglect, upon their attaining the age of 15, to renounce its doctrines by a signed declaration, cannot succeed in *heritage*: but must give place to the next Protestant heir, who will hold the estate irredeemably, if the Popish heir does not, within ten years after incurring the irritancy, sign the *formula* prescribed by the statute 1700, c. 3.

Aliens cannot succeed in feudal rights;

nor Papists.

CHAP. III. Of ACTIONS.

HITHERTO of *Persons*, and *Rights*, the two first objects of law: *Actions* are its third object, whereby persons make their rights effectual.

SECT. I. Nature, Division, &c. of Actions.

clxxxiii.

1. An action may be defined, A demand regularly made and insisted in, before the judge competent, for the attainment

An action, for the attainment

Law of
Scotland.

Division of
actions.

Reduction-
improbation.

Simple re-
duction.

Grounds of
reduction.

taining or recovering of a right; and it suffers several divisions, according to the different natures of the rights pursued upon.

2. Actions are either real or personal. A real action is that which arises from a right in the thing itself, and which therefore may be directed against all possessors of that thing: thus, an action for the recovery, even of a moveable subject, when founded on a *ius in re*, is in the proper acceptation real; but real actions are, in vulgar speech, confined to such as are directed against heritable subjects. A personal action is founded only on an obligation undertaken for the performance of some fact, or the delivery of some subject; and therefore can be carried on against no other than the person obliged, or his heirs.

3. Actions, again, are either ordinary or rescissory. All actions are, in the sense of this division, ordinary, which are not rescissory. Rescissory actions are divided, (1.) Into actions of proper improbation. (2.) Actions of reduction-improbation. (3.) Actions of simple reduction. Proper improbations, which are brought for declaring writings false or forged, are noticed below, N^o clxxxvi. 32. Reduction-improbation is an action, whereby a person who may be hurt or affected by a writing, insists for producing or exhibiting it in court, in order to have it set aside, or its effect ascertained, under the certification that the writing, if not produced, shall be declared false and forged. This certification is a fiction of law, introduced that the production of writings may be more effectually forced, and therefore it operates only in favour of the pursuer. Because the summons in the action proceeds on alleged grounds of falsehood, his majesty's advocate, who is the public prosecutor of crimes, must concur in it.

4. As the certification in this process draws after it so heavy consequences, two terms are assigned to the defenders for production. After the second term is elapsed, intimation must be made judicially to the defender, to satisfy the production within ten days; and till these are expired, no certification can be pronounced. Certification cannot pass against deeds recorded in the books of session, if the defender shall, before the second term, offer a condescendence of the dates of their registration, unless falsehood be objected: in which case, the original must be brought from the record to the court. But an extract from the inferior court is no bar to certification; the principal writing must be laid before the court of session on a proper warrant.

5. In an action of simple reduction the certification is only temporary, declaring the writings called for null, until they be produced; so that they recover their full force after production, even against the pursuer himself; for which reason, that process is now seldom used. Because its certification is not so severe as in reduction-improbation, there is but one term assigned to the defender for producing the deeds called for.

6. The most usual grounds of reduction of writings are, the want of the requisite solemnities; that the granter was minor, or interdicted, or inhibited; or that he signed the deed on deathbed, or was compelled or frightened into it, or was circumvented; or that he granted it in prejudice of his lawful creditors.

7. In reductions on the head of force, or fear, or

fraud and circumvention, the pursuer must libel the particular circumstances from which his allegation is to be proved. Reduction is not competent upon every degree of force or fear; it must be such as would shake a man of constancy and resolution. Neither is it competent, on that fear which arises from the just authority of husbands or parents, over their wives or children, nor upon the fear arising from the regular execution of lawful diligence by caption, provided the deeds granted under that fear relate to the ground of debt contained in the diligence; but if they have no relation to that debt, they are reducible *ex metu*.

8. Alienations granted by debtors after contracting of lawful debts, in favour of conjunct or confident persons, without just and necessary causes, and without a just price really paid, are, by the act 1621, declared to be null. One is deemed a prior creditor, whose ground of debt existed before the right granted by the debtor; though the written voucher of the debt should bear a date posterior to it. Persons are accounted conjunct, whose relation to the granter is so near, as to bar them from judging in his cause. Confident persons are those who appear to be in the granter's confidence, by being employed in his affairs or about his person; as a doer, steward, or domestic servant.

9. Rights, though gratuitous, are not reducible, if the granter had, at the date thereof, a sufficient fund for the payment of his creditors. Provisions to children are, in the judgement of law, gratuitous; so that their effect, in a question with creditors, depends on the solvency of the granter; but settlements to wives, either in marriage contracts, or even after marriage, are onerous, in so far as they are rational; and consequently are not reducible, even though the granter was insolvent. This rule holds also in rational tochers contracted to husbands: But it must, in all cases, be qualified with this limitation, *if the insolvency of the granter was not publicly known*; for if it was, fraud is presumed in the receiver of the right, by contracting with the bankrupt.

10. The receiver of the deed, if he be a conjunct or confident person, must instruct or support the onerous cause of his right, not merely by his own oath, but by some circumstances or adminicles. But where a right is granted to a stranger, the narrative of it expressing an onerous cause, is sufficient *per se* to secure it against reduction.

11. All voluntary payments or rights made by a bankrupt to one creditor, to disappoint the more timorous diligence of another, are reducible at the instance of that creditor who has used the prior diligence. A creditor, though his diligence be but begun by citation, may insist in a reduction of all posterior voluntary rights granted to his prejudice; but the creditor who neglects to complete his begun diligence within a reasonable time, is not entitled to reduce any right granted by the debtor, after the time that the diligence is considered as abandoned.

12. A prohibited alienation, when conveyed by the receiver to another who is not privy to the fraud, subsists in the person of the *bone fide* purchaser. In the case of moveable rights, this nullity is receivable by exception; but it must be declared by reduction, where the right is heritable.

Law of
Scotland.

Law of Scotland.

13. By act 1696, c. 5. all alienations by a bankrupt, within 60 days before his bankruptcy, to one creditor in preference to another, are reducible, at the instance even of such co-creditors as had not used the least step of diligence. A bankrupt is there described by the following characters; diligence used against him by horning and caption; and insolvency, joined either with imprisonment, retiring to the sanctuary, absconding, or forcibly defending himself from diligence. It is sufficient that a caption is raised against the debtor, though it be not executed, provided he has retired to shun it. And by the late bankrupt statute 23d Geo. III. it is declared, that in all actions and questions arising upon the construction and effect of the act 1696; when a debtor is out of Scotland, or not liable to be imprisoned by reason of privilege or personal protection, a charge of horning executed against him, together with either an arrestment of any of his personal effects not loosed or discharged within fifteen days, or a poiding executed of any of his moveables, or a decree of adjudication of any part of his heritable estate, or sequestration by the act of a proper court, of all or any part of his estate or effects, heritable or moveable, for payment of debt, shall, when joined with insolvency, be held as sufficient proof of notour bankruptcy; and from and after the last step of such diligence, the said debtor, if insolvent, shall be held bankrupt. It is provided (by said act 1696), that all heritable bonds or rights on which seisin may follow, shall be reckoned, in a question with the granter's other creditors upon this act, to be of the date of the seisin following thereon. But this act was found to relate only to securities for former debts, and not to *nova debita*.

Actions either *rei persecutoria*, or penal.

14. Actions are divided into *rei persecutoria*, and *paenales*. By the first, the pursuer insists barely to recover the subject that is his, or the debt due to him: and this includes the damage sustained; for one is as truly a sufferer in his patrimonial interest by that damage, as by the loss of the subject itself. In penal actions, which always arise *ex delicto*, something is also demanded by way of penalty.

Spuilzies.

15. Actions of spuilzie, ejection, and intrusion, are penal. An action of spuilzie is competent to one dispossessed of a moveable subject violently, or without order of law, against the person dispossessing: not only for being restored to the possession of the subject, if extant, or for the value, if it be destroyed, but also for the violent profits, in case the action be brought within three years from the spoliation. Ejection and intrusion are, in heritable subjects, what spuilzie is in moveables. The difference between the two first is, that in ejection, violence is used; whereas the intruder enters into the void possession, without either a title from the proprietor, or the warrant of a judge. The actions arising from all the three are of the same general nature.

Contravention of law-burrows.

16. The action of contravention of law-burrows is also penal. It proceeds on letters of law-burrows, (from *borgh*, a cautioner), which contain a warrant to charge the party complained upon, that he may give security not to hurt the complainer in his person, family, or estate. These letters do not require the previous citation of the party complained upon, because the caution which the law requires is only for doing

Law of Scotland.

what is every man's duty; but, before the letters are executed against him, the complainer must make oath that he dreads bodily harm from him. The penalty of contravention is ascertained to a special sum, according to the offender's quality; the half to be applied to the fisk, and the half to the complainer. Contravention is not incurred by the uttering of reproachful words, where they are not accompanied, either with acts of violence, or at least a real injury; and as the action is penal, it is elided by any probable ground of excuse.

17. Penalties are the consequences of delict, or transgression; and as no heir ought to be accountable for the delict of his ancestor, farther than the injured person has really suffered by it, penal actions die with the delinquent, and are not transmissible against heirs. Yet the action, if it has been commenced and litigated in the delinquent's lifetime, may be continued against the heir, though the delinquent should die during the dependence. Some actions are *rei persecutoria* on the part of the pursuer, when he insists for simple restitution; which yet may be penal in respect of the defender: e. g. the action on the passive title of vitious intromission, by which the pursuer frequently recovers the debt due to him by the deceased, though it should exceed the value of the goods intermeddled with by the defenders.

Penal actions, whether transmissible against the pursuer.

18. The most celebrated division of actions in our law is into *petitory*, *possessory*, and *declaratory*. *Petitory* actions are those, where something is demanded from the defender, in consequence of a right of property, or of credit in the pursuer: Thus, actions for restitution of moveables, actions of poiding, of forthcoming, and indeed all personal actions upon contracts or quasi-contracts, are petitory. *Possessory* actions are those which are founded, either upon possession alone, as spuilzies; or upon possession joined with another title, as removings; and they are competent either for getting into possession, for holding it, or for recovering it; analogous to the interdicts of the Roman law, *quorum bonorum, uti possideatis, and unde vi*.

Actions petitory, and

possessory.

19. An action of molestation is a possessory action, competent to the proprietor of a land estate, against those who disturb his possession. It is chiefly used in questions of commonry, or of controverted marches. Where a declarator of property is conjoined with a process of molestation, the session alone is competent to the action. Actions on briefs of perambulation, have the same tendency with molestations, viz. the settling of marches between conterminous lands.

Of molestation.

20. The action of mails and duties is sometimes petitory, and sometimes possessory. In either case, it is directed against the tenants and natural possessors of land estates, for payment to the pursuer of the rents remaining due by them for past crops, and of the full rent for the future. It is competent, not only to a proprietor whose right is perfected by seisin, but to a simple disponee, for a disposition of lands includes a right to the mails and duties; and consequently to an adjudger, for an adjudication is a judicial disposition. In the petitory action, the pursuer, since he founds upon the right, not possession, must make the proprietor, from whom the tenants derive their right, party to the suit; and he must support his claim by titles of property or diligences, preferable to those in the person

Of mails and duties.

Petitory,

Law of
Scotland.
Possessory

of his competitor. In the possessory, the pursuer who libels that he, his ancestors, or authors, have been seven years in possession, and that therefore he has the benefit of a possessory judgement, need produce no other title than a seisin, which is a title sufficient to make the possession of heritage lawful; and it is enough, if he calls the natural possessors, though he should neglect the proprietor. A possessory judgement founded on seven years possession, in consequence either of a seisin or a tack, has this effect, that though one should claim under a title preferable to that of the possessor, he cannot compete with him in the possession, till in a formal process of reduction he shall obtain the possessor's title declared void.

Possessory
judgement.

Declara-
tory action.

21. A *declaratory* action is that, in which some right is craved to be declared in favour of the pursuer, but nothing sought to be paid or performed by the defender, such as declarators of marriage, of irritancy, of expiry of the legal reversion, &c. Under this class may be also comprehended rescissory actions, which without any personal conclusion against the defender, tend simply to set aside the rights or writings libelled, in consequence of which a contrary right or immunity arises to the pursuer. Decrees upon actions that are properly declaratory confer no new right; they only declare what was the pursuer's right before, and so have a retrospect to the period at which that right first commenced. Declarators, because they have no personal conclusion against the defender, may be pursued against an apparent heir without a previous charge given him to enter to his ancestor; unless where special circumstances require a charge.

Action for
proving the
tenor.

22. An action for proving the tenor, whereby a writing, which is destroyed or amissing, is endeavoured to be revived, is in effect declaratory. In obligations that are extinguishable barely by the debtor's retiring or cancelling them, the pursuer, before a proof of the tenor is admitted, must condescend on such a *casus amissionis*, or accident by which the writing was destroyed, as shows it was lost when in the creditor's possession; otherwise bonds that have been cancelled by the debtor on payment, might be reared up as still subsisting against him: But in writings which require contrary deeds to extinguish their effect, as assignations, dispositions, charters, &c. it is sufficient to libel that they were lost, even *casu fortuito*.

Adminicles
in writing.

23. Regularly no deed can be revived by this action, without some adminicle in writing, referring to that which is libelled: for no written obligation ought to be raised up barely on the testimony of witnesses. If these adminicles afford sufficient conviction that the deed libelled did once exist, the tenor is admitted to be proved by witnesses, who must depose, either that they were present at signing the deed, or that they afterwards saw it duly subscribed. Where the relative writings contain all the substantial clauses of that which is lost, the tenor is sometimes sustained without witnesses. In a writing which is libelled to have contained uncommon clauses, all these must appear by the adminicles. Actions of proving the tenor are, on account of their importance, appropriated to the court of session; and, by the old form, the testimony of the witnesses could not be received but in presence of all the judges.

Multiple-
poin ding.

24. The action of double or multiple-poin ding may

be also reckoned *declaratory*. It is competent to a debtor, who is distressed, or threatened with distress, by two or more persons claiming right to the debt, and who therefore brings the several claimants into the field, in order to debate and settle their several preferences, that so he may pay securely to him whose right shall be found preferable. This action is daily pursued by an arrestee, in the case of several arrestments used in his hands for the same debt; or by tenants in the case of several adjudgers, all of whom claim right to the same rents. In these competitions, any of the competitors may bring an action of multiple-poin ding in name of the tenants, or other debtors, without their consent, or even though they should disclaim the process; since the law has introduced it as the proper remedy for getting such competitions determined: And while the subject in controversy continues *in medio*, any third person who conceives he has a right to it, may, though he should not be cited as a defender, produce his titles, as if he were an original party to the suit, and will be admitted for his interest in the competition. By the foresaid bankrupt statute, however, it is competent, in the case of a forthcoming or multiple-poin ding raised on an arrestment used within thirty days prior, or four kalendar months subsequent, to a bankruptcy, for any other creditor producing his interest, and making his claim, in the process at any time before the expiration of the four months, to be ranked in the same manner as if he had used the form of arrestment.

25. Certain actions may be called *accessory*, because they are merely preparatory or subservient to other actions.

Thus, exhibitions *ad deliberandum*, at the instance of an heir against the creditors or custodiers of his ancestor's writings, are intended only to pave the way for future processes. An action of *transference* is also of this sort, whereby an action, during the pendency of which the defender happens to die, is craved to be transferred against his representative, in the same condition in which it stood formerly. Upon the pursuer's death his heir may insist in the cause against the defender, upon producing either a retour or a confirmed testament, according as the subject is heritable or moveable. Transferences being but incidental to other actions, can be pronounced by that inferior judge alone before whom the principal cause depended; but where the representatives of the deceased live in another territory, it is the supreme court must transfer. Obligations may now be registered summarily after the creditor's death; which before was not admitted, without a separate process of registration, to which the granter was necessarily to be made a party.

26. A process of *wakening* is likewise accessory. An action is said to sleep, when it lies over not insisted in for a year, in which case its effect is suspended; but even then it may, at any time within the years of prescription, be revived or awakened by a summons, in which the pursuer recites the last step of the process, and concludes that it may be again carried on as if it had not been discontinued. An action that stands upon any of the inner-house rolls cannot sleep; nor an action in which decree is pronounced, because it has got its full completion: Consequently the decree may be extracted after the year, without the necessity of a waking.

27. An action of *transumpt* falls under the same class.

Law of
Scotland.

Accessory
actions.

Transfer-
ence.

Wakening.

Transumpt
class.

Law of Scotland.

class. It is competent to those who have a partial interest in writings that are not in their own custody, against the possessors thereof, for exhibiting them, that they may be transmuted for their behoof. Though the ordinary title in this process be an obligation by the defender to grant transumps to the pursuer, it is sufficient if the pursuer can show that he has an interest in the writings; but in this case, he must transume them on his own charges. Actions of transumpt may be pursued before any judge-ordinary. After the writings to be transmuted are exhibited, full duplicates are made out, collated, and signed, by one of the clerks of court, which are called *transumps*, and are as effectual as an extract from the register.

Briefes.

28. Actions proceeded anciently upon briefes issuing from the chancery, directed to the justiciary or judge-ordinary, who tried the matter by a jury, upon whose verdict judgement was pronounced: And to this day we retain certain briefes, as of *inquest*, *terce*, *idiotry*, *tutory*, *perambulation*, and perhaps two or three others: But summonses were, immediately upon the institution of the college of justice, introduced in the place of briefes. A summons, when applied to actions pursued before the session, is a writ in the king's name, issuing from his signet upon the pursuer's complaint, authorizing messengers to cite the defender to appear before the court and make his defences, with certification, if he fail to appear, that decree will be pronounced against him in terms of the certification of the summons.

Summonses. Inducie legales.

29. The days indulged by law to a defender, between his citation and appearance, to prepare for his defence are called *inducie legales*. If he is within the kingdom, 21 and 6 days, for the first and second diets of appearance, must be allowed him for that purpose; and if out of it, 60 and 15. Defenders residing in Orkney or Zetland must be cited on 40 days. In certain summonses which are privileged, the *inducie* are shortened: Spuilzies and ejections proceed on 15 days; wakenings and transferences, being but incidental, on six; (see the list of privileged summonses, in act of sederunt June 29. 1672.) A summons must be executed, i. e. served against the defender, so as the last diet of appearance may be within a year after the date of the summons; and it must be called within a year after that diet, otherwise it falls for ever. Offence against the authority of the court, acts of malversation in office by any member of the college of justice, and acts of violence and oppression committed during the dependence of a suit by any of the parties, may be tried without a summons, by a summary complaint.

Concourse of actions.

30. Though the Romans acknowledged a concurrence of actions in their proceedings, it is not known in the law of Scotland. Therefore, where an action is in part penal, e. g. a removing, spuilzie, &c. a pursuer who restricts his demand to, and obtains a decree merely for, restitution, cannot thereafter bring a new process for the violent profits. Yet the same fact may be the foundation both of a criminal and civil action, because these two are intended for different purposes; the one for satisfying the public justice, the other for indemnifying the private party: And though the defender should be absolved in the criminal trial, for want of evidence, the party injured may bring an action *ad ci-*

vilem effectum, in which he is entitled to refer the libel to the defender's oath.

Law of Scotland.

31. One libel or summons may contain different conclusions on the same ground of right, rescissory, declaratory, petitory, &c. if they be not repugnant to each other: Nay, though different sums be due to one, upon distinct grounds of debt, or even by different debtors, the creditor may insist against them all in the same summons.

Accumulation of actions.

32. Defences are pleas offered by a defender for eliding an action. They are either *dilatatory*, which do not enter into the cause itself, and so can only procure an absolvitor from the *lis pendens*: Or, *peremptory*, which entirely cut off the pursuer's right of action. The first, because they relate to the forms of proceeding must be offered *in limine judicii*, and all of them at once. But peremptory defences may be proposed at any time before sentence. By an act of sederunt, however (1787), all defences, both dilatory and peremptory, so far as they are known, must be proposed at returning the summons, under a penalty; and the same enactment extends to the cases of suspensions and advocations. The writings to be founded upon by the parties also must be produced: the intention of the court, in framing the act of sederunt, being to accelerate as much as possible the decision of causes.

Defences.

33. A cause, after the parties had litigated it before the judge, was said by the Romans to be *litiscontestata*. By *litiscontestation* a judicial contract is understood to be entered into by the litigants, by which the action is perpetuated against heirs, even when it arises *ex delicto*. By our law, *litiscontestation* is not formed till an act is extracted, admitting the libel or defences to proof.

Litiscontestation.

SECT. II. Of Probation.

clxxxiv.

1. All allegations by parties to a suit, must be supported by proper proof. Probation is either by writing, by the party's own oath, or by witnesses. In the case of allegations, which may be proved by either of the three ways, a proof is said to be admitted *prout de jure*; because, in such case, all the legal methods of probation are competent to the party; if the proof he brings by writing be lame, he may have recourse either to witnesses or to his adversary's oath; but, if he should first take himself to the proof by oath, he cannot thereafter use any other probation (for the reason assigned par. 3.); and, on the contrary, a pursuer who has brought a proof by witnesses, on an extracted act, is not allowed to recur to the oath of the defender — Single combat, as a sort of appeal to Providence, was, by our ancient law, admitted as evidence, in matters both civil and criminal. It was afterwards restricted to the case of such capital crimes where no other proof could be had; some traces of this blind method of trial remained even in the reign of James VI. who, by 1600, c. 12. might authorize duels on weighty occasions.

Probation.

prout de jure;

by single combat;

2. As obligations or deeds signed by the party himself, or his ancestors or authors, must be, of all evidence, the least liable to exception; therefore every debt or allegation may be proved by proper evidence in writing. The solemnities essential to probative deeds have been already explained, (N^o clxxiv. 3. *et seq.*). Books of account kept by merchants, tradesmen, and other dealers

Law of
Scotland.

in business, though not subscribed, are probative against him who keeps them; and, in case of furnishings by a shopkeeper, such books, if they are regularly kept by him, supported by the testimony of a single witness, afford a *semiplena probatio* in his favour, which becomes full evidence by his own oath in supplement. Notarial instruments and executions by messengers bear full evidence, that the solemnities therein set forth were used, not to be invalidated otherwise than by a proof of falsehood; but they do not prove any other extrinsic facts therein averred, against third parties.

Probation
oath of party
in reference.

3. Regularly, no person's right can be proved by his own oath, nor taken away by that of his adversary; because these are the bare averments of parties in their own favour. But, where the matter in issue is referred by one of the parties to the oath of the other, such oath, though made in favour of the deponent himself, is decisive of the point; because the reference is a virtual contract between the litigants, by which they are understood to put the issue of the cause upon what shall be deposed: and this contract is so strictly regarded, that the party who refers to the oath of the other cannot afterwards, in a civil action, plead upon any deed against the party deposing, inconsistent with his oath. To obviate the snares that may be laid for perjury, he to whose oath of verity a point is referred, may refuse to depose, till his adversary swear that he can bring no other evidence in proof of his allegation.

4. A defender, though he cannot be compelled to swear to facts in a libel properly criminal; yet may, in trespasses, where the conclusion is limited to a fine, or to damages. In general, an oath of party cannot either hurt or benefit third parties; being, as to them, *res inter alios acta*.

Qualified
oaths.

5. An oath upon reference is sometimes qualified by special limitations restricting it. The qualities which are admitted by the judges as part of the oath, are called *intrinsic*; those which the judge rejects or separates from the oath, *extrinsic*. Where the quality makes a part of the allegation which is relevantly referred to oath, it is *intrinsic*. Thus, because a merchant, suing for furnishings after the three years, must, in order to make a relevancy, offer to prove by the defender's oath, not only the delivery of the goods, but that the price is still due; therefore, though the defender should acknowledge upon oath his having received the goods, yet, if he adds, that he paid the price, this last part being a denial that the debt subsists, is *intrinsic*, since it is truly the point referred to oath. Where the quality does not import an extinction of the debt, but barely a counter-claim, or *mutua petitio*, against the pursuer, it is held as *extrinsic*, and must be proved *aliunde*. Neither can a defender who in his oath admits the constitution of a debt, get off by adjecting the quality of payment, where the payment ought by its nature to be vouched by written evidence.

Oaths in
supplement.

6. Oaths of verity are sometimes referred by the judge to either party, *ex officio*; which, because they are not founded on any implied contract between the litigants, are not finally decisive, but may be traversed on proper evidence afterwards produced. These oaths are commonly put by the judge for supplying a lame or imperfect proof, and are therefore called *oaths in supplement*. (See par. 2.)

Oath of
calumny

7. To prevent groundless allegations, oaths of ca-

Law of
Scotland.

lumny have been introduced, by which either party may demand his adversary's oath, that he believes the fact contained in his libel or defences to be just and true. As this is an oath, not of verity, but only of opinion, the party who puts it to his adversary does not renounce other probation; and therefore no party is bound to give an oath of calumny, on recent facts of his own, for such oath is really an oath of verity. These oaths have not been so frequent since the act of federunt, Feb. 1. 1715, whereby any party, against whom a fact shall be alleged, is obliged, without making oath, to confess or deny it; and, in case of calumnious denial, is subjected to the expence that the other party has thereby incurred.

8. In all oaths, whether of verity or calumny, the citation carries, or at least implies, a certification, that if the party does not appear at the day assigned for deposing, he shall be held *pro confesso*; from a presumption of his consciousness, that the fact upon which he declines to swear makes against him; but no party can be held *pro confesso*, if he be in the kingdom, without a previous personal citation used against him. Though an oath which resolves into a *non memini*, cannot be said to prove any point; yet where one so deposes upon a recent fact, to which he himself was privy, his oath is considered as a dissembling of the truth, and he is held *pro confesso*, as if he had refused to swear.

A non memini
oath.

9. An oath *in litem*, is that which the judge refers to a pursuer, for ascertaining either the quantity or the value of goods which have been taken from him by the defender without order of law, or the extent of his damages. An oath *in litem*, as it is the affirmation of a party in his own behalf, is only allowed where there is proof that the other party has been engaged in some illegal act, or where the public policy has made it necessary, (see N° clxxiii. 11.) This oath, as to the quantities, is not admitted, where there is a concurring testimony of witnesses brought in proof of it. When it is put as to the value of goods, it is only an oath of credulity; and therefore it has always been subject to the modification of the court.

Oath in
litem.

10. The law of Scotland rejects the testimony of witnesses, (1.) In payment of any sum above 100l. Scots, all which must be proved either *scripto vel juramento*. (2.) In all gratuitous promises, though for the smallest trifle. (3.) In all contracts, where writing is either essential to their constitution (see N° clxxiv. 2.), or where it is usually adhibited, as in the borrowing of money. And it is a general rule, subject to the restrictions mentioned in the next part, that no debt or right, once constituted by writing, can be taken away by witnesses.

Probation
by witnesses,
in what cases
rejected,

11. On the other part, probation by witnesses is admitted to the extent of 100l. Scots, in payments, nuncupative legacies, and verbal agreements which contain mutual obligations. And it is received to the highest extent, (1.) In all bargains which have known engagements naturally arising from them, concerning moveable goods. (2.) In facts performed in satisfaction even of a written obligation, where such obligation binds the party precisely to the performance of them. (3.) In facts which with difficulty admit of a proof by writing, even though the effect of such proof should be the extinction of a written obligation, especially if the facts import fraud or violence; thus, a bond is reducible

in what ad-
mitted.

Law of Scotland.

cible *ex dolo*, on a proof by witnesses. Lastly, All intromission by a creditor with the rents of his debtor's estate payable in grain, may be proved by witnesses; and even intromission with the silver rent, where the creditor has entered into the total possession of the debtor's lands.

What persons rejected as witnesses.

12. No person, whose near relation to another bars him from being a judge in his cause, can be admitted as a witness for him; but he may against him, except a wife or child, who cannot be compelled to give testimony against the husband or parent, *ob reverentiam personæ, et metum perjurii*. Though the witness, whose propinquity to one of the parties is objected to, be as nearly related to the other, the objection stands good.

13. The testimony of infamous persons is rejected, i. e. persons who have been guilty of crimes that law declares to infer infamy, or who have been declared infamous by the sentence of a judge; but *infamia facti* does not disqualify a witness. Pupils are inhabile witnesses; being, in the judgement of law, incapable of the impressions of an oath. And in general witnesses otherwise exceptionable may, where there is a penalty of witnesses arising from the nature or circumstances of the fact, be received *cum nota*; that is, their testimony, though not quite free from suspicion, is to be conjoined with the other evidence, and to have such weight given it as the judge shall think it deserves.

Purgation of witnesses.

14. All witnesses, before they are examined in the cause, are purged of partial counsel; that is, they must declare, that they have no interest in the suit, nor have given advice how to conduct it; that they have got neither bribe nor promise, nor have been instructed how to depose; and that they bear no enmity to either of the parties. These, because they are the points put to a witness before his making oath, are called *initialia testimonii*. Where a party can bring present proof of a witness's partial counsel, in any of the above particulars, he ought to offer it before the witness be sworn; but, because such objection, if it cannot be instantly verified, will be no bar to the examination, law allows the party in that case to protest for *reprobator*, before the witness is examined; i. e. that he may be afterwards allowed to bring evidence of his enmity, or other inability. *Reprobator* is competent even after sentence, where protestation is duly entered; but in that case, the party insisting must consign 100l. Scots, which he forfeits if he succumb. This action must have the concurrence of the king's advocate, because the conclusion of it imports perjury; and for this reason, the witness must be made a party to it.

Diligence against witnesses.

15. The interlocutory sentence or warrant, by which parties are authorized to bring their proof, is either by way of act, or of incident diligence. In an act, the lord ordinary who pronounces it is no longer judge in the process; but in an incident diligence, which is commonly granted upon special points, that do not exhaust the cause, the lord ordinary continues judge. If a witness does not appear at the day fixed by the warrant of citation, a second warrant is granted of the nature of a caption, containing a command to messengers to apprehend and bring him before the court. Where the party to whom a proof is granted, brings none within the term allowed by the warrant, an interlocutor is pronounced, circumducing the term, and pre-

Circumduction.

cluding him from bringing evidence thereafter. Where evidence is brought, if it be upon an act, the lord ordinary on the acts, after the term for providing is elapsed, declares the proof concluded; and thereupon a state of the case is prepared by the ordinary on concluded causes, which must be judged by the whole lords; but if the proof be taken upon an incident diligence, the import of it may be determined by the lord ordinary in the cause.

Law of Scotland.

16. Where facts do not admit a direct proof, presumptions are received as evidence which, in many cases make as convincing a proof as the direct. Presumptions are consequences deduced from facts known or proved, which infer the certainty, or at least a strong probability, of another fact to be proved. This kind of probation is therefore called *artificial*, because it requires a reasoning to infer the truth of the point in question, from the facts that already appear in proof. Presumptions are either, 1. *juris et de jure*; 2. *juris*; or, 3. *hominis* or *judicis*. The first sort obtains, where statute or custom establishes the truth of any point upon a presumption; and it is so strong, that it rejects all proof that may be brought to elide it in special cases. Thus, the testimony of a witness, who forwardly offers himself without being cited, is, from a presumption of his partiality, rejected, let his character be ever so fair; and thus also, a minor, because he is by law presumed incapable of conducting his own affairs, is upon that presumption disabled from acting without the consent of his curators, though he should be known to behave with the greatest prudence. Many such presumptions are fixed by statute.

Presumptions.

17. *Præsumptiones juris* are those which our law books or decisions have established, without founding any particular consequence upon them, or statuting *super præsumpto*. Most of this kind are not proper presumptions inferred from positive facts, but are founded merely on the want of a contrary proof; thus, the legal presumptions for freedom, for life, for innocence, &c. are in effect so many negative propositions, that servitude, death, and guilt, are not to be presumed, without evidence brought by him who makes the allegation. All of them, whether they be of this sort, or proper presumptions, as they are only conjectures formed from what commonly happens, may be elided, not only by direct evidence, but by other conjectures, affording a stronger degree of probability to the contrary. *Præsumptiones hominis* or *judicis*, are those which arise daily from the circumstances of particular cases; the strength of which is to be weighed by the judge.

18. A *fiçtio juris* differs from a presumption. Things are presumed, which are likely to be true; but a fiction of law assumes for truth what is either certainly false, or at least is as probably false as true. Thus an heir is feigned or considered in law as the same person with his ancestor. Fictions of law must, in their effects, be always limited to the special purposes of equity for which they were introduced; see an example, N^o clxxxiii. 3.

Fiçtio juris.

SECT. III. Of Sentences and their Executions.

1. Property would be most uncertain, if debateable points might, after receiving a definitive judgement, be brought again in question, at the pleasure of either of the

clxxxv.

Law of
Scotland.
Res judicatae.

Decrees in
foro.

Two confes-
sive in-
terlocutors
are final.

Time limit-
ed for ap-
peals.

Decrees in
absence.

Decrees re-
viewed ei-
ther by re-
duction or
suspension.

the parties: every state has therefore fixed the character of final to certain sentences or decrees, which in the Roman law are called *res judicata*, and which exclude all review or rehearing.

2. Decrees of the court of session, are either *in foro contradictoria*, where both parties have litigated the cause, or in absence of the defender. Decrees of the session *in foro* cannot, in the general case, be again brought under the review of the court, either on points which the parties neglected to plead before sentence (which we call *competent* and *omitted*), or upon points pleaded and found insufficient (proposed and repelled). But decrees, though *in foro*, are reversible by the court, where either they labour under essential nullities; e. g. where they are *ultra petita*, or not conformable to their grounds and warrants, or founded on an error in calcul, &c.; or where the party against whom the decree is obtained has thereafter recovered evidence sufficient to overturn it, of which he knew not before.

3. As parties might formerly reclaim against the sentences of the session, at any time before extracting the decree, no judgement was final till extract; but now, a sentence of the inner house, either not reclaimed against within six sederunt days after its date, or adhered to upon a reclaiming bill, though it cannot receive execution till extract; makes the judgement final as to the court of session. And by an order of the house of lords, March 24. 1725, no appeal is to be received by them from sentences of the session, after five years from extracting the sentence; unless the person entitled to such appeal be minor, clothed with a husband, *non compos mentis*, imprisoned, or out of the kingdom. Sentences pronounced by the lord ordinary have the same effect, if not reclaimed against, as if they were pronounced in presence; and all petitions against the interlocutor of an ordinary must be preferred within eight sederunt days after signing such interlocutor.

4. Decrees, in absence of the defender, have not the force of *res judicata* as to him; for where the defender does not appear, he cannot be said to have subjected himself by the judicial contract which is implied in litiscontestation; a party therefore may be restored against these, upon paying to the other his costs in recovering them. The sentences of inferior courts may be reviewed by the court of session,—before decree, by advocacy,—and after decree, by suspension or reduction; which two last are also the methods of calling in question such decrees of the session itself, as can again be brought under the review of the court.

5. Reduction is the proper remedy, either where the decree has already received full execution by payment, or where it decrees nothing to be paid or performed, but simply declares a right in favour of the pursuer. Suspension is that form of law by which the effect of a sentence condemnatory, that has not yet received execution, is stayed or postponed till the cause be again considered. The first step towards suspension is a bill preferred to the lord ordinary on the bills. This bill, when the desire of it is granted, is a warrant for issuing letters of suspension which raise the signet; but if the presenter of the bill shall not, within 14 days after passing it, expedite the letters, execution may by act of sederunt 1677 proceed on the sen-

tence. In practice, however, it is usual for the charger to put up a protestation in the minute book for production of the suspension, which may be expedited at any time before this is done; and if the suspender shall allow the protestation to be extracted, the first falls. Suspensions of decrees *in foro* cannot pass, but by the whole lords in time of session, and by three in vacation time; but other decrees may be suspended by any one of the judges. By the late act of sederunt (1787), in order to remedy the abuse of presenting a multiplicity of bills of suspension of the decrees of inferior judges, in small cases which have passed in absence, it is declared, that all bills of suspension of decreets by inferior judges, in absence, of the defenders in causes under 12l. sterling value, shall be refused and remitted to the inferior judge, if competent; the suspender, however, before being heard in the inferior court, reimbursing the charger of the expences incurred by him previous to the remit.

6. As suspension has the effect of staying the execution of the creditor's legal diligence, it cannot, in the general case, pass without caution given by the suspender to pay the debt, in the event it shall be found due. Where the suspender cannot, from his low or suspected circumstances, procure unquestionable security, the lords admit juratory caution, i. e. such as the suspender swears is the best he can offer; but the reasons of suspension are, in that case, to be considered with particular accuracy at passing the bill. Decrees in favour of the clergy, of universities, hospitals, or parish-schoolmasters, for their stipends, rents, or salaries, cannot be suspended, but upon production of discharges, or on consignment of the sums charged for. A charger, who thinks himself secure without a cautioner, and wants despatch, may, where a suspension of his diligence is sought, apply to the court to get the reasons of suspension summarily discussed on the bill.

7. Though he, in whose favour the decree suspended is pronounced, be always called the charger, yet a decree may be suspended before a charge be given on it. Nay, suspension is competent even where there is no decree, for putting a stop to any illegal act whatsoever: thus, a building, or the exercise of a power which one assumes unwarrantably, is a proper subject of suspension. Letters of suspension are considered merely as a prohibitory diligence; so that the suspender, if he would turn provoker, must bring an action of reduction. If, upon discussing the letters of suspension, the reasons shall be sustained, a decree is pronounced, suspending the letters of diligence on which the charge was given *simpliciter*; which is called a *decree of suspension*, and takes off the effect of the decree suspended. If the reasons of suspension be repelled, the court find the letters of diligence orderly proceeded, i. e. regularly carried on: and they ordain them to be put to farther execution.

8. Decrees are carried into execution, by diligence, either against the person or against the estate of the debtor. The first step of personal execution is by letters of horning which pass by a warrant of the court of session, on the decrees of magistrates of boroughs, sheriffs, admirals, and commissaries. If the debtor does not obey the will of the letters of horning within the days of the charge, the charger, after denouncing him

Law of
Scotland.

Suspenders
must give
caution.

Suspension,
when com-
petent.

Extraction
of decrees.

Law of Scotland. him rebel, and registering the horning, may apply for letters of caption, which contain a command, not only to messengers, but to magistrates, to apprehend and imprison the debtor. All messengers and magistrates, who refuse their assistance in executing the caption, are liable *subsidiariè* for the debt; and such subsidiary action is supported by the execution of the messenger, employed by the creditor, expressing that they were charged to concur, and would not. Letters of caption contain an express warrant to the messenger, in case he cannot get access, to break open all doors and other lock-fast places.

What persons secured against caption. 9. Law secures peers, married women, and pupils, against personal execution by caption upon civil debts. Such commoners also as are elected to serve in parliament, are secured against personal execution by the privilege of parliament. No caption can be executed against a debtor within the precincts of the king's palace of Holyroodhouse; but this privilege of sanctuary afforded no security to criminals, as that did which was by the canon law conferred on churches and religious houses. Where the personal presence of a debtor, under caption, is necessary in any of our supreme courts, the judges are empowered to grant him a protection, for such time as may be sufficient for his coming and going, not exceeding a month. Protection from diligence is also granted by the court of session under the late bankrupt statute, where it is applied for, with concurrence of the trustee, or a certain number of the creditors, as the case may require.

Prisoners must be closely confined. 10. After a debtor is imprisoned, he ought not to be indulged the benefit of the air, not even under a guard; for creditors have an interest, that their debtor be kept under close confinement, that, by the *squalor carceris*, they may be brought to pay their debt: and any magistrate or jailor, who shall suffer the prisoner to go abroad, without a proper attestation, upon oath, of the dangerous state of his health, is liable *subsidiariè* for the debt. Magistrates are in like manner liable if they shall suffer a prisoner to escape through the insufficiency of their prison: but if he shall escape under night, by the use of instruments, or by open force, or by any other accident which cannot be imputed to the magistrates or jailor, they are not chargeable with the debt; provided they shall have immediately after his escape, made all possible search for him. A case lately occurred where a messenger having apprehended a person for a debt, upon letters of caption, delivered him over to the provost of the burgh, and took a receipt for him. The provost allowed him to remain at the inn all night, and afterwards allowed him what is called *open gaol*, by which he had access to the court-house, under the same roof with the prison, where he transacted business. As the person at whose instance he was apprehended upon the caption, considered that the magistrates had not kept the debtor in prison as commanded by the letters, he brought an action against them for the debt, although the debtor had not so much as attempted to make his escape. It was contended by the magistrates, that they were not liable, having only followed the usual practice of the burgh: but the court of session, considering the magistrates as principal keepers of the prison, and as such having no discretionary power, were of opinion, that the debtor had never been imprisoned in the eye of law, and

therefore found the magistrates liable; and their judgment was affirmed upon an appeal. Regularly, no prisoner for debt upon letters of caption, though he should have made payment, could be released without letters of suspension, containing a charge to the jailor to set him at liberty; because the creditor's discharge could not take off the penalty incurred by the debtor for contempt of the king's authority: but to save unnecessary expence to debtors in small debts, jailors are empowered to let go prisoners where the debt does not exceed 200 merks Scots, upon production of a discharge in which the creditor consents to his release.

Law of Scotland. Form of liberating a prisoner. 11. Our law from a consideration of compassion, allows insolvent debtors to apply for a release from prison upon a *cessio bonorum*, i. e. upon their making over to the creditors all their estate real and personal. This must be insisted for by way of action, to which all the creditors of the prisoner ought to be made parties. The prisoner must, in this action, which is cognizable only by the court of session, exhibit a particular inventory of his estate, and make oath that he has no other estate than is therein contained, and that he has made no conveyance of any part of it, since his imprisonment, to the hurt of his creditors. He must also make oath, whether he has granted any disposition of his effects before his imprisonment, and condescend on the persons to whom, and on the cause of granting it; that the court may judge, whether, by any collusive practice, he has forfeited his claim to liberty.

Liberation upon a cessio bonorum; not competent to delinquents. 12. A fraudulent bankrupt is not allowed this privilege; nor a criminal who is liable in any assygment or indemnification to the party injured or his executors, though the crime itself should be extinguished by a pardon. A disposition granted on a *cessio bonorum* is merely in farther security to the creditors, not in satisfaction or *in solutum* of the debts. If, therefore, the debtor should acquire any estate after his release, such estate may be attached by his creditors, as if there had been no *cessio*, except in so far as is necessary for his subsistence. Debtors, who are set free on a *cessio bonorum*, are obliged to wear a habit proper to dyvours or bankrupts. The lords are prohibited to dispense with this mark of ignominy, unless, in the summons and process of *cessio*, it be libelled, sustained, and proved, that the bankruptcy proceeds from misfortune. And bankrupts are condemned to submit to the habit, even where no suspicion of fraud lies against them, if they have been dealers in an illicit trade.

Dyvours habit. 13. Where a prisoner for debt declares upon oath, before the magistrate of the jurisdiction, that he has not wherewith to maintain himself, the magistrate may set him at liberty, if the creditor, in consequence of whose diligence he was imprisoned, does not alimint him within ten days after intimation made for that purpose. But the magistrate may, in such case, detain him in prison, if the creditor chooses to bear the burden of the alimint rather than release him. The statute authorizing this release, which is usually called the *act of grace*, is limited to the case of prisoners for civil debts.

Act of grace. Execution against debtor's estate. 14. Decrees are executed against the moveable estate of the debtor by arrestment or pouding; and against his heritable estate, by inhibition, or adjudication. If one be condemned, in a removing or other process, to quit the possession of lands, and refuses, notwithstanding

Law of
Scotland.

a charge, letters of ejection are granted of course, ordaining the sheriff to eject him, and to enter the obtainer of the decree into possession. Where one opposes by violence the execution of a decree, or of any lawful diligence, which the civil magistrate is not able by himself and his officers to make good, the execution is enforced *manu militari*.

Decrees ar-
bitral.

Submission.

15. A decree arbitral, which is a sentence proceeding on a submission to arbiters, has some affinity with a judicial sentence, though in most respects the two differ. A submission is a contract entered into by two or more parties who have disputable rights or claims, whereby they refer their differences to the final determination of an arbiter or arbiters, and oblige themselves to acquiesce in what shall be decided. Where the day within which the arbiters are to decide, is left blank in the submission, practice has limited the arbiters power of deciding to a year. As this has proceeded from the ordinary words of style, empowering the arbiters to determine betwixt and the

day of next to come; therefore, where a submission is indefinite, without specifying any time, like all other contracts or obligations, it subsists for 40 years. Submissions, like mandates, expire by the death of any of the parties submitters before sentence. As arbiters are not vested with jurisdiction, they cannot compel witnesses to make oath before them, or havers of writings to exhibit them; but this defect is supplied by the court of session, who, at the suit of the arbiters, or of either of the parties, will grant warrant for citing witnesses, or for the exhibition of writing. For the same reason, the power of arbiters is barely to decide; the execution of the decree belongs to the judge. Where the submitters consent to the registration of the decree arbitral, performance may be enforced by summary diligence.

Powers of
arbiters.

16. The power of arbiters is wholly derived from the consent of parties. Hence where their powers are limited to a certain day, they cannot pronounce sentence after that day. Nor can they subject parties to a penalty higher than that which they have agreed to in the submission. And where a submission is limited to special claims, sentence pronounced on subjects not specified in the submission is null, as being *ultra vires compromissi*.

Decrees ar-
bitral, how
far reduc-
ible.

17. But, on the other hand, as submissions are designed for a most favourable purpose, the amicable composing of differences, the powers thereby conferred on arbiters receive an ample interpretation. Decrees arbitral are not reducible upon any ground, except corruption, bribery, or falsehood.

clxxxvi.

SECT. IV. Of Crimes.

Crimes,

public, and

private.

1. The word *crime*, in its most general sense, includes every breach either of the law of God or of our country; in a more restricted meaning, it signifies such transgressions of law as are punishable by courts of justice. Crimes were, by the Roman law, divided into public and private. Public crimes were those that were expressly declared such by some law or constitution, and which, on account of their more atrocious nature and hurtful consequences, might be prosecuted by any member of the community. Private crimes could be pursued only by the party injured, and were generally pu-

nished by a pecuniary fine to be applied to his use. By the law of Scotland, no private party, except the person injured, or his next of kin, can accuse criminally: but the king's advocate, who in this question represents the community, has a right to prosecute all crimes *in vindictam publicam*, though the party injured should refuse to concur. Smaller offences, as petty riots, injuries, &c. which do not demand the public vengeance, pass generally by the appellation of *delicts*, and are punished either by fine or imprisonment.

Law of
Scotland.

2. The essence of a crime is, that there be an intention in the actor to commit; for an action in which the will of the agent has no part is not a proper object either of rewards or punishments: hence arises the rule *crimen dolo contrahitur*. Simple negligence does not therefore constitute a proper crime. Yet where it is extremely gross, it may be punished arbitrarily. Far less can we reckon in the number of crimes, those committed by an idiot or furious person: but lesser degrees of fatuity, which only darken reason, will not afford a total defence, though they may save from the *pœna ordinaria*. Actions committed in drunkenness are not to be considered as involuntary, seeing the drunkenness itself, which was the first cause of the action, is both voluntary and criminal.

What es-
sential to
crimes,

3. On the same principle, such as are in a state of infancy, or in the confines of it, are incapable of a criminal action, dole not being incident to that age; but the precise age at which a person becomes capable of dole, being fixed neither by nature nor by statute, is by our practice to be gathered by the judge, as he best can, from the understanding and manners of the person accused. Where the guilt of a crime arises chiefly from statute, the actor, if he is under puberty, can hardly be found guilty; but, where nature itself points out its deformity, he may, if he is *proximus pubertati*, be more easily presumed capable of committing it: yet, even in that case, he will not be punished *pœna ordinaria*.

4. One may be guilty of a crime, not only by perpetrating it himself, but being accessory to a crime committed by another; which last is by civilians styled *ope et consilio*, and, in our law phrase, *art and part*. A person may be guilty, art and part, either by giving advice or counsel to commit the crime; or, 2. By giving warrant or mandate to commit it; or, 3. By actually assisting the criminal in the execution. It is generally agreed by doctors, that, in the more atrocious crimes, the adviser is equally punishable with the criminal; and that, in the slighter, the circumstances arising from the adviser's lesser age, the jocular or careless manner of giving advice, &c. may be received as pleas for softening the punishment. One who gives mandate to commit a crime, as he is the first spring of action, seems more guilty than the person employed as the instrument in executing it; yet the actor cannot excuse himself under the pretence of orders which he ought not to have obeyed.

5. Assistance may be given to the committer of a crime, not only in the actual execution, but previous to it, by furnishing him, intentionally, with poison, arms, or the other means of perpetrating it. That sort of assistance which is not given till after the criminal act, and which is commonly called *abetting*, though it be of itself criminal, does not infer art and part of the principal

Law of Scotland
Punishment of crimes.

principal crime; as if one should favour the escape of a criminal, knowing him to be such, or conceal him from justice.

6. Those crimes that are in their consequences most hurtful to society, are punished capitally, or by death; others escape with a lesser punishment, sometimes fixed by statute, and sometimes arbitrary, i. e. left to the discretion of the judge, who may exercise his jurisdiction, either by fine, imprisonment, or a corporal punishment. Where the punishment is left, by law, to the discretion of the judge, he can in no case extend it to death. The single escheat of the criminal falls on conviction, in all capital trials, though the sentence should not express it.

Blasphemy.

7. Certain crimes are committed more immediately against God himself; others, against the state; and a third kind, against particular persons. The chief crime in the first class, cognizable by temporal courts, is *blasphemy*, under which may be included *atheism*. This crime consists in the denying or vilifying the Deity, by speech or writing. All who curse God or any of the persons of the blessed Trinity, are to suffer death, even for a single act; and those who deny him, if they persist in their denial. The denial of a Providence, or of the authority of the holy Scriptures, is punishable capitally for the third offence.

8. No prosecution can now be carried on for witchcraft or conjuration. But all who undertake, from their skill in any occult science, to *tell fortunes*, or *discover stolen goods*, are to suffer imprisonment for a year, stand in the pillory four times in that year, and find surety for their future good behaviour.

Treason.

9. Some crimes against the state are levelled directly against the supreme power, and strike at the constitution itself: others discover such a contempt of law, as tends to baffle authority, or slacken the reins of government. *Treason, crimen majestatis*, is that crime which is aimed against the majesty of the state; and can be committed only by those who are subjects of that state either by birth or residence. Soon after the union of the two kingdoms in 1707, the laws of treason, then in force in England, were made ours by 7 Ann. c. 21. both with regard to the facts constituting that crime, to the forms of trial, the corruption of blood, and all the penalties and forfeitures consequent on it.

10. It is high treason, by the law of England, to imagine the death of the king, queen consort, or of the heir apparent of the crown; to levy war against the king, or adhere to his enemies; to counterfeit the king's coin, or his great or privy seal; to kill the chancellor, treasurer, or any of the 12 judges of England, while they are doing their offices: which last article is by the forenamed act 7 Ann. applied to Scotland, in the case of slaying any judge of the session or of justiciary sitting in judgement. Those who wash, clip, or lighten, the proper money of the realm; who advisedly affirm by writing or printing, that the pretender has any right to the crown, that the king and parliament cannot limit the succession to it, or who hold correspondence with the pretender, or any person employed by him, are also guilty of treason.

Pains of treason.

11. The forms of proceeding in the trial of treason, whether against peers or commoners, are set forth in a small treatise, published by order of the house of lords

VOL. XI. Part II.

Law of Scotland.

in 1709, subjoined to a collection of statutes concerning treason. By the conviction upon this trial, the whole estate of the traitor forfeits to the crown. His blood is also corrupted, so that, on the death of an ancestor, he cannot inherit; and the estate which he cannot take, falls to the immediate superior as escheat, *ob defectum heredis*, without distinguishing whether the lands hold of the crown, or of a subject. No attainer for treason shall, after the death of the pretender and all his sons, hurt the right of any person, other than that of the offender, during his natural life; the rights of creditors and other third parties, in the case of forfeiture on treason, must be determined by the law of England.

12. *Misprison of treason*, from *meprendre*, is the overlooking or concealing of treason. It is inferred by one's bare knowledge of the crime, and not discovering it to a magistrate or other person entitled by his office to take examination; though he should not in the least degree assent to it. The forenamed act 7 Ann. makes the English law of misprison ours. Its punishment is, by the law of England, perpetual imprisonment, together with the forfeiture of the offender's moveables, and of the profits of his heritable estate, during his life; that is, in the style of our law, his single and liferent escheat.

Misprison of treason.

13. The crime of *sedition* consists in the raising commotions or disturbances in the state. It is either verbal or real. Verbal sedition, or leasing-making, is inferred from the uttering of words tending to create discord between the king and his people. It is punished either by imprisonment, fine, or banishment, at the discretion of the judge. Real sedition is generally committed by convocating together any considerable number of people, without lawful authority, under the pretence of redressing some public grievance, to the disturbing of the public peace. Those who are convicted of this crime are punished by the confiscation of their goods; and their lives are at the king's will. If any persons, to the number of 12, shall assemble, and being required by a magistrate or constable to disperse, shall nevertheless continue together for an hour after such command, the persons disobeying shall suffer death and confiscation of moveables.

14. Judges, who, wilfully or through corruption, use their authority as a cover to injustice or oppression, are punished with the loss of honour, fame and dignity. Under this head may be classed *theftbote* (from *bote*, "compensation"), which is the taking a consideration in money or goods from a thief to exempt him from punishment, or connive at his escape from justice. A sheriff or other judge, guilty of this crime, forfeits his life and goods. And even a private person, who takes theftbote, suffers as the principal thief. The buying of disputed claims, concerning which there is a pending process, by any judge or member either of the session or of an inferior court, is punished by the loss of the delinquent's office, and all the privileges thereto belonging.

Corruption in judges.

15. *Deforcement* is the opposition given, or resistance made, to messengers or other officers, while they are employed in executing the law. The court of session is competent to this crime. It is punishable with the confiscation of moveables, the one half to the king, and the other to the creditor at whose suit the diligence

Deforcement.

Law of
Scotland.

was used. Armed persons, to the number of three or more, assisting in the illegal running, landing, or exporting of prohibited or uncustomed goods, or any who shall resist, wound, or maim any officer of the revenue, in the execution of his office, are punishable with death and the confiscation of moveables.

Breach of
arrestment.

16. *Breach of arrestment* (see N° lxxviii. 5.) is a crime of the same nature with deforcement, as it imports a contempt of the law and of our judges. It subjects to an arbitrary corporal punishment, and the escheat of moveables; with a preference to the creditor for his debt, and for such farther sum as shall be modified to him by the judge. Under this head of crimes against good government and police, may be reckoned the *forefalling of markets*; that is, the buying of goods intended for a public market, before they are carried there; which for the third criminal act infers the escheat of moveables; as also slaying salmon in forbidden time, destroying plough graith in time of tillage, slaying or houghing horses or cows in time of harvest, and destroying or spoiling growing timber; as to the punishment of which, see statutes 1503. c. 72.—1587, c. 82. and 1689, c. 16.—1. Geo. I. St. 2. c. 48.

Forefall-
ling, &c.

Murder.

17. Crimes against particular persons may be directed either against life, limb, liberty, chastity, goods, or reputation. *Murder* is the wilful taking away of a person's life, without a necessary cause. Our law makes no distinction betwixt premeditated and sudden homicide: both are punished capitally. Casual homicide, where the actor is in some degree blameable; and homicide in self-defence, where the just bounds of defence have been exceeded; are punished arbitrarily: but the slaughter of night thieves, housebreakers, assistances in masterful depredations, or rebels denounced for capital crimes, may be committed with impunity. The crime of *demebration*, or the cutting off a member, is joined with that of murder; but in practice its punishment has been restricted to the escheat of moveables, and an assythment or indemnification to the party. *Mutilation*, or the disabling of a member, is punished at the discretion of the judge.

Self-mur-
der.

18. *Self-murder* is as highly criminal as the killing our neighbour; and for this reason, our law has, contrary to the rule, *crimina morte extinguuntur*, allowed a proof of the crime, after the offender's death, that his single escheat might fall to the king or his donatory. To this end, an action must be brought, not before the judiciary, but the session, because it is only intended *ad civilem effectum*, for proving and declaring the self-murder; and the next of kin to the deceased must be made a party to it.

Parricide.

19. The punishment of parricide, or of the murder of a parent, is not confined, by our law, to the criminal himself. All his posterity in the right line are declared incapable of inheriting; and the succession devolves on the next collateral heir. Even the cursing or beating of a parent infers death, if the person guilty be above 16 years; and an arbitrary punishment, if he be under it. A presumptive or statutory murder is constituted by 1690, c. 21. by which any woman who shall conceal her pregnancy, during its whole course, and shall not call for, or make use of, help in the birth, is to be reputed the murderer, if the child be dead, or amissing. This act was intended to dis-

courage the unnatural practice of women making away with their children begotten in fornication, to avoid church censures. Law of Scotland.

20. *Duelling*, is the crime of fighting in single combat, on previous challenges given and received. Fighting in a duel, without license from the king, is punishable by death; and whatever person, principal or second, shall give a challenge to fight a duel, or shall accept a challenge, or otherwise engage therein, is punished by banishment and escheat of moveables, though no actual fighting should ensue. Duelling.

21. *Haimsuchen* from *haim* "home," and *socken* "to seek or puriue") is the assaulting or beating of a person in his own house. The punishment of this crime is nowhere defined, except in the books of the Majesty, which makes it the same as that of a rape; and it is, like rape, capital by our practice. The assault must be made in the proper house of the person assaulted, where he lies and rises daily and nightly; so that neither a public house, nor even a private, where one is only transiently, falls within the law. Haimsuchen.

22. Any party to a law suit, who shall slay, wound, or otherwise invade his adversary, at any period of time between executing the summons and the complete execution of the decree, or shall be accessory to such invasion, shall lose his cause. The sentence pronounced on this trial, against him who has committed the battery, is not subject to reduction, either on the head of minority, or on any other ground whatever: and if the person prosecuted for this crime shall be denounced for not appearing, his liferent, as well as single escheat, falls upon the denunciation. Battery.

23. The crime of *wrongous imprisonment* is inferred, by granting warrants of commitment in order to proceeding on informations not subscribed, or without expressing the cause of commitment; by receiving or detaining prisoners on such warrants; by refusing to a prisoner a copy of the warrant of commitment; by detaining him in close confinement, above eight days after his commitment; by not releasing him on bail, where the crime is bailable; and by transporting persons out of the kingdom, without either their own consent, or a lawful sentence. The persons guilty of a wrongous imprisonment are punished by a pecuniary mulct, from 6000l. down to 400l. Scots, according to the rank of the person detained; and the judge, or other person guilty, is over and above subjected to pay to the person detained a certain sum *per diem* proportioned to his rank, and is declared incapable of public trust. All these penalties may be insisted for by a summary action before the session, and are subject to no modification. Wrongous imprisonment.

24. *Adultery*, is the crime by which the marriage bed is polluted. This crime could neither by the Roman nor Jewish law be committed, but where the guilty woman was the wife of another: by ours, it is adultery, if either the man or woman be married. We distinguish between simple adultery, and that which is notorious or manifest. Open and manifest adulterers, who continue incorrigible, notwithstanding the censures of the church, are punished capitally. This crime is distinguished by one or other of the following characters: where there is issue procreated between the adulterers; or where they keep bed and company together notoriously; or where they give scandal to the Adultery.

Law of Scotland.

the church, and are, upon their obstinate refusing to listen to its admonitions, excommunicated. The punishment of simple adultery, not being defined by statute, is left to the discretion of the judge; but custom has made the falling of the single echeat one of its penalties.

Bigamy.

25. *Bigamy* is a person's entering into the engagements of a second marriage, in violation of a former marriage vow still subsisting. Bigamy, on the part of the man, has been tolerated in many states, before the establishment of Christianity, even by the Jews themselves; but it is prohibited by the precepts of the gospel, and it is punished by our law, whether on the part of the man or of the woman, with the pains of perjury.

Incest.

26. *Incest*, is committed by persons who stand within the degrees of kindred forbidden in Lev. xviii. and is punished capitally. The same degrees are prohibited in affinity, as in consanguinity, Lev. xviii. 13. *et seq.* As this crime is repugnant to nature, all children, whether lawful or natural, stand on an equal footing: *civilis ratio civilia jura corrumpere potest, non vero naturalia.* It is difficult indeed to bring a legal proof of a relation merely natural, on the side of the father; but the mother may be certainly known without marriage.

Rape.

27. There is no explicit statute making rape, or the ravishing of women, capital; but it is plainly supposed in act 1612, c. 4. by which the ravisher is exempted from the pains of death, only in the case of the woman's subsequent consent, or her declaration that she went off with him of her own free will; and even then, he is to suffer an arbitrary punishment, either by imprisonment, confiscation of goods, or a pecuniary fine.

Theft.

28. *Theft* is defined, A fraudulent intermeddling with the property of another, with a view of making gain. Our ancient law proportioned the punishment of the theft to the value of the goods stolen; heightening it gradually, from a slight corporal punishment to a capital, if the value amounted to thirty-two pennies Scots, which in the reign of David I. was the price of two sheep. In several latter acts, it is taken for granted, that this crime is capital. But where the thing stolen is of small value, we consider it not as theft but as pickery, which is punished either corporally or by banishment. The breaking of orchards, and the stealing of green wood, is punished by a fine, which rises as the crime is repeated.

Reset of theft.

29. Theft may be aggravated into a capital crime, though the value of the thing stolen be trifling; as theft twice repeated, or committed in the night, or by landed men; or of things set apart for sacred uses. The receivers and concealers of stolen goods, knowing them to be such, suffer as thieves. Those who barely harbour the person of the criminal within 48 hours either before or after committing the crime, are punished as partakers of the theft. Such as sell goods belonging to thieves or lawless persons who dare not themselves come to market, are punished with banishment and the echeat of moveables.

Robbery, &c.

30. Theft attended with violence is called *robbery*; and in our old statutes, *rief* or *flouthrief*; under which class may be included *forming*, or the taking of meat and drink by force, without paying for it. *Stouthrief* came at last to be committed so audaciously, by bands of men

Law of Scotland.

associated together, that it was thought necessary to vest all our freeholders with a power of holding courts upon forners and rieviers, and condemning them to death. Nay, all were capitally punished, who, to secure their lands from depredation, paid to the rieviers a yearly contribution, which got the name of *black mail*. An act also passed, commanding to banishment a band of forners, who were originally from *Egypt*, called *gyppies*, and adjudging to death all that should be reputed *Egyptians*, if found thereafter within the kingdom. *Robbery* committed on the seas is called *piracy*, and is punished capitally by the high admiral. Several of the facts which constitute this crime are set forth in a British statute, 8 Geo. I. c. 24.

Falseness.

31. *Falseness*, in a large sense, is the fraudulent imitation or suppression of truth, to the damage of another. The lives and goods of persons convicted of using false weights or measures were, by our old law, in the king's mercy: and their heirs could not inherit but upon a remission. The latest statute against this crime punishes it by confiscation of moveables. That particular species of falseness, which consists in the falsifying of writings, passes by the name of *forgery*. Our practice has now of a long time, agreeably to the Roman law, made this crime capital; unless the forgery be of executions, or other writings of smaller moment; in which case, it is punished arbitrarily.

Forgery.

32. The writing must not only be fabricated, but put to use or founded on, in order to infer this crime. And though it be strictly criminal, yet the trial of it is proper to the court of session; but where improbation is moved against a deed by way of exception, the inferior judge, before whom the action lies, is competent to it *ad civilem effectum*. When it is pleaded as an exception, our practice, to discourage affected delays, obliges the defender, who moves it, to consign 40l. Scots; which he forfeits, if his plea shall appear calumnious.

33. Where a person, found guilty of forgery by the court of session is by them remitted to the judiciary, an indictment is there exhibited against him, and a jury sworn, before whom the decree of session is produced, in place of all other evidence of the crime, in respect of which the jury find the pannel guilty; so that that decree being pronounced by a competent court, is held as full proof, or, in the style of the bar, as *probatio probata*.

34. *Perjury*, which is the judicial affirmation of a falsehood on oath, really constitutes the *crimen falsi*; for he who is guilty of it does, in the most solemn manner, substitute falsehood in the place of truth. To constitute this crime, the violation of truth must be deliberately intended by the swearer; and therefore reasonable allowances ought to be given to forgetfulness or misapprehension, according to his age, health, and other circumstances. The breach of a promissory oath does not infer this crime; for he who promises on oath may sincerely intend performance when he swears, and so cannot be said to call on God to attest a falsehood. Though an oath, however false, if made upon reference in a civil question, concludes the cause, the person perjured is liable to a criminal trial; for the effect of the reference can go no further than the private right of the parties.

35. Notwithstanding the mischievous consequences

Law of
Scotland.

of perjury to society, it is not punished capitally, but by confiscation of moveables, imprisonment for a year, and infamy. The court of session is competent to perjury *incidenter*, when, in any examination upon oath, taken in a cause depending before them, a person appears to have sworn falsely: but in the common case, that trial is proper to the justiciary. *Subornation of perjury* consists in tampering with persons who are to swear in judgement, by directing them how they are to depose: and it is punished with the pains of perjury.

Stellionate.

36. The crime of *stellionate*, from *stellio*, includes every fraud which is not distinguished by a special name; but is chiefly applied to conveyances of the same numerical right, granted by the proprietor to different disponees. The punishment of stellionate must necessarily be arbitrary, to adapt it to the various natures and different aggravations of the fraudulent acts. The persons guilty of that kind of it, which consists in granting double conveyances, are by our law declared infamous, and their lives and goods at the king's mercy. The cognizance of *fraudulent bankruptcy* is appropriated to the court of session, who may inflict any punishment on the offender that appears proportioned to his guilt, death excepted,

Usury.

37. The crime of *usury*, before the Reformation, consisted in the taking of *any* interest for the use of money; and now in taking a higher rate of interest than is authorized by law. It is divided into *usura manifesta*, or direct; and *velata*, or covered. One may be guilty of the first kind, either where he covenants with the debtor for more than the lawful interest on the loan-money: or where one receives the interest of a sum before it is due, since thereby he takes a consideration of the use of money before the debtor has really got the use of it. Where a debt is clogged with an uncertain condition, by which the creditor runs the hazard of losing his sum, he may covenant for a higher interest than the legal, without the crime of usury: for there the interest is not given merely in consideration of the use of the money, but of the danger undertaken by the creditor.

38. Covered usury, is that which is committed under the mask, not of a loan, but of some other contract; e. g. a sale or an improper wadset. And in general, all obligations entered into with an intention of getting more than the legal interest for the use of money, however they may be disguised, are usurious. As a farther guard against this crime, the taking more than the legal interest for the forbearance of payment of money, merchandise, or other commodities, by way of loan, exchange, or other contrivance whatever, or the taking a bribe for the loan of money, or for delaying its payment when lent, is declared usury. Where usury is proved, the usurious obligation is not only declared void, but the creditor, if he has received any unlawful profits, forfeits the treble value of the sums or goods lent. Usury when it is to be pursued criminally, must be tried by the justiciary: but where the libel concludes only for voiding the debt, or restitution, the session is the proper court.

Injury.

39. *Injury*, in its proper acceptation, is the reproaching or affronting our neighbour. Injuries are either verbal or real. A verbal injury, when directed against a private person, consists in the uttering contu-

Law of
Scotland.

melious words, which tend to expose our neighbour's character by making him little or ridiculous. It does not seem that the twitting one with natural defects without any sarcastical reflections, though it be inhuman, falls under this description, as these imply no real reproach in the just opinion of mankind. Where the injurious expressions have a tendency to blacken one's moral character, or fix some particular guilt upon him, and are deliberately repeated in different companies, or handed about in whispers to confidants, it then grows up to the crime of slander: and where a person's moral character is thus attacked, the *animus injuriandi* is commonly inferred from the injurious words themselves, unless special circumstances be offered to take off the presumption, *ex gr.* that the words were uttered in judgement in one's own defence, or by way of information to a magistrate, and had some foundation in fact. Though the cognizance of slander is proper to the commissaries, who, as the *judices Christianitatis*, are the only judges of scandal; yet, for some time past, bare verbal injuries have been tried by other criminal judges, and even by the session. It is punished either by a fine, proportioned to the condition of the persons injuring and injured, and the circumstances of time and place; or if the injury import scandal, by publicly acknowledging the offence; and frequently the two are conjoined. The calling one a bankrupt is not, in strict speech, a verbal injury, as it does not affect the person's moral character; yet, as it may hurt his credit in the way of business, it founds him in an action of damages, which must be brought before the judge-ordinary. A real injury is inflicted by any fact, by which a person's honour or dignity is affected; as striking one with a cane, or even aiming a blow without striking; spitting in one's face; assuming a coat of arms, or any other mark of distinction proper to another, &c. The composing and publishing defamatory libels may be reckoned of this kind. Real injuries are tried by the judge-ordinary, and punished either by fine or imprisonment, according to the demerit of the offenders.

40. After having shortly explained the several crimes punishable by our law, this treatise may be concluded with a few observations on criminal jurisdiction, the forms of trial, and the methods by which crimes may be extinguished. Criminal jurisdiction is founded, 1. *Ratione domicilii*, if the defender dwells within the Criminal territory of the judge. Vagabonds, who have no certain *domicile*, may be tried wherever they are apprehended. 2. *Ratione delicti*, if the crime was committed within the territory. Treason is triable, by the English law, in any county that the king should appoint; and, by a temporary act now expired, treason committed in certain Scots counties was made triable by the court of justiciary, wherever it should fit.

41. No criminal trial can proceed, unless the person accused is capable of making his defence. Absent persons are therefore not triable. nor fatuous nor furious persons, *durante furore*, even for crimes committed while they were in their senses. For a like reason, minors who had no curators, could not, by the Roman law, be tried criminally; but our practice considers every person who is capable of dole, to be also sufficiently qualified for making his defence in a criminal trial.

42. No person can be imprisoned in order to stand Commitment.

Law of Scotland. trial for any crime, without a warrant in writing expressing the cause, and proceeding upon a subscribed information, unless in the case of indignities done to judges, riots, and the other offences specially mentioned in 1701, c. 6. Every prisoner committed in order to trial, if the crime of which he is accused be not capital, is entitled to be released upon bail, the extent of which is to be modified by the judge, not exceeding 12,000 merks Scots for a nobleman, 6000 for a landed gentleman, 2000 for every other gentleman or burghers, and 600 for any other inferior person. That persons who, either from the nature of the crime with which they are charged, or from their low circumstances, cannot procure bail, may not lie for ever in prison untried, it is lawful for every such prisoner to apply to the criminal judge, that his trial may be brought on. The judge must, within 24 hours after such application, issue letters directed to messengers, for intimating to the prosecutor to fix a diet for the prisoner's trial, within 60 days after the intimation, under the pain of wrongous imprisonment: And if the prosecutor does not insist within that time, or if the trial is not finished in forty days more when carried on before the justiciary, or in thirty when before any other judge; the prisoner is, upon a second application, setting forth that the legal time is elapsed, entitled to his freedom, under the same penalty.

Precognition.

43. Upon one's committing any of the grosser crimes, it is usual for a justice of the peace, sheriff, or other judge, to take a precognition of the facts, i. e. to examine those who were present at the criminal act, upon the special circumstances attending it, in order to know whether there is ground for a trial, and to serve as a direction to the prosecutor, how to set forth the facts in the libel; but the persons examined may insist to have their declarations cancelled before they give testimony at the trial. Justices of the peace, sheriffs, and magistrates of boroughs, are also authorized to receive informations, concerning crimes to be tried in the circuit-courts; which informations are to be transmitted to the justice-clerk 40 days before the sitting of the respective courts. To discourage groundless criminal trials, all prosecutors, where the defender was absolved, were condemned by statute, in costs, as they should be modified by the judge, and besides were subjected to a small fine, to be divided between the fisc and the defender: And where the king's advocate was the only pursuer, his informer was made liable. This sufficiently warrants the present practice of condemning vexatious prosecutors in a pecuniary mulct, though far exceeding the statutory sum.

Form of trial.

44. The forms upon trial in criminal accusations, differ much from those observed in civil actions, if we except the case of such crimes as the court of session is competent to, and of lesser offences tried before inferior courts. The trial of crimes proceeds either upon indictment, which is sometimes used when the person to be tried is in prison; or by criminal letters issuing from the signet of the justiciary. In either case, the defender must be served with a full copy of the indictment or letters, and with a list of the witnesses to be brought against him, and of the persons who are to pass on the inquest, and 15 free days must intervene between his being so served and the day of appearance.

Law of Scotland. When the trial proceeds upon criminal letters, the private prosecutor must give security, at raising the letters, that he will report them duly executed to the justiciary, in terms of 1535, c. 35.; and the defender, if he be not already in prison, is, by the letters, required to give caution, within a certain number of days after his citation, for his appearance upon the day fixed for his trial: And if he gives none within the days of the charge, he may be denounced rebel, which infers the forfeiture of his moveables.

45. That part of the indictment, or of the criminal letters, which contains the ground of the charge against the defender, and the nature or degree of the punishment he ought to suffer, is called the *libel*. All libels must be special, setting forth the particular facts inferring the guilt, and the particular place where these facts were done. The time of committing the crime may be libelled in more general terms, with an alternative as to the month, or day of the month: but as it is not practicable, in most cases, to libel upon the precise circumstances of accession that may appear in proof, libels against accessories are sufficient, if they mention, in general, that the persons prosecuted are guilty art and part.

46. The defender in a criminal trial may raise letters of exculpation, for citing witnesses in proof of his defences against the libel, or of his objections against any of the jury or witnesses; which must be executed to the same day of appearance with that of the indictment or criminal letters.

47. The diets of appearance, in the court of justiciary, are peremptory: the criminal letters must be called on the very day on which the defender is cited: and hence, if no accuser appears, their effect is lost, *instantia perit*, and new letters must be raised. If the libel, or any of the executions, shall to the prosecutor appear informal, or if he be dissident of the proof, from the absconding of a necessary witness, the court will, upon a motion made by him, desert the diet *pro loco et tempore*; after which new letters become also necessary. A defender, who does not appear on the very day to which he is cited, is declared fugitive; in consequence of which his single escheat falls. The defender, after his appearance in court is called the *pannel*.

48. The two things to be chiefly regarded in a criminal libel, are, 1. The relevancy of the facts, i. e. their sufficiency to infer the conclusion; 2. Their truth. The consideration of the first belongs to the judge of the court; that of the other, to the jury or assize. If the facts libelled be found irrelevant, the pannel is dismissed from the bar; if relevant, the court remits the proof thereof to be determined by the jury; which must consist of 15 men picked out by the court from a greater number, not exceeding 45, who have been all summoned, and given in list to the defender at serving him with a copy of the libel.

49. Crimes cannot, like debts, be referred to the defender's oath; for no person is compellable to swear against himself, where his life, limb, liberty, or estate is concerned, nor even in crimes which infer infamy; because one's good name is, in right estimation, as valuable as his life. There is one exception however to this rule in trying the crime of usury, which may be proved.

Law of
Scotland.

proved by the usurer's own oath, notwithstanding the rule, *Nemo tenetur jurare in suam turpitudinem*. Crimes therefore are in the general case proveable only by the defender's free confession, or by writing, or by witnesses. No extrajudicial confession, unless it is admitted to by the pannel in judgement, can be admitted as evidence.

Socii criminis.

50. All objections relevant against a witness in civil cases are also relevant in criminal. No witness is admitted, who may gain or lose by the event of the trial. *Socii criminis*, or associates in the same crime, are not admitted against one another, except either in crimes against the state, as treason; in occult crimes, where other witnesses cannot be had, as forgery; or in thefts or depredations committed in the Highlands. The testimony of the private party injured may be received against the pannel, where the king's advocate is the only prosecutor, if from the nature of the crime, there must needs be a penalty of witnesses, as in rape, robbery, &c.

Verdict of
assize.

51. After all the witnesses have been examined in court, the jury are shut up in a room by themselves, where they must continue, excluded from all correspondence, till their verdict or judgement be subscribed by the foreman (or chancellor) and clerk; and according to this verdict the court pronounces sentence, either absolving or condemning. It is not necessary, by the law of Scotland, that a jury should be unanimous in finding a person guilty; the narrowest majority is as sufficient against the pannel, as for him. Juries cannot be punished on account of an erroneous verdict, either for or against the pannel.

Powers of
a jury.

52. Though the proper business of a jury be to inquire into the truth of the facts found relevant by the court, for which reason they are sometimes called the *inquest*; yet, in many cases, they judge also in matters of law or relevancy. Thus, though an objection against a witness should be repelled by the court, the jury are under no necessity to give more credit to his testimony than they think just: And in all trials of art and part, where special facts are not libelled, the jury, if they return a general verdict, are indeed judges not only of the truth, but the relevancy of the facts that are sworn to by the witnesses. A general verdict, is that which finds in general terms, that the pannel is guilty or not guilty, or that the libel or defences are proved or not proved. In a special verdict, the jury finds certain facts proved, the import of which is to be afterwards considered by the court.

Sentences.

53. Criminal judges must now suspend for some time the execution of such sentences as affect life or limb, that so condemned criminals, whose cases deserve favour, may have access to apply to the king for mercy. No sentence of any court of judicature, south of the river Forth, importing either death or demembration, can be executed in less than 30 days; and, if north of it in less than 40 days, after the date of the sentence. But corporal punishments, less than death or dismembering, e. g. whipping, pillory, &c. may be inflicted eight days after sentence on this side Forth, and twelve days a ter sentence beyond it.

Extinction
of crimes.

54. Crimes are extinguished, 1. By the death of the criminal: both because a dead person can make

Law of
Scotland.

no defence, so that his trial is truly a judging upon the hearing of one side; and because, though his guilt should be ever so notorious, he is after death carried beyond the reach of human penalties: Such trials therefore can have no effect, but to punish the innocent heir, contrary to that most equitable rule, *Culpa tenet suos auctores*. 2. Crimes may be extinguished by a remission from the sovereign. But a remission, though it secures the delinquent from the public resentment, the exercise of which belongs to the crown, cannot cut off the party injured from his claim of damages, over which the crown has no prerogative. Whoever therefore founds on a remission, is liable in damages, to the private prosecutor, in the same manner as if he had been tried and found guilty. Even general acts of indemnity passed in parliament, though they secure against such penalties as law inflicts upon the criminal merely *per modum pœnæ*, yet do not against the payment of any pecuniary fine that is given by statute to the party injured, nor against the demand of any claim competent to him in name of damages.

55. Lesser injuries, which cannot be properly said to affect the public peace, may be extinguished, either by the private party's expressly forgiving him, or by his being reconciled to the offender, after receiving the injury. Hence arises the rule, *Diffimulatione tollitur injuria*. But where the offence is of a higher nature, the party injured, though he may pass from the prosecution, in so far as his private interest is concerned, cannot preclude the king's advocate, or procurator-fiscal, from insisting *ad vindictam publicam*.

56. Crimes are also extinguished by prescription, which operates by the mere lapse of time, without any act either of the sovereign or of the private sufferer. Crimes prescribe in 20 years; but in particular crimes, the prescription is limited by statute to a shorter time. No person can be prosecuted upon the act against wrongous imprisonment, after three years. High treason, committed within his majesty's dominions, suffers likewise a triennial prescription, if indictment be not found against the traitor within that time. All actions brought upon any penal statute made or to be made, where the penalty is appropriated to the crown, expire in two years after committing the offence; and where the penalty goes to the crown or other prosecutor, the prosecutor must sue within one year, and the crown within two years after the year ended. Certain crimes are, without the aid of any statute, extinguished by a shorter prescription than twenty years. By our old law, in the cases of rape, robbery, and hamefucken, the party injured was not heard after a silence of twenty-four hours; from a presumption, that persons could not be so grossly injured, without immediately complaining: And it is probable, that a prosecution for these crimes, if delayed for any considerable time, would be cast even at this day, or at least the punishment restricted. Lesser injuries suffer also a short prescription; law *presuming* forgiveness, from the nature of the offence, and the silence of the party. The particular space of time sufficient to establish this presumption must be determined by the judge, according to circumstances.

INDEX.

I N D E X.

- A.**
ACCESSORIES, what, p. 617, 696
Act of grace, 695
Actions, nature of, 687
 different sorts of, 689
Adjudications, what, 659
Adminicles, 690
Admiralty, court of, 627
Adultery, 698
Alienation by deed, what, 607
 record, 608
 special custom, ib.
 devise, ib.
Arraignment, what, 621
Arbiters, 696
Arrests, what, 621
Assignations, account of, 672
- B.**
Bail and commitment, what, 621
Bankrupt estates, sale of, 661
Baron, definition of a, 628
Bastards incapable of legal succession, 687
Battery, 698
Bigamy, 699
Bishops, jurisdiction of, 631
Blasphemy, 697
Borough, definition of, 628
Breach of arrestment, 698
Briefes, 691
British constitution, 586
- C.**
Caption, 695
Cautionry, what, 669
Cessio bonorum, 695
Chattels, disposition of, 613
Circumduction, 693
Civil society, what, 585
Clergy, of the, 601
 benefit of, what, 622
Combat, single, probation by, 691
Commitment, 700
Common law, what, 590
 three kinds of, 591
Conviction, what, 621
Corporations, what, 602
Corruption in judges, 697
Courts, ecclesiastical, 611
 of special jurisdiction, ib.
 of the cognizance of private wrongs, ib.
 commisary, 631
Crimes, definition, &c. of, 696
 probation of, 701
 extinction of, 702
 prescription of, ib.
- Criminal* jurisdiction, p. 700
Crown, injuries proceeding from the, 614
- D.**
Decrees, 694
Defences, 691
Deforcement, 697
Demurrer, what, 615
Diets of appearance, 701
Disturbance, what, 614
Duelling, 698
Dyours habit, 695
- E.**
Entry by inventory, what, 682
 harp and staple, ib.
 a precept of *claire constat*, ib.
Equity, what, 589
Estates in possession, what, 605
 upon condition, ib.
 in reversion, ib.
 in severalty, &c. 606
Exchequer, court of, 627
Execution, what, 616
- F.**
Falseness, 699
Felonies, what, 618
Fictio juris, 693
Forestalling, 698
Forgery, 699
Freehold estates, what, 604
- G.**
God, offences against, 617
Government, what, 585
 different forms of, ib.
Guardian, what, 602
- H.**
Haimfucken, 968
Heir apparent, description of an, 681
Hereditaments, corporeal, 603
 incorporeal, ib.
High treason, what, 617
Holdings, several kinds of, 644
Homicide, description of, 619
Husband, description of a, 602
- I.**
Imprisonment, wrongous, 698
Incest, 699
Individuals, offences against, 619
 habitations of, ib.
 offences against, 620
Inhibitions, account of, 658
Injury, 700
Interdictions, registration of, 638
Judges, jurisdiction of, 624
 by whom named, 626
- Judges*, qualifications of, p. 626
Jury, 702
Justice, college of, 626
 offences against, 618
- K.**
Kindred, degrees of, forbidden to marry, 632
King, title of the, 599
 family of the, 600
 councils belonging to the, ib.
 duties of the, ib.
 prerogative of the, ib.
 revenue of the, ib.
- L.**
Laws, nature of, in general, 582
 of revelation, 583
 of nations, 584
 municipal, ib.
 interpretation of, 588
 of England, 590
 civil, 595
 canon, ib.
 written, 96
Litigcontestation, 691
Lord of regality, what, 627
Lyon king at arms, office of, 629
- M.**
Magistrates, subordinate, 601
Mandate, definition of, 668
Marriage, nature of, 634
Masters, description of, 602
Minors, tutors of, 635
Misprison of treason, 697
Misprisons, what, 618
Murder, 698
- N.**
Nuisance, what, 613
- O.**
Oaths, probation by, 692
Obligations and contracts, 667
 dissolution of, 671
Offences, means of preventing, 620
- P.**
Parent, description of a, 602
Parliament, of the, 599
Parricide, 698
Patronage, account of, 629
People, of the, whether natives, &c. 601
Perjury, 699
Personal property, injuries done to, 612
Persons, rights of, ib.
 capable of committing crimes, 617
Pleadings, what, 615
Poundings,^v

Law-
Language.

Englishman (with a week's preparation) would understand the laws of Normandy, collected in their *grand coutumier*, as well, if not better, than a Frenchman bred within the walls of Paris.

The Latin, which succeeded the French for the entry and enrolment of pleas, and which continued in use for four centuries, answers so nearly to the English (oftentimes word for word) that it is not at all surprising it should generally be imagined to be totally fabricated at home, with little more art or trouble than by adding Roman terminations to English words. Whereas in reality it is a very universal dialect, spread throughout all Europe at the irruption of the northern nations; and particularly accommodated and moulded to answer all the purposes of the lawyers with a peculiar exactness and precision. This is principally owing to the simplicity, or (if the reader pleases) the poverty and baldness of its texture, calculated to express the ideas of mankind just as they arise in the human mind, without any rhetorical flourishes, or perplexed ornaments of style: for it may be observed, that those laws and ordinances, of public as well as private communities, are generally the most easily understood, where strength and perspicuity, not harmony or elegance of expression, have been principally consulted in compiling them. These northern nations, or rather their legislators, though they resolved to make use of the Latin tongue in promulgating their laws, as being more durable and more generally known to their conquered subjects than their own Teutonic dialects, yet (either through choice or necessity) have frequently intermixed therein some words of a Gothic original: which is, more or less, the case in every country of Europe, and therefore not to be imputed as any peculiar blemish in our English legal latinity. The truth is, what is generally denominated *law-Latin* is in reality a mere technical language, calculated for eternal duration, and easy to be apprehended both in present and future times; and on those accounts best suited to preserve those memorials which are intended for perpetual rules of action. The rude pyramids of Egypt have endured from the earliest ages, while the more modern and more elegant structures of Attica, Rome, and Palmyra, have sunk beneath the stroke of time.

As to the objection of locking up the law in a strange and unknown tongue, this is of little weight with regard to records; which few have occasion to read, but such as do, or ought to, understand the rudiments of Latin. And besides, it may be observed of the law-Latin, as the very ingenious Sir John Davis observes of the law-French, "that it is so very easy to be learned, that the meanest wit that ever came to the study of the law doth come to understand it almost perfectly in ten days without a reader."

It is true, indeed, that the many terms of art, with which the law abounds, are sufficiently harsh when Latinized (yet not more so than those of other sciences), and may, as Mr Selden observes, give offence "to some grammarians of squeamish stomachs, who would rather choose to live in ignorance of things the most useful and important, than to have their delicate ears wounded by the use of a word unknown to Cicero, Sallust, or the other writers of the Augustan age." Yet this is no more than must unavoidably happen when things of modern use, of which the Romans had no

VOL. XI. Part II.

Law-
Language.

idea, and consequently no phrases to express them, come to be delivered in the Latin tongue. It would puzzle the most classical scholar to find an appellation, in his pure Latinity, for a constable, a record, or a deed of feoffment: it is therefore to be imputed as much to necessity as ignorance, that they were styled in our forensic dialect, *constabularius*, *recordum*, and *feoffamentum*. Thus again, another uncouth word of our ancient laws (for I defend not the ridiculous barbarisms sometimes introduced by the ignorance of modern practisers), the substantive *murdrum*, or the verb *murdrare*, however harsh and unclassical it may seem, was necessarily framed to express a particular offence; since no other word in being, *occidere*, *interficere*, *necare*, or the like, was sufficient to express the intention of the criminal, or *quo animo* the act was perpetrated; and therefore by no means came up to the notion of murder at present entertained by law; viz. a killing *with malice aforethought*.

A similar necessity to this produced a similar effect at Byzantium, when the Roman laws were turned into Greek for the use of the oriental empire; for without any regard to Attic elegance, the lawyers of the imperial courts made no scruple to translate *fidei commissarios*, *φιδι κομισσαριους*; *cubiculum*; *κυβικλειον*; *filiumfamilias*, *παιδα-Φαμιλιας*; *repudium*, *ρεπυδιον*; *compromissum*, *κομπρομισσον*; *reverentia et obsequium*, *ρευερεντια και οδσεκιον*; and the like. They studied more the exact and precise import of the words, than the neatness and delicacy of their cadence. And it may be suggested, that the terms of the law are not more numerous, more uncouth, or more difficult to be explained by a teacher, than those of logic, physics, and the whole circle of Aristotle's philosophy; nay, even of the politer art of architecture and its kindred studies, or the science of rhetoric itself. Sir Thomas More's famous legal question contains in it nothing more difficult, than the definition which in his time the philosophers currently gave of their *materia prima*, the groundwork of all natural knowledge; that it is *neque quid, neque quantum, neque quale, neque aliquid eorum quibus ens determinatur*; or its subsequent explanation by Adrian Heereboard, who assures us, that *materia prima non est corpus, neque per formam corporeitatis, neque per simplicem essentiam: est tamen ens, et quidem substantia, licet incompleta; habetque actum ex se entitativum, et simul est potentia subjectiva*. The law, therefore, with regard to its technical phrases, stands upon the same footing with other studies, and requests only the same indulgence.

This technical Latin continued in use from the time of its first introduction, till the subversion of our ancient constitution under Cromwell: when, among many other innovations in the law, some for the better and some for the worse, the language of our records was altered and turned into English. But, at the restoration of King Charles, this novelty was no longer countenanced; the practisers finding it very difficult to express themselves so concisely or significantly in any other language but the Latin. And thus it continued without any sensible inconvenience till about the year 1730, when it was again thought proper that the proceedings at law should be done into English, and it was accordingly so ordered by statute 4 Geo. II. c. 26. This was done, in order that the common people might have knowledge and understanding of what

Law.

was alleged or done for and against them in the process and pleadings, the judgement and entries in cause. Which purpose it is doubtful how well it has answered; but there is reason to suspect, that the people, are now, after many years experience, altogether as ignorant in matters of law as before. On the other hand, these inconveniences have already arisen from the alteration; that now many clerks and attorneys are hardly able to read, much less to understand, a record even of so modern a date as the reign of George I. And it has much enhanced the expence of all legal proceedings: for since the practitioners are confined (for the sake of the stamp duties, which are thereby considerably increased) to write only a stated number of words in a sheet; and as the English language, through the multitude of its particles, is much more verbose than the Latin; it follows, that the number of sheets must be very much augmented by the change. The translation also of technical phrases, and the names of writs and other process, were found to be so very ridiculous (a writ of *nisi prius*, *quare impedit*, *fieri facias*, *habeas corpus*, and the rest, not being capable of an English dress with any degree of seriousness), that in two years time a new act was obliged to be made, 6 Geo. II. c. 14. which allows all technical words to continue in the usual language, and has thereby defeated every beneficial purpose of the former statute.

Trial by Wager of Law, (*vadiatio legis*;) a species of trial, in the English law, so called, as another species is styled "wager of battel," *vadiatio duelli*, (see BATTLE); because, as in the wager of battel, the defendant gave a pledge, gage, or *vadium*, to try the cause by battel; so here he was to put in sureties or *vadios*, that at such a day he will make his law, that is, take the benefit which the law has allowed him. (See the article TRIAL). For our ancestors considered, that there were many cases where an innocent man, of good credit, might be overborne by a multitude of false witnesses; and therefore established this species of trial, by the oath of the defendant himself: for if he will absolutely swear himself not chargeable, and appears to be a person of reputation, he shall go free, and for ever acquitted of the debt, or other cause of action.

The manner of waging and making law is this. He that has waged, or given security to make his law, brings with him into court eleven of his neighbours: a custom which we find particularly described so early as in the league between Alfred and Guthrun the Dane; for by the old Saxon constitution every man's credit in courts of law depended upon the opinion which his neighbours had of his veracity. The defendant then, standing at the end of the bar, is admonished by the judges of the nature and danger of a false oath. And if he still persists, he is to repeat, this or the like oath: "Hear this, ye justices, that I do not owe unto Richard Jones the sum of ten pounds, nor any penny thereof, in manner and form as the said Richard hath declared against me. So help me God." And thereupon his eleven neighbours or compurgators shall avow upon their oaths, that they believe in their consciences that he saith the truth; so that himself must be sworn *de fidelitate*, and the eleven *de credulitate*.

In the old Swedish or Gothic constitution, wager

of law was not only permitted, as it is in *criminal* cases, unless the fact be extremely clear against the prisoner; but was also absolutely required, in many *civil* cases: which an author of their own very justly charges as being the source of frequent perjury. This, he tells us, was owing to the Popish ecclesiastics, who introduced this method of purgation from their canon law; and, having sown a plentiful crop of oaths in all judicial proceedings, reaped afterwards an ample harvest of perjuries: for perjuries were punished in part by pecuniary fines, payable to the coffers of the church. But with us in England wager of law is never required; and then only admitted, where an action is brought upon such matters as may be supposed to be privately transacted between the parties, and where in the defendant may be presumed to have made satisfaction without being able to prove it. Therefore it is only in actions of debt upon simple contract, or for amercement, in actions of detinue, and of account, where the debt may have been paid, the goods restored, or the account balanced, without any evidence of either. And by such wager of law (when admitted) the plaintiff is perpetually barred; for the law, in the simplicity of the ancient times, presumed that no one would forswear himself for any worldly thing. Wager of law, however, lieth in a real action, where the tenant alleges he was not legally summoned to appear, as well as in mere personal contracts.

The wager of law was never permitted but where the defendant bore a fair and unrepachable character; and it was also confined to such cases where a debt might be supposed to be discharged, or satisfaction made in private, without any witnesses to attest it: and many other prudential restrictions accompanied this indulgence. But at length it was considered, that (even under all its restrictions) it threw too great a temptation in the way of indigent or profligate men: and therefore by degrees new remedies were devised, and new forms of action were introduced, wherein no defendant is at liberty to wage his law. So that now no plaintiff need at all apprehend any danger from the hardness of his debtor's conscience, unless he voluntarily chooses to rely on his adversary's veracity, by bringing an obsolete, instead of a modern action. Therefore, one shall hardly hear at present of an action of debt brought upon a simple contract: that being supplied by an action of *trespass on the case* for the breach of a promise or *assumpsit*; wherein, though the specific debt cannot be recovered, yet damages may, equivalent to the specific debt. And, this being an action of trespass, no law can be waged therein. So, instead of an action of *detinue* to recover the very thing detained, an action of trespass on the case in *trover and conversion* is usually brought; wherein, though the horse or other specific chattel cannot be had, yet the defendant shall pay damages for the conversion, equal to the value of the chattel; and for this trespass also no wager of law is allowed. In the room of actions of account, a bill in equity is usually filed: wherein, though the defendant answers upon his oath, yet such oath is not conclusive to the plaintiff; but he may prove every article by other evidence, in contradiction to what the defendant has sworn. So that wager of law is quite out of use, being avoided by the mode of bringing the action; but still it is not out of force.

And

Blackst.
Comment.

Law.

Stiernbook,
lib. ix. c. 1.

Custom-
house
Laws.

And therefore, when a new statute inflicts a penalty, and gives an action of debt for recovering it, it is usual to add, "in which no wager of law shall be allowed:" otherwise a hardy delinquent might escape any penalty of the law, by swearing he had never incurred, or else had discharged it.

Custom-House Laws. The expedient of exacting duties on goods imported, or exported, has been adopted by every commercial nation in Europe. The attention of the British legislature has not been confined to the object of raising a revenue alone, but they have attempted by duties, exemptions, drawbacks, bounties, and other regulations, to direct the national trade into those channels that contribute most to the public benefit. And, in order to obtain every requisite information, all goods, exported or imported, whether liable to duty or not, are required to be entered at the respective custom-houses; and, from these entries, accounts are regularly made up of the whole British trade, distinguishing the articles, their quantity and value, and the countries which supply or receive them.

The objects of the British legislature may be reduced to the following heads.

First, To encourage the employment of British shipping and seamen, for the purpose of supplying our navy when public exigencies require.

Secondly, To increase the quantity of money in the nation, by prohibiting the exportation of British coin, by encouraging exportation, and discouraging importation, and by promoting agriculture, fisheries, and manufactures. For these purposes, it is penal to entice certain manufacturers abroad, or export the tools used in their manufactures: the exportation of raw materials is, in most instances, prohibited; and their importation permitted free from duty, and sometimes rewarded with a bounty. The exportation of some goods, manufactured to a certain length only (for example white cloth), is loaded with a duty, but permitted duty free when the manufacture is carried to its full extent. The importation of rival manufactures is loaded with heavy duties, or absolutely prohibited. These restrictions are most severe towards nations with which the balance of trade is supposed against us, or which are considered as our most formidable rivals in power or commerce. Upon this principle the commerce with France, till lately, laboured under the heaviest restrictions.

Thirdly, To secure us plenty of necessaries for subsistence and manufacture, by discouraging the exportation of some articles that consume by length of time, and regulating the corn trade according to the exigencies of the seasons.

Fourthly, To secure the trade of the colonies to the mother country, and preserve a mutual intercourse, by encouraging the produce of their staple commodities; and restraining their progress in these manufactures which they receive from us in exchange.

The foundation of our commercial regulations is the famous act of navigation, which was first enacted during the time of the Commonwealth, and adopted by the first parliament after the Restoration. The substance of this act, and subsequent amendments, is as follows:

1. Goods from Asia, Africa, and America, may not

be imported, except in British ships duly navigated, or ships belonging to the British plantations; and they can only be imported from the place of their production or manufacture, or the port where they are usually first shipped for transportation. Goods of the Spanish or Portuguese plantations, imported from Spain and Portugal in British ships, bullion, and some other inconsiderable articles, are excepted.

The restriction on European goods is not universal, but extends to several of the bulkiest articles. Russian goods, masts, timber, boards, salt, pitch, rosin, tar, hemp, flax, raisins, figs, prunes, olives, oil, corn, sugar, potashes, wine, and vinegar, may not be imported, except in ships belonging to Great Britain or Ireland, legally manned; nor Turkey goods and currants, except in ships British built; or in ships belonging to the country where these goods are produced or manufactured, or first shipped for exportation, and, if imported in foreign ships, they pay alien's duty.

In order to entitle a ship to the privileges of a British ship, it must be built in Britain, and belong entirely to British subjects; and the master, and three-fourths of the mariners, must be British subjects, except in case of death, or unavoidable accidents. In time of war, the proportion of British mariners required is generally confined to one-fourth; and the same proportion only is required in the Greenland fishery.

No goods may be imported into, or exported from, the plantations in Asia, Africa, or America, except in ships built in Britain, Ireland, or the plantations, or prize ships, manned by British subjects, duly registered, and legally navigated.

The following goods, enumerated in the act of navigation and subsequent acts, may not be exported from the plantations, except to some other plantation, or to Britain: Tobacco, cotton wool, indigo, ginger, fustic, and other dyeing wood, molasses, hemp, copper ore, beaver skins and other furs, pitch, tar, turpentine, masts, yards, and boltsprits, coffee, pimento, cocoanuts, whale fins, raw silk, pot and pearl ashes. Rice and sugar were formerly comprehended in this list, but their exportation is now permitted under certain restrictions.

Iron may not be imported to Europe, except to Ireland; and none of the non-enumerated may be imported to any country north of Cape Finisterre, except the bay of Biscay and Ireland.

2. For the more effectual prevention of smuggling, no goods may be imported in vessels belonging to British subjects; and no wine, in any vessel whatever, unless the master have a manifest on board, containing the name, measure, and built of the ship, the place to which it belongs, and a distinct enumeration of the goods on board, and places where they were laden. If the ship be cleared from any place under his majesty's dominions, the manifest must be attested by the chief officer of the customs, or chief magistrate, who is required to transmit a copy thereof to the place of destination. Shipmasters must deliver copies of this manifest to the first customhouse officer who goes on board within four leagues of the shore, and also to the first who goes on board within the limits of any port, and must deliver the original manifest to the customhouse at their arrival, and make report of their cargo

Custom-
house
Laws.

Hamilton's
Introduction
to
Merchan-
dise.

Custom-
house
Laws.

upon oath. If the report disagree with the manifest, or either disagree with the cargo on board, the ship-master is liable in the penalty of 200*l*. The proprietors of the goods must enter them, and pay the duties within 20 days; otherwise they may be carried to the customhouse, and sold by auction, if not relieved within six months; and the overplus of the value, after paying duty and charges, paid to the proprietors.

3. The importation of tattle, beef, mutton, and pork, except from Ireland, woollen cloths, malt, and various articles of hardware, cutlery, and earthen ware, is prohibited: Also the following goods from Germany and the Netherlands; olive oil, pitch, tar, potashes, rosin, salt, tobacco, wines, except Rhenish wine, and Hungary wines from Hamburgh.

4. The importation of various other goods is restricted by particular regulations, respecting the time and place of importation, the packages, the burden of the ship, the requisition of a license, and other circumstances.

To guard more effectually against clandestine trade, the importation of some articles is only permitted in ships of a certain burden, whose operations are not easily concealed. Spirits must be imported in ships of 100 tons or upwards, except rum, and spirits of British plantations, which are only restricted to 70 tons; wine, 60 tons; tea, tobacco, and snuff, 50 tons; salt, 40 tons. Wine, spirits, and tobacco are also restricted in respect of the packages in which they may be imported.

5. Diamonds and precious stones, flax, flax seed, linen rags, beaver wool, wool for clothiers, linen yarn unbleached, and most drugs used in dyeing, may be imported duty free.

6. All goods imported are liable to duties, except such as are expressly exempted. The revenue of customs is of great antiquity in Britain, but was remodelled at the restoration of Charles II. A subsidy of tonnage on wines, and of poundage, or 1*s*. per pound value of other goods, was granted during the king's life, and, after several prolongations, rendered perpetual. A book of rates was composed for ascertaining these values; and articles not rated paid duty according to the value, as affirmed upon oath by the importer. If the goods be valued too low by the importer, the customhouse officer may seize them, upon paying to the proprietor the value he swore to, and 10 per cent. for profit; such goods to be sold, and the overplus paid into the customs. Various additional duties have been imposed; some on all goods, some on particular kinds; some according to the rates, some unconnected with the rates; some with an allowance of certain abatements, some without any allowance; the greater part to be paid down in ready money, and a few for which security may be granted; often with variations, according to the ship's place and circumstances of importation. The number of branches amounted to upwards of 50; and sometimes more than 10 were chargeable on the same articles. By this means, the revenue of the customs has become a subject of much intricacy. The inconveniences which this gave rise to are now removed by the consolidation act; which appoints one fixed duty for each ar-

ticle free from fractions, instead of the various branches to which they were formerly subject.

7. Goods of most kinds may be exported duty free when regularly entered; and those that have paid duty on importation are generally entitled to drawback of part, sometimes of the whole, when re-exported within three years, upon certificate that the duties were paid on importation, and oath of their identity. In some cases, a bounty is given on manufactured goods, when the materials from which they are manufactured have paid duty on importation; and manufactures subject to excise, have generally the whole or part of the excise duties returned.

8. The following goods are prohibited to be exported; white ashes, horns, unwrought hides of black cattle, tallow, corn, brags, copper, engines for knitting stockings, tools for cotton, linen, woollen, silk, iron and steel manufactures, wool, woolfells, woolly len yarn, fullers earth, fulling clay, and tobacco-pipe clay.

9. The object of the laws respecting the corn trade is to encourage agriculture, by not only permitting the free exportation, but rewarding it with a bounty when the prices are low, and checking the importation by a heavy duty; and to prevent scarcity, by prohibiting the exportation when the prices are high, and permitting importation at an easy duty. Various temporary laws have been enacted for these purposes, and sometimes other expedients employed in times of scarcity, such as prohibiting the distillery from corn, and manufacture of starch.

10. Bounties are allowed on the exportation of refined sugar, sail-cloth, lincn under limited prices, silk stuffs of British manufacture, cordage, spirits when barley is under 2*4s*. beef, pork, and the following kinds of fish, salmon, herrings, pilchards, cod, ling, flake, and sprats.

Various other bounties are allowed for the encouragement of our fisheries. Ships from 150 to 300 tons employed in the Greenland whale fishery, and conforming to the regulations prescribed, are allowed 30*s*. per ton. Vessels employed in the herring fishery receive 20*s*. per ton, besides a bounty on the herrings caught and cured, amounting in some cases to 4*s*. per barrel. Other bounties are granted to a limited number of the most successful vessels employed in the herring and Newfoundland fisheries, and in the southern whale fishery.

It is unnecessary and impracticable, in this place, to enter into a full detail of our customhouse laws. Indeed, all that can be admitted into a work of this kind, must convey but very imperfect information; and even that little becomes useless in a short time from alterations in the law. We have therefore only marked the general outlines in the present article; which, however, will be sufficient to enable the reader to judge of the principles upon which the British legislature has acted. How far the means employed have contributed to the ends proposed, and how far the ends themselves are always wise; or whether a trade encumbered by fewer restrictions would not prove more extensive and beneficial; has often been a subject of discussion.

Mercantile Laws. The laws relating to commercial and

Custom-
house
Laws,
Mercantile
Laws.

Maritime
Laws.

and maritime affairs approach nearer to uniformity through the different countries of Europe, than those on other subjects. Some of the fundamental regulations have been taken from the Roman law; others have been suggested by experience, during the progress of commerce; and the whole have been gradually reduced to a system, and adopted into the laws of trading nations, but with some local varieties and exceptions.

The British legislature has enacted many statutes respecting commerce; yet the greater part of our mercantile law is to be collected from the decisions of our courts of justice, founded on the custom of merchants. A proof of such custom, where no direct statute interferes, determines the controversy, and becomes a precedent for regulating like cases afterwards. The existence of a custom not formerly recognized, is, in England, determined by a jury of merchants.

The most common mercantile contracts are those between buyer and seller; between factor and employer; between partners; between the owners, masters, mariners, and freighters of ships; between insurers and the owners of the subject insured; and between the parties concerned in transacting bills of exchange. See FACTORAGE, SALE, PARTNERSHIP, INSURANCE, BILL, &c. and the next article.

Maritime Laws. The most ancient system of maritime laws is that of Rhodes, which was in force during the time of the Grecian empire, and afterwards incorporated into the Roman law. Although, in some parts, not applicable to the present state of trade, and, in others, now hardly intelligible, it contains the groundwork of the most equitable and beneficial rules observed in modern commerce. A like system was set forth by Richard I. of England, called the *Statutes of Oleron*; and another, by the town of Wisby, in the island of Gothland. From these systems, improved and enlarged in the course of time, our general maritime law is derived. The jurisdiction of matters purely maritime belongs, in England, to the court of admiralty, which proceeds on the civil law; but their proceedings are subject to the controul, and their decisions to the review, of the superior courts.

We shall here consider the obligations which subsist between the masters or owners of ships, the freighters, and the furnishers of provisions or repairs.

1. *Masters and Freighters.* A charter party is a contract between the master and freighters, in which the ship and voyage is described, and the time and conditions of performing it are ascertained.

The freight is most frequently determined for the whole voyage, without respect to time. Sometimes it depends on the time.

In the former case, it is either fixed at a certain sum for the whole cargo; or so much per ton, barrel bulk, or other weight or measure; or so much per cent. on the value of the cargo. This last is common on goods sent to America; and the invoices are produced to ascertain the value.

The burden of the ship is generally mentioned in the contract, in this manner, *one hundred tons, or thereby*; and the number mentioned ought not to differ above 5 tons, at most, from the exact measure. If a certain sum be agreed on for the freight of the ship, it must all be paid, although the ship, when measured, should

prove less, unless the burden be warranted. If the ship be freighted for transporting cattle, or slaves, at so much a head, and some of them die on the passage, freight is only due for such as are delivered alive; but, if for lading them, it is due for all that were put on board.

When a whole ship is freighted, if the master suffers any other goods besides those of the freighter to be put on board, he is liable for damages.

It is common to mention the number of days that the ship shall continue at each port to load or unload. The expression used is, *work weather days*; to signify, that Sundays, holidays, and days when the weather stops the work, are not reckoned. If the ship be detained longer, a daily allowance is often agreed on, in name of *demurrage*.

If the voyage be completed in terms of the agreement, without any misfortune, the master has a right to demand payment of the freight before he delivers the goods. But if the safe delivery be prevented by any fault or accident, the parties are liable, according to the following rules.

If the merchant do not load the ship within the time agreed on, the master may engage with another, and recover damages.

If the merchant load the ship, and recal it after it has set sail, he must pay the whole freight; but if he unload it before it sets sail, he is liable for damages only.

If a merchant loads goods which it is not lawful to export, and the ship be prevented from proceeding on that account, he must pay the freight notwithstanding.

If the shipmaster be not ready to proceed on the voyage at the time agreed on, the merchant may load the whole, or part of the cargo, on board another ship, and recover damages; but chance, or notorious accident, by the marine law, releases the master from damages.

If an embargo be laid on the ship before it sails, the charter party is dissolved, and the merchant pays the expence of loading and unloading; but if the embargo be only for a short limited time, the voyage shall be performed when it expires, and neither party is liable for damages.

If the shipmaster sails to any other port than that agreed on, without necessity, he is liable for damages; if through necessity, he must sail to the port agreed on, at his own expence.

If a ship be taken by the enemy, and retaken or ransomed, the charter-party continues in force.

If the master transfer the goods from his own ship to another, without necessity, and they perish, he is liable for the value; but if his own ship be in imminent danger, the goods may be put on board another ship at the risk of the owner.

If a ship be freighted out and home, and a sum agreed on for the whole voyage, nothing is due till it return; and the whole is lost if the ship be lost on the return.

If a certain sum be specified for the homeward voyage, it is due, although the factor abroad should have no goods to send home.

In the case of a ship freighted to Madeira, Carolina, and home, a particular freight fixed for the homeward

Maritime
Laws.

Maritime
Laws.

ward voyage, and an option reserved for the factor at Carolina to decline it, unless the ship arrived before 1st of March: the shipmaster, foreseeing he could not arrive there within that time, and might be disappointed of a freight, did not go there at all. He was found liable in damages, as the obligation was absolute on his part, and conditional only on the other.

If the goods be damaged without fault of the ship or master, the owner is not obliged to receive them and pay freight, but he must either receive the whole, or abandon the whole; he cannot choose those that are in best order, and reject the others. If the goods be damaged through the insufficiency of the ship, the master is liable for the same; but, if it be owing to stress of weather, he is not accountable. It is customary for shipmasters, when they suspect damage, to take a *protest against wind and weather*, at their arrival. But as this is the declaration of a party, it does not bear credit, unless supported by collateral circumstances.

If part of the goods be thrown overboard, or taken by the enemy, the part delivered pays freight.

The shipmaster is accountable for all the goods received on board, by himself or mariners, unless they perish by the act of God, or of the king's enemies.

Shipmasters are not liable for leakage on liquors; nor accountable for the contents of packages, unless packed and delivered in their presence.

Upon a principle of equity, that the labourer is worthy of his hire, differences arising with regard to freight, when the case is doubtful, ought rather to be determined in favour of the shipmaster.

2. *Ship and Owners with Creditors.* When debts are contracted for provisions or repairs to a ship, or arise from a failure in any of the above-mentioned obligations, the ship and tackle, and the owners, are liable for the debt, as well as the master.

By the mercantile law, the owners are liable in all cases, without limitation; but by statute, they are not liable for embezzlement beyond their value of ship, tackle, and freight.

A shipmaster may pledge his ship for necessary repairs during a voyage; and this hypothecation is implied by the maritime law when such debts are contracted. This regulation is necessary, and is therefore adopted by all commercial nations; for, otherwise, the master might not find credit for necessary repairs, and the ship might be lost. If repairs be made at different places, the last are preferable.

The relief against the ship is competent to the court of admiralty in England, only when repairs are furnished during the course of a voyage; for the necessity of the case extends no further. If a ship be repaired at home (e. g. upon the river Thames), the creditor is only entitled to relief at common law.

The creditor may sue either the master or owners; but if he undertook the work on the special promise of the one, the other is not liable.

If the master buys provisions on credit, the owners are liable for the debt, though they have given him money to pay them.

If a ship be mortgaged, and afterwards lost at sea, the owners must pay the debt; for the mortgage is

only an additional security, though there be no express words to that purpose in the covenant.

If a ship be taken by the enemy, and ransomed, the owners are liable to pay the ransom, though the ransomer die in the hands of the captors.

3. *Owners of ship and cargo with each other.* There is a mutual obligation which subsists between all the owners of a ship and cargo. In time of danger, it is often necessary to incur a certain loss of part for the greater security of the rest; to cut a cable; to lighten the ship, by throwing part of the goods overboard; to run it ashore; or the like: and as it is unreasonable that the owners of the thing exposed for the common safety should bear the whole loss, it is defrayed by an equal contribution among the proprietors of the ship, cargo, and freight. This is the famous *Lex Rhodia de jactu*, and is now called a *general average*.

The custom of valuing goods which contribute to a general average, is not uniform in all places. They are generally valued at the price they yield at the port of destination, charges deducted; and goods thrown overboard are valued at the price they would have yielded there. Sailors wages, clothes and money belonging to passengers, and goods belonging to the king, pay no general average; but proprietors of gold and silver, in case of goods being thrown overboard, contribute to the full extent of their interest.

The following particulars are charged as general average: Damage sustained in an engagement with the enemy; attendance on the wounded, and rewards given for service in time of danger, or gratuities to the widows or children of the slain; ransom; goods given to the enemy in the nature of a ransom; charges of bringing the ship to a place of safety when in danger from the enemy, or waiting for convoy; charges of quarantine; goods thrown overboard; masts or rigging cut; holes cut in the ship to clear it of water; pilotage, when a leak is sprung; damage, when voluntarily run aground, and expence of bringing it afloat; goods lost by being put in a lighter; the long boat lost in lightening the ship in time of danger; hire of cables and anchors; charges of laying in ballast, victualling, and guarding the ship when detained; charges at law, in reclaiming the ship and cargo; interest and commission on all these disbursements.

Though goods put on board a lighter, and lost, are charged as a general average; yet if the lighter be saved, and the ship with the rest of the goods be lost, the goods in the lighter belong to their respective proprietors, without being liable to any contribution.

If part of the goods be plundered by a pirate, the proprietor or shipmaster is not entitled to any contribution.

The essential circumstances that constitute a general average are these; the loss must be the effect of a voluntary action; and the object of that action the common safety of the whole. Quarantine, which is allowed, seems not to fall within this description.

4. *Quarantine.* See QUARANTINE.

5. *Wrecks.* See WRECK.

6. *Impress.* See IMPRESSING.

7. *Insurance.* See INSURANCE.

Maritime
Laws.

Game-Laws. See the article GAME.

Sir William Blackstone, treating of the alterations in our laws, and mentioning franchises granted of chase and free warren, as well to preserve the breed of animals, as to indulge the subject, adds, "From a similar principle to which, though the forest laws are now mitigated, and by degrees grown entirely obsolete; yet from this root has sprung a *bastard slip*, known by the name of the *game law*, now arrived to and wanting in its highest vigour: both founded upon the same unreasonable notion of permanent property in wild creatures; and both productive of the same tyranny to the commons; but with this difference, that the forest laws established only one mighty hunter throughout the land; *the game laws have raised a little Nimrod in every manor.* And in one respect the ancient law was much less unreasonable than the modern; for the king's grantee of a chase or free warren, might kill game in every part of his franchise; but now, though a freeholder of less than 100l. a year *is forbidden to kill partridge upon his own estate*, yet nobody else (not even the lord of the manor, unless he hath a grant of free warren) can do it without *committing a trespass and subjecting himself to an action.*

Under the article GAME, the destroying such beasts and fowls as are ranked under that denomination, was observed (upon the old principles of the forest law) to be a trespass and offence in all persons alike, who have not authority from the crown to kill game (which is royal property) by the grant of either a free warren, or at least a manor of their own. But the laws called the *game laws* have also inflicted additional punishments (chiefly pecuniary) on persons guilty of this general offence, unless they be people of such rank or fortune as is therein particularly specified. All persons, therefore, of what property or distinction soever, that kill game out of their own territories, or even upon their own estates, without the king's licence expressed by the grant of a franchise, are guilty of the first original offence of encroaching on the royal prerogative. And those indigent persons who do so, without having such rank or fortune as is generally called a *qualification*, are guilty, not only of the original offence, but of the aggravations also created by the statutes for preserving the game: which aggravations are so severely punished, and those punishments so implacably inflicted, that the offence against the king is seldom thought of, provided the miserable delinquent can make his peace with the lord of the manor. The only rational footing upon which this offence, thus aggravated, can be considered as a crime, is, that in low and indigent persons it promotes idleness, and takes them away from their proper employments and callings: which is an offence against the public police and economy of the commonwealth.

The statutes for preserving the game are many and various, and not a little obscure and intricate; it being remarked, that in one statute only, 5 Ann. c. 14. there is false grammar in no fewer than six places, besides other mistakes: the occasion of which, or what denomination of persons were probably the penners of these statutes, it is unnecessary here to inquire. It may be in general sufficient to observe, that the *qualifications* for killing game, as they are usually called, or more properly the exemptions from the penalties

inflicted by the statute law, are, 1. The having a freehold estate of 100l. per annum; there being fifty times the property required to enable a man to kill a partridge, as to vote for a knight of the shire. 2. A leasehold for 99 years of 150l. per annum. 3. Being the son and heir apparent of an esquire (a very loose and vague description) or person of superior degree.— 4. Being the owner or keeper of a forest, park, chase, or warren. For unqualified persons transgressing these laws, by killing game, keeping engines for that purpose, or even having game in their custody, or for persons (however qualified) that kill game or have it in possession, at unseasonable times of the year, or unseasonable hours of the day or night, on Sundays or on Christmas day, there are various penalties assigned, corporal and pecuniary, by different statutes (after mentioned), on any of which, but only on one at a time, the justices may convict in a summary way, or (in most of them) prosecutions may be carried on at the assizes. And, lastly, by statute 28 Geo. II. c. 12. no person, however qualified to kill, may make merchandise of this valuable privilege, by selling or exposing to sale any game, on pain of like forfeiture as if he had no qualification.

The statutes above referred to are as follow: No person shall take pheasants or partridges with engines in another man's ground, without license, on pain of 10l. stat. 11 Hen. VIII. c. 13. If any person shall take or kill any pheasants or partridges with any net in the night time, they shall forfeit 20s. for every pheasant, and 10s. for every partridge taken: and hunting with spaniels in standing corn, incurs a forfeiture of 40s. 23 Eliz. c. 10. Those who kill any pheasant, partridge, duck, heron, hare, or other game, are liable to a forfeiture of 20s. for every fowl and hare; and selling, or buying to sell again, any hare, pheasant, &c. the forfeiture is 10s. for each hare, &c. 1 Jac. I. c. 17. Also pheasants or partridges are not to be taken between the first of July and the last of August, on pain of imprisonment for a month, unless the offenders pay 20s. for every pheasant, &c. killed: and constables, having a justice of peace's warrant, may search for game and nets, in the possession of persons not qualified by law to kill game or to keep such nets, 7 Jac. I. c. 11. Constables, by a warrant of a justice of peace, are to search houses of suspected persons for game: and if any game be found upon them, and they do not give a good account how they came by the same, they shall forfeit for every hare, pheasant, or partridge, not under 5s. nor exceeding 20s. And inferior tradesmen hunting, &c. are subject to the penalties of the act, and may likewise be sued for trespass. If officers of the army or soldiers kill game without leave, they forfeit 5l. an officer, and 10s. a soldier; 4 and 5 W. and M. c. 23. Higglers, chapmen, carriers, innkeepers, victuallers, &c. having in their custody hare, pheasant, partridge, heath game, &c. (except sent by some person qualified to kill game), shall forfeit for every hare and fowl 5l. to be levied by distress and sale of their goods, being proved by one witness, before a justice; and for want of distress shall be committed to the house of correction for three months: one moiety of the forfeiture to the informer, and the other to the poor. And selling game, or offering the same to sale, incurs the like penalty; where-

Game-Laws.

in hare and other game found in a floop, &c. is adjudged an exposing to sale: killing hares in the night is liable to the same penalties: and if any persons shall drive wild fowls with nets, between the first day of July and the first of September, they shall forfeit 5s. for every fowl; 5 Ann. c. 14. 9 Ann. c. 25. If any unqualified person shall keep a gun, he shall forfeit 10l.; and persons being qualified may take guns from those that are not, and break them; 21 and 22 Car. II. c. 25. and 33 Hen. VIII. c. 6. One justice of peace, upon examination and proof of the offence, may commit the offender till he hath paid the forfeiture of 10l. And persons, not qualified by law, keeping dogs, nets, or other engines to kill game, being convicted thereof before a justice of peace, shall forfeit 5l. or be sent to the house of correction for three months; and the dogs, game, &c. shall be taken from them, by the statute 5 Ann. If a person hunt upon the ground of another, such other person cannot justify killing of his dogs, as appears by 2 Roll. Abr. 567. But it was otherwise adjudged, Mich. 33 Car. II. in C. B. 2 Cro. 44. and see 3. Lev. xxviii. In actions of debt, *qui tam*, &c. by a common informer on the statute 5 Ann. for 15l. wherein the plaintiff declared on two several counts, one for 10l. for killing two partridges, the other for 5l. for keeping an engine to destroy the game, not being qualified, &c. the plaintiff had a verdict for 5l. only: this action was brought by virtue of the stat. 8 Geo. I. See stat. 9 Geo. I. c. 22. See likewise 24 Geo. II. c. 34. for the better preservation of the game in Scotland. By the stat. 26 Geo. II. c. 2. all suits and actions brought by virtue of stat. 8 Geo. I. c.— for the recovery of any pecuniary penalty, or sum of money, for offences committed against any law for the better preservation of the game, shall be brought before the end of the second term after the offence committed.

By 28 Geo. II. c. 12. persons selling, or exposing to sale, any game, are liable to the penalties inflicted by 5 Ann. c. 14. on higglers, &c. offering game to sale: and game found in the house or possession of a poulterer, salesman, fishmonger, cook, or pastry cook, is deemed exposing thereof to sale.

By 2 Geo. III. c. 19. after the first June 1762, no person may take, kill, buy or sell, or have in his custody, any partridge, between 12th February and 1st September, or pheasant between 1st February and 1st October, or heath fowl between 1st January and 20th August, or grouse between 1st December and 25th July, in any year; pheasants taken in their proper season, and kept in mews, or breeding places excepted: and persons offending in any of the cases aforesaid, forfeit 5l. per bird, to the prosecutor, to be recovered, with full costs, in any of the courts at Westminster. By this act, likewise, the whole of the pecuniary penalties under the 8 Geo. I. c. 19. may be sued for, and recovered to the sole use of the prosecutor, with double costs; and no part thereof to go to the poor of the parish.

By 5 George III. c. 14. persons convicted of entering warrens in the night time, and taking or killing coney there, or aiding or assisting therein, may be punished by transportation, or by whipping, fine, or imprisonment. Persons convicted on this act, not liable to be convicted under any former act. This act does

not extend to the destroying coney in the day time, on the sea and river banks in the county of Lincoln, &c. No satisfaction to be made for damages occasioned by entry, unless they exceed 1s. It may not be improper to mention an act lately made, and not yet repealed, viz. 10 Geo. III. c. 19. for preservation of the game, which shows the importance of the object. It is thereby enacted, That if any person kill any hare, &c. between sunsetting and sunrising, or use any gun, &c. for destroying game, he shall for the first offence be imprisoned for any time not exceeding six nor less than three months: if guilty of a second offence, after conviction of a first, to be imprisoned for any time not exceeding 12 months nor less than six; and shall also within three days after the time of his commitment, either for the first or for any other offence, be once publicly whipped.

By 25 George III. c. 50. and 31 George III. c. 21. every person in Great Britain (the royal family excepted), who shall, after July 1. 1785, use any dog, gun, net, or other engine, for the taking or destruction of game (not acting as gamekeeper), shall deliver in a paper or account in writing, containing his name and place of abode, to the clerk of the peace or his deputy, and annually take out a certificate thereof; and every such certificate shall be charged with a stamp duty of 2l. 2s. (and an additional 1l. 1s. by 31 George III. c. 21.) making in the whole 3l. 3s.—Every deputation of a gamekeeper shall be registered with the clerk of the peace, and such gamekeeper shall annually take out a certificate thereof; which certificate shall be charged with a stamp duty of 10s. 6d. (and an additional 10s. 6d. by 31 Geo. III. c. 21), making in the whole 11. 1s.—The duties to be under the management of the commissioners of the stamp office.

From and after the said 1st of July 1785, the clerk of the peace shall annually deliver to persons requiring the same, duly stamped, a certificate or licence according to the form therein mentioned, for which he shall be entitled to demand 1s. for his trouble; and on refusal or neglect to deliver the same, forfeit 20l.—Every certificate to bear date the day when issued, and to continue in force till the 1st day of July then following, on penalty of 20l.

After the 1st day of July 1785, any person that shall use any greyhound, hound, pointer, setting dog, spaniel, or other dog, or any gun, net, or engine, for taking or killing of game, without a certificate, is liable to the penalty of 20l. And if any gamekeeper shall, for the space of 20 days after the said 1st day of July, or if any gamekeeper thereafter to be appointed shall, for the space of 20 days next after such appointment, neglect or refuse to register his deputation and take out a certificate thereof, he is liable to the penalty of 20l.

The clerks of the peace are to transmit to the stamp office in London alphabetical lists of the certificates granted in every year before the 1st day of August under penalty of 20l. These lists are to be kept at the stamp office in London, and there to be inspected on payment of 1s.: And the commissioners of the stamp duties are, once or oftener in every year, as soon as such lists are transmitted to them, to cause the same to be published in the newspapers circulating in each county, or such public paper as they shall think most proper.

Game-Laws.

Law.

Gamekeepers were first introduced by the qualification act, 22 and 23 Car. II. c. 25. and subsequent statutes have made a number of various regulations respecting them. This authorises lords of manors of the degree of esquire, to appoint gamekeepers, who shall have power, within the manor, to seize guns, nets, and engines, kept by unqualified persons to destroy game.

By 5 Ann. c. 14. s. 14. lords and ladies of manors are authorised to empower their gamekeepers to kill game; but prohibited the latter, under pain of three months imprisonment, from selling or disposing of the game so killed, without the consent of the lord or lady, under whose appointment they acted.

By 3 Geo. I. c. 11. no lord of a manor is to appoint any person to be a gamekeeper, with power to take and kill game, unless such person be qualified by law so to do, or be truly and properly a servant to the lord, or immediately employed to take or kill game, for the sole use or benefit of the said lord. Offences against this act to be punished with pecuniary fines.

Gamekeepers are enumerated among the different descriptions of servants, chargeable with the duty under 25 Geo. III. c. 43.

If any gamekeeper, who shall have registered his deputation, and taken out a certificate thereof, shall be changed, and a new gamekeeper appointed in his stead, the first certificate is declared null and void, and the person acting under the same, after notice, is liable to the penalty of 20l. And any person in pursuit of game, who shall refuse to produce his certificate, or to tell his name or place of abode, or shall give in any false or fictitious name or place of abode to any person requiring the same, who shall have obtained a certificate, is liable to the penalty of 50l.

The certificates are not to authorize persons to kill game at any time prohibited by law, nor to give any person any right to kill game, unless such person shall be qualified so to do by the laws now in being, but shall be liable to the same penalties as if this act had not passed. [So that though by this act qualified and unqualified persons are equally included, yet having a certificate does not give an unqualified person a right to kill game: the point of right still stands upon the former acts of parliament; and any unqualified person killing game without a certificate, is not only liable to the penalty inflicted by this act, but also to all the former penalties relating to the killing of game, &c.]

Witnesses refusing to appear on justices summons, or appearing and refusing to give evidence, forfeit 10l. The certificates obtained under deputations, not to be given in evidence for killing of game by a gamekeeper out of the manor, in respect of which such deputation or appointments was given and made. Persons counterfeiting stamps to suffer death as felons.

Penalties exceeding 20l. are to be recovered in any of his majesty's courts of record at Westminster; and penalties not exceeding 20l. are recoverable before two justices, and may be levied by distress. The whole of the penalties go to the informer.

By 40 Geo. III. c. 50. persons to the number of two or more, found in any field, &c. or other open or inclosed ground, between eight at night and six in the morning, from the first day of October to the first of February, or between the hours of ten at night and four in the morning, from first February to first Octo-

VOL. XI. Part II.

Law.

ber, in each and every year, having any gun or engine to kill or take any hare, pheasant, partridge, heath-fowl, commonly called *black game*, or grouse, commonly called *red game*, or any other game; or persons aiding them with offensive weapons, may be apprehended, and, on conviction before a justice, shall be deemed rogues and vagabonds, within the meaning of 17 Geo. III. c. 5. &c.

Military Law. See MILITARY and MARINE.

LAW, JOHN, the famous projector, was the eldest son of a goldsmith in Edinburgh, by Elizabeth Campbell heiress of Laurieston near that city; and was born about the year 1681. He was bred to no business; but possessed great abilities, and a very fertile invention. He had the address, but when a very young man, to recommend himself to the king's ministers in Scotland to arrange the revenue accounts, which were in great disorder at the time of settling the equivalent before the union of the kingdoms. The attention of the Scottish parliament being also turned to the contrivance of some means for supplying the kingdom with money, and facilitating the circulation of specie, for want of which the industry of Scotland languished; he proposed to them, for these purposes, the establishment of a bank of a particular kind, which he seems to have imagined might issue paper to the amount of the whole value of all the lands in the country: but this scheme the parliament by no means thought it expedient to adopt.

His father dying about the year 1704, Law succeeded to the small estate of Laurieston; but the rents being insufficient for his expences, he had recourse to gaming. He was tall and graceful in his person, and much addicted to gallantry and finery; and giving a sort of ton at Edinburgh, he went commonly by the name of *Beau Law*. He was forced to fly his country, however, in the midst of his career, in consequence of having fought a duel and killed his antagonist; and in some of the French literary gazettes it is said that he run off with a married lady. In his flight from justice he visited Italy; and was banished from Venice and Genoa, because he contrived to drain the youth of these cities of their money, by his superiority in calculation, that is, by being a cheat and a sharper. He wandered over all Italy, living on the event of the most singular bets and wagers, which seemed to be advantageous to those who were curious after novelty; but which were always of the most certain success with regard to him. He arrived at Turin, and proposed his system to the duke of Savoy, who saw at once, that, by deceiving his subjects, he would in a short time have the whole money of the kingdom in his possession: but that sagacious prince asking him how his subjects were to pay their taxes when all their money should be gone, Law was disconcerted, not expecting such a question.

Having been banished from Italy, and thus repulsed at Turin, Law proceeded to Paris, where he was already known as a projector. In the lifetime of Louis XIV. he had transmitted his schemes to Desmarets and to Chamillard, who had rejected them as dangerous innovations. He now proposed them to the Duc d'Orleans, who desired Noailles to examine them, to be as favourable in his report as possible, and

4 X

to

Law.

to remark such of them as were practicable. Noailles called in the assistance of several merchants and bankers, who were averse to the system. Law then proposed the establishment of a bank, composed of a company, with a stock of six millions. Such an institution promised to be very advantageous to commerce. An arret of the 2d March 1716 established this bank, by authority, in favour of Law and his associates; two hundred thousand shares were instituted of one thousand livres each; and Law deposited in it to the value of two or three thousand crowns which he had accumulated in Italy, by gaming or otherwise. This establishment very much displeased the bankers, because at the beginning business was transacted here at a very small premium, which the old financiers had charged very highly. Many people had at first little confidence in this bank; but when it was found that the payments were made with quickness and punctuality, they began to prefer its notes to ready money. In consequence of this, shares rose to more than 20 times their original value; and in 1719 their valuation was more than 80 times the amount of all the current specie in the kingdom. But the following year, this great fabric of false credit fell to the ground, and almost overthrew the French government, ruining some thousands of families; and it is remarkable, that the same desperate game was playing by the South sea directors in England, in the same fatal year, 1720. Law being exiled as soon as the credit of his projects began to fail, retired to Venice, where he died in 1729.

The principles upon which Law's original scheme was founded, are explained by himself in *A Discourse concerning Money and Trade*, which he published in Scotland where (as we have seen) he first proposed it. "The splendid but visionary ideas which are set forth in that and some other works upon the same principles (Dr Adam Smith observes), still continue to make an impression upon many people, and have perhaps in part contributed to that excess of banking which has of late been complained of both in Scotland and in other places."

LAW, EDMUND, D. D. bishop of Carlisle, was born in the parish of Cartmel in Lancashire, in the year 1703. His father who was a clergyman, held a small chapel in that neighbourhood; but the family had been situated at Askham, in the county of Westmorland. He was educated for some time at Cartmel school, afterwards at the free grammar school at Kendal; from which he went, very well instructed in the learning of grammar schools, to St John's college in Cambridge.

Soon after taking his first degree, he was elected fellow of Christ college in that university. During his residence in which college, he became known to the public by a translation of Archbishop King's Essay upon the Origin of Evil, with copious notes; in which many metaphysical subjects, curious and interesting in their own nature, are treated of with great ingenuity, learning, and novelty. To this work was prefixed, under the name of a preliminary dissertation, a very valuable piece, written by the reverend Mr Gay of Sidney college. Our bishop always spoke of this gentleman in terms of the greatest respect. In the Bible and in the writings of Mr Locke, no man, he used to say, was so well versed.

Law.

He also, whilst at Christ college, undertook and went through a very laborious part in preparing for the press an edition of Stephens's Thesaurus. His acquaintance, during this his first residence in the university, was principally with Dr Waterland, the learned master of Magdalen college; Dr Jortin, a name known to every scholar; and Dr Taylor, the editor of the Demosthenes.

In the year 1757 he was presented by the university to the living of Graystock in the county of Cumberland, a rectory of about 300l. a-year. The advowson of this benefice belonged to the family of Howards of Graystock, but devolved to the university, for this turn, by virtue of an act of parliament, which transfers to these two bodies the nomination to such benefices as appertain, at the time of the vacancy, to the patronage of a Roman Catholic. The right, however, of the university was contested; and it was not till after a law suit of two years continuance that Mr Law was settled in his living. Soon after this, he married Mary the daughter of Joan Christian, Esq. of Unerigg, in the county of Cumberland; a lady whose character is remembered with tenderness and esteem by all who knew her.

In 1743, he was promoted by Sir George Fleming, bishop of Carlisle, to the archdeaconry of that diocese; and in 1746 went from Graystock to reside at Salkeld, a pleasant village upon the banks of the river Eden, the rectory of which is annexed to the archdeaconry. Mr Law was not one of those who lose and forget themselves in the country. During his residence at Salkeld, he published *Considerations on the Theory of Religion*: to which were subjoined, *Reflections on the Life and Character of Christ*; and an Appendix concerning the use of the words Soul and Spirit in holy Scripture, and the state of the dead there described.

Dr Keene held at this time, with the bishopric of Chester, the mastership of Peterhouse in Cambridge. Desiring to leave the university, he procured Dr Law to be elected to succeed him in that station. This took place in the year 1756; in which year Dr Law resigned his archdeaconry in favour of Mr Eyre, a brother-in-law of Dr Keene. Two years before this, he had proceeded to his degree of doctor of divinity: in his public exercise for which, he defended the doctrine of what is usually called the "sleep of the soul."

About the year 1760, he was appointed head librarian of the university; a situation which, as it procured an easy and quick access to books, was peculiarly agreeable to his taste and habits. Some time after this, he was also appointed casuistical professor. In the year 1762, he suffered an irreparable loss by the death of his lady; a loss in itself every way afflictive, and rendered more so by the situation of his family, which then consisted of eleven children, many of them very young. Some years afterwards, he received several preferments, which were rather honourable expressions of regard from his friends, than of much advantage to his fortune.

By Dr Cornwallis, then bishop of Litchfield, afterwards archbishop of Canterbury, who had been his pupil at Christ college, he was appointed to the archdeaconry of Staffordshire, and to a prebend in the church of Litchfield. By his old acquaintance Dr Green, bishop of Lincoln, he was made a prebendary of

Law. of that church. But in the year 1767, by the intervention of the duke of Newcastle, to whose interest in the memorable contest for the high stewardship of the university, he had adhered in opposition to some temptations, he obtained a stall in the church of Durham. The year after this, the duke of Grafton, who had a short time before been elected chancellor of the university, recommended the master of Peterhouse to his majesty for the bishopric of Carlisle. This recommendation was made not only without solicitation on his part or that of his friends, but without his knowledge, until the duke's intention in his favour was signified to him by the archbishop.

About the year 1777, Bishop Law gave to the public a handsome edition, in three volumes quarto, of the works of Mr Locke, with a Life of the Author, and a Preface. Mr Locke's writings and character he held in the highest esteem, and seems to have drawn from them many of his own principles: He was a disciple of that school. About the same time he published a tract, which engaged some attention in the controversy concerning subscription; and he published new editions of his two principal works, with considerable additions, and some alterations.

Dr Law held the see of Carlisle almost 19 years; during which time he twice only omitted spending the summer months in his diocese at the bishop's residence at Rose Castle; a situation with which he was much pleased, not only on account of the natural beauty of the place, but because it restored him to the country in which he had spent the best part of his life. In the year 1787 he paid this visit in a state of great weakness and exhaustion: and died at Rose Castle about a month after his arrival there, on the 14th day of August, and in the 84th year of his age.

The life of the bishop of Carlisle was a life of incessant reading and thought, almost entirely directed to metaphysical and religious inquiries. Besides the works already mentioned, he published, in 1734 or 1735, a very ingenious *Inquiry into the Ideas of Space, Time, &c.* in which he combats the opinions of Dr Clarke and his adherents on these subjects: but the tenet by which his name and writings are principally distinguished, is "that Jesus Christ, at his second coming, will, by an act of his power, restore to life and consciousness the dead of the human species, who by their own nature, and without this interposition, would remain in the state of insensibility to which the death brought upon mankind by the sin of Adam had reduced them." He interpreted literally that saying of St Paul, 1 Cor. xv. 21. "As by man came death, by man came also the resurrection of the dead." This opinion had no other effect upon his own mind than to increase his reverence for Christianity, and for its divine Founder. He retained it, as he did his other speculative opinions, without laying, as many are wont to do, an extravagant stress upon their importance, and without pretending to more certainty than the subject allowed of. No man formed his own conclusions with more freedom, or treated those of others with greater candour and equity. He never quarrelled with any person for differing from him, or considered that difference as a sufficient reason for questioning any man's sincerity, or judging meanly of his understanding. He was zealously attached to religious liberty, because he

thought that it leads to truth; yet from his heart he loved peace. But he did not perceive any repugnancy in these two things. There was nothing in his elevation to his bishopric which he spoke of with more pleasure, than its being a proof that decent freedom of inquiry was not discouraged.

He was a man of great softness of manners, and of the mildest and most tranquil disposition. His voice was never raised above its ordinary pitch. His countenance seemed never to have been ruffled; it preserved the same kind and composed aspect, truly indicating the calmness and benignity of his temper. He had an utter dislike of large and mixed companies. Next to his books, his chief satisfaction was in the serious conversation of a literary companion, or in the company of a few friends. In this sort of society he would open his mind with great unreservedness, and with a peculiar turn and sprightliness of expression. His person was low, but well formed: his complexion fair and delicate. Except occasional interruptions by the gout, he had for the greatest part of his life enjoyed good health; and when not confined by that distemper, was full of motion and activity. About nine years before his death, he was greatly enfeebled by a severe attack of the gout in his stomach; and a short time after that, lost the use of one of his legs. Notwithstanding his fondness of exercise, he resigned himself to this change, not only without complaint, but without any sensible diminution of his cheerfulness and good humour. His fault (for we are not writing a panegyric) was the general fault of retired and studious characters, too great a degree of inaction and facility in his public station. The modesty, or rather bashfulness of his nature, together with an extreme unwillingness to give pain, rendered him sometimes less firm and efficient in the administration of authority than was requisite. But it is the condition of human morality. There is an opposition between some virtues which seldom permits them to subsist together in perfection.

The bishop was interred in his cathedral church, in which a handsome monument is erected to his memory.

LAWBURROWS, in *Scots Law*. See LAW, Part III. N° clxxviii. 16.

LAWENBURG, Duchy of, a territory of Germany, in the circle of Lower Saxony, bounded by the duchy of Holstein on the north and west, by the duchy of Mecklenburg on the east, and by the duchy of Lunenburg, from which it is separated by the river Elbe, on the west; being about 85 miles long, and 20 broad. The chief towns are Lawenburg, Molen, Wittenburg, and Ratzeburg. It belongs to the electorate of Hanover.

LAWENBURG, a city of Germany in the circle of Lower Saxony, and capital of a duchy of the same name. It is a small but populous town, situated on the Elbe, under the brow of a very high hill, from whence there is a delightful prospect over the adjacent country. It has a castle on an eminence, and is convenient for trade. E. Long. 10. N. Lat. 53. 36.

LAWENBURG, a town of Germany in Farther Pomerania, and the chief place to the territory of the same name belonging to the elector of Brandenburg.

LAWLESS COURT, a court said to be held annually on the King's Hill at Rochford in Essex, on the

Lawingen ||
Lawrence. } Wednesday morning after Michaelmas day at cock-crow-
ing, where they whisper, and have no candle, nor any pen and ink, but only a coal. Persons who owe suit, or service, and do not appear, forfeit double their rent every hour they are missing.

This servile attendance, Camden informs us, was imposed on the tenants for conspiring at the like unseasonable hour to raise a commotion. The court belongs to the honour of Raleigh, and to the earl of Warwick; and is called *lawless*, from its being held at an unlawful hour.

LAWINGEN, a town of Germany, in the circle of Suabia; formerly imperial, but now subject to the duke of Neuburg. Here the duke of Bavaria, in 1704, fortified his camp to defend his country against the British forces and their allies commanded by the duke of Marlborough, who forced their intrenchments. It is seated on the Danube, in E. Long. 10. 29. N. Lat. 38. 32.

LAWN, a spacious plain in a park, or adjoining to a noble seat. As to the dimensions of a lawn: In a large park, it should be as extensive as the ground will permit; and, if possible, it should never be less than 50 acres: but in gardens of a moderate extent, a lawn of 10 acres is sufficient; and in those of the largest size, 15 acres. The best situation for a lawn is in the front of the house: and here, if the house front the east, it will be extremely convenient; but the most desirable aspect for a lawn is that of the south-east. As to the figure of the lawn, some recommend an exact square, others an oblong square, some an oval, and others, a circular figure: but neither of these are to be regarded. It ought to be so contrived, as to suit the ground; and there should be trees planted for shade on the boundaries of the lawn, so the sides may be broken by irregular plantations of trees, which, if there are not some good prospects beyond the lawn, should bound it on every side, and be brought round pretty near to each end of the house. If in these plantations round the lawn, the trees are placed irregularly, some breaking much forwarder on the lawn than others, and not crowded too close together, they will make a better appearance than any regular plantations can possibly do; and if there are variety of trees, properly disposed, they will have a good effect; but only those which make a fine appearance, and grow large, straight, and handsome, should be admitted here. The most proper trees for this purpose, are the elm, oak, chestnut, and beech; and if there are some clumps of evergreen trees intermixed with the others, they will add to the beauty of the whole, especially in the winter season; the best sorts for this purpose are Lord Weymouth's pine, and the silver and spruce firs.

LAWN, in manufactures, a fine sort of linen, remarkable for being used in the sleeves of the clerical dress of bishops.

LAWRENCE, ST, the largest river in North America, proceeding from Lake Ontario, from which it runs a course of 700 miles to the Atlantic ocean.

From Lake Ontario to Montreal this river has the name of Iroquois, and after taking a north-east course it embosoms the island of Montreal, above which it receives Ottawas from the west, forming several islands of great fertility. From Montreal it takes the name of

St Lawrence, and passing by Quebec, it meets the tide more than 400 miles from the sea, and is so far navigable for large vessels. Having received in its course St John's, Seguina, Lesprairies, Trois Rivieres, and numberless other smaller streams, it falls into the ocean at Cape Rosieres, by a mouth about 90 miles broad. The principal entrance into the gulf of St Lawrence from the Atlantic ocean, is between capes Ray and Breton. It contains a number of islands, viz. St John's, at its southern extremity, on the coast of New Brunswick and Nova-Scotia; Anticosti, at the mouth of the St Lawrence, besides a number of small islands.

Prince Edward's island, about 120 miles in length, with a population of 8000 persons, is also in the gulf of St Lawrence. Here a new settlement was made by Lord Selkirk in 1803, composed of a colony of emigrants, amounting to 800, from the Highlands of Scotland.

LAWSONIA, EGYPTIAN PRIVET, a genus of plants belonging to the octandria class; and in the natural method ranking with those of which the order is doubtful. See BOTANY Index.

LAWYER, a counsellor, or one who is learned or skilled in the law. See COUNSELLOR, BARRISTER, and SERJEANT.

LAY, a kind of ancient poem among the French, consisting of very short verses.

There were two sorts of lays; the *great*, and the *little*. The first was a poem consisting of twelve couplets of verses, of different measures. The other was a poem consisting of sixteen or twenty verses, divided into four couplets.

These lays were the lyric poetry of the old French poets, who were imitated by some among the English. They were principally used on melancholy subjects, and are said to have been formed on the model of the trochaic verses of the Greek and Latin tragedies.

Father Morgues gives us an extraordinary instance of one of these ancient lays, in his Treatise of French Poetry.

*Sur l'appuis du monde
Que faut il qu'on fonde
D'espoir ?
Cette mer profonde,
En debris seconde
Fait voir
Calme au matin, l'onde
Et l'orage y gronde
Le soir.*

LAY-BROTHERS, among the Romanists, those pious but illiterate persons, who devote themselves at some convent to the service of the religious. They wear a different habit from that of the religious; but never enter into the choir, nor are present at the chapters; nor do they make any other vow except of constancy and obedience. In the nunneries there are also lay sisters.

LAY-MAN, one who follows a secular employment, and has not entered into holy orders.

LAYERS, in Gardening, are tender shoots or twigs of trees, laid or buried in the ground, till, having struck root, they are separated from the parent tree, and become distinct plants.—The propagating trees by *layers* is done in the following manner: The branches of the trees are to be slit a little way, and laid under the

Lawsonia ||
Layers. }

Laying
||
Lead.

the mould for about half a foot; the ground should be first made very light, and after they are laid they should be gently watered. If they will not remain easily in the position they are put in, they must be pegged down with wooden hooks: the best season for doing this is, for evergreens, toward the end of August, and, for other trees, in the beginning of February. If they are found to have taken root, they are to be cut off from the main plant the succeeding winter, and planted out. If the branch is too high from the ground, a tub of earth is to be raised to a proper height for it. Some pare off the rind, and others twist the branch before they lay it, but this is not necessary. The end of the layer should be about a foot out of the ground; and the branch may be either tied tight round with a wire, or cut upwards from a joint, or cut round for an inch or two at the place, and it is a good method to pierce several holes through it with an awl above the part tied with the wire.

LAYING THE LAND, in *Navigation*, the state of motion which increases the distance from the coast, so as to make it appear lower and smaller, a circumstance which evidently arises from the intervening convexity of the surface of the sea. It is used in contradistinction to *raising* the land, which is produced by the opposite motion of approach towards it. See LAND.

LAZAR HOUSE, or LAZARETTO, a public building, in the nature of a hospital, to receive the poor, and those afflicted with contagious distempers. In some places, lazarettos are appointed for the performance of quarantine; in which case, those are obliged to be confined in them who are suspected to have come from places infected with the plague.

LAYSTOFF, or LOWESTOFF, a town of Suffolk 117 miles from London, seems to hang over the sea, and its chief business is fishing for cod in the North sea, and for herring, mackarel, and sprats, at home. The church is at some distance, but there is a chapel in the town. Having been a part of the ancient demesnes of the crown, this town has a charter and a seal, by the former of which the inhabitants are exempted from serving on juries. Some take this to be the most eastern part of Britain.

LAZULI, or *Lapis LAZULI*, a species of mineral belonging to the siliceous genus. See MINERALOGY *Index*.

LEACHLADE, a town of Gloucestershire, 12 miles east from Cirencester, 29 miles from Gloucester, and 60 from London. The river Thames waters it on the south and east sides, and divides it from Wiltshire and Berkshire. The Leach runs through the north side of the parish. The Thames river is navigable for barges of 50 tons burden, but want of water during part of the year makes the navigation very uncertain. The church is a large handsome building, with double aisles, supported by two rows of fluted pillars.

LEAD, one of the metals, of a white colour inclining to blue, the least ductile, the least elastic, and the least sonorous, of the whole, but possessing a considerable degree of specific gravity. See CHEMISTRY and MINERALOGY *Index*.

White LEAD, or *Ceruse*. See CHEMISTRY *Index*.

Black LEAD, or *Plumbago*, a species of mineral be-

longing to the class of *Inflammables*. See MINERALOGY *Index*.

Milled LEAD. See CHEMISTRY *Index*.

Poison of LEAD. See POISON.

Sheet LEAD. See PLUMBERY.

LEAF, a part of a plant extended into length and breadth in such a manner as to have one side distinguishable from the other. This is Miller's definition. Linnæus denominates leaves "the organs of motion, or muscles of the plant."—The leaves are not merely ornamental to plants; they serve very useful purposes, and make part of the organs of vegetation.

The greater number of plants, particularly trees, are furnished with leaves: in mushrooms, and shrubby horse tail, they are totally wanting. Ludwic defines leaves to be fibrous and cellular processes of the plant, which are of various figures, but generally extended into a plain membranaceous or skinny substance. They are of a deeper green than the footstalks on which they stand, and are formed by the expansion of the vessels of the stalk, among which, in several leaves, the proper vessels are distinguished by the particular taste, colour, and smell, of the liquors contained within them.

By the expansion of the vessels of the stalk, are produced several ramifications or branches, which, crossing each other mutually, form a kind of net: the meshes or interstices of which are filled up with a tender cellular substance, called the *pulp*, *pith*, or *parenchyma*. This pulpy substance is frequently consumed by certain small insects, whilst the membranous net remaining untouched exhibits the genuine skeleton of the leaf.

The net in question is covered externally with an epidermis or scarf skin, which appears to be a continuation of the scarf skin of the stalk, and perhaps of that of the stem. M. de Saussure, a judicious naturalist, has attempted to prove, that this scarf skin, like that of the petals, is a true bark, composed itself of an epidermis and cortical net; these parts seem to be the organs of perspiration, which serve to dissipate the superfluous juices.

The cortical net is furnished, principally on the surface of the leaf, with a great number of suckers or absorbent vessels, destined to imbibe the humidity of the air. The upper surface, turned towards heaven, serves as a defence to the lower, which looks downward; and this disposition is so essential to the vegetable economy, that, if a branch is overturned in such a manner as to destroy the natural direction of the leaves, they will, of themselves, in a very short time, resume their former position; and that as often as the branch is thus overturned.

Leaves, then, are useful and necessary organs; trees perish when totally divested of them. In general, plants stript of any of their leaves, cannot shoot vigorously: witness those which have undergone the depredations of insects; witness, likewise, the very common practice of stripping off some of the leaves from plants, when we would suspend their growth, or diminish the number of their shoots. This method is sometimes observed with corn and the esculent grasses; and, in cold years, is practised on fruit trees and vines, to render the fruit riper and better coloured: but in this

Lead,
Leaf.

Leaf,
League.

this case it is proper to wait till the fruits have acquired their full bulk, as the leaves contribute greatly to their growth, but hinder, when too numerous, that exquisite rectifying of the juices, which is so necessary to render them delicious and palatable.

When vegetation ceases, the organs of perspiration and inspiration become superfluous. Plants, therefore, are not always adorned with leaves: they produce new ones every year; and every year the greater part are totally divested of them, and remain naked during the winter.

LEAF Insect. See CIMEK, ENTOMOLOGY Index.

LEAF-Skeletons. One help for acquiring a knowledge of the anatomy of plants, is the art of reducing leaves to skeletons, which may be done by exposing the leaves to decay for some time soaked in water, by which means the softer will be separated from the internal harder parts. By carefully wiping, pressing and rinsing them, the harder parts may be obtained from the rest alone and entire. Some have been able to separate the outer covering on both sides from the woody net, and even to split the latter into two. A naturalist in the year 1645 first conceived the idea of making leaf-skeletons by employing decomposition for that purpose, assisting it by several ingenious operations of art. When the method of producing these skeletons was publicly known, numberless preparations of them were every where attempted. So much did leaf-skeletons afterwards engage the attention of philosophers, that one Seligmann wrote a treatise on the various methods which may be employed in their preparation.

The art also of raising trees from leaves has been long known, the first account of which was published by Agostino Mandirolá, an Italian of the Franciscan order, who assures us that he produced trees from the leaves of the cedar and lemon tree. In the garden of Baron de Munchhausen, a young tree was obtained from a leaf of the *limon à Rivo*, which yielded fruit the second year: It is more than probable that the multiplication of the *opuntia* or Indian fig, first suggested the idea of such experiments, for every joint of that plant when stuck into the earth, and properly nurtured, throws out roots and grows.

LEAF, in clocks and watches, an appellation given to the notches of their pinions.

Gold LEAF, usually signifies fine gold beaten into plates of an exceeding thinness, which are well known in the arts of gilding, &c. See *GOLD Leaf*.

LEAGUE, a measure of length, containing more or fewer geometrical paces, according to the different usages and customs of countries. A league at sea, where it is chiefly used by us, being a land measure mostly peculiar to the French and Germans, contains 3000 geometrical paces, or three English miles. The French league sometimes contains the same measure, and in some parts of France it consists of 3500 paces: the mean or common league consists of 2400 paces, and the little league of 2000. The Spanish leagues are larger than the French, 17 Spanish leagues making a degree, or 20 French leagues, or 69½ English statute miles. The Dutch and German leagues contain each four geographical miles. The Persian leagues are pretty near of the same extent with the Spanish; that is, they are equal to four Italian miles, which is pretty near to what Herodotus calls the length of the

Persian parasang, which contained 30 stadia, eight whereof, according to Strabo, make a mile. The word comes from *leuca* or *leuga*, an ancient Gaulish word for an itinerary measure, and retained in that sense by the Romans. Some derive the word *leuca* from *λευκος*, "white;" as the Gauls, in imitation of the Romans, marked the spaces and distances of their roads with white stones.

LEAGUE also denotes an alliance or confederacy between princes and states for their mutual aid, either in attacking some common enemy, or in defending themselves. The word comes from *liga*, which in the corrupt Latin was used for a *confederacy*: *Qua quis cum alio ligatur.*

Leagues, among the Greeks, were of three sorts: 1. *Σπονδή*, *Συνθήκη*, or *Ειρήνη*, whereby both parties were obliged to cease from hostilities, without even molesting the allies of each other; 2. *Επιμαχία*, whereby they engaged to lend assistance to each other in case of invasion; and, 3. *Συμμαχία*, whereby they engaged to have the same friends and enemies, and to assist each other upon all occasions. All these leagues were confirmed with oaths, and imprecations, and sacrifices. The victims most generally used were a boar, ram, or goat, sometimes all three; and sometimes bulls and lambs. They cut out the testicles of the animal, and stood upon them while they swore; and some of the hair of the victim was distributed to all present. Then they cut the animal's throat, which was called *ἀρχία τεμνω*, in Latin, *ferire fœdus*. This done, they repeated their oaths and imprecations, calling the gods to witness the honesty of their intentions. A libation was then made of wine, which at this time was mixed, to imply their conjunction and union; while this was pouring out, they prayed that the blood of him who should break the treaty might be poured out in like manner. Upon these occasions no part of the victim was eaten. Still further to increase the solemnity of this obligation, the league was engraven upon brass, fixed up in places of public concourse, and sometimes read at the solemn games. Some exchanged certain *συμβόλαι* or *tesseræ* upon the occasion, and frequently sent ambassadors on some appointed day, to keep them in mind of their engagements to each other.

The ceremonies of the Romans in making leagues were performed by the *Fœciales*. See *FŒCIALES*.

LEAGUES of the Grisons, are a part of Switzerland, consisting of three subdivisions, viz. the upper league, the league of the house of God, and the league of the ten jurisdictions. See the article *GRISONS*.

The LEAGUE, by way of eminence, denotes that famous one on foot in France, from the year 1576 to 1593. Its intent was to prevent the succession of Henry IV. who was of the reformed religion, to the crown; and it ended with his abjuration of that faith.

The *leaguers*, or confederates, were of three kinds. The *zealous leaguers* aimed at the utter destruction not only of the Huguenots, but also of the ministry. The *Spanish leaguers* had principally in view the transferring the crown of France to the king of Spain, or the infant his daughter. The *moderate leaguers* aimed only at the extirpation of Calvinism, without any alteration of the government.

LEAK, at sea, is a hole in the ship, through which the water comes in. A ship is said to *spring a leak* when

League,
Leak.

Leakage,
Leake.

when she begins to *leak* or to let in the water. The manner of stopping a leak is to put into it a plug wrapped in oakum and well tarred, or in a tarpawling clout, which keeps out the water, or nailing a piece of sheet lead on the place. Seamen sometimes stop a leak by thrusting a piece of salt beef into it. The sea water, says Mr Boyle, being fresher than the brine imbibed by the beef, penetrates into its body, and causes it to swell so as to bear strongly against the edges of the broken plank, and thereby stops the influx of the water. A ready way to find a leak in a ship is to apply the narrower end of a speaking trumpet to the ear, and the other to the side of the ship where the leak is supposed to be; then the noise of the water issuing in at the leak will be heard distinctly, whereby it may be discovered.

LEAKAGE, the state of a vessel that leaks, or lets water or other liquid ooze in or out.

LEAKAGE, in commerce, is an allowance of 12 per cent. in the customs, allowed to importers of wines for the waste or damage it is supposed to have received in the passage: an allowance of two barrels in 22 is also made to the brewers of ale and beer by the excise office.

LEAKE, RICHARD, master gunner of England, was born at Harwich in 1629, and was bred to the sea. At the Restoration, he was made master gunner of the *Princess*, a frigate of 50 guns; and in the first Dutch war distinguished himself by his skill and bravery in two extraordinary actions; one against 15 sail of Dutch men of war; and another in 1667 against two Danes in the Baltic, in which the commanding officers of the *Princess* being killed or desperately wounded, the command, according to the rules of war at that time, fell to the gunner. In 1669, he was promoted to be gunner of the *Royal Prince*, a first rate man of war. He was engaged, with his two sons Henry and John, in the battle against Van Tromp, in 1673; when the *Royal Prince* had all her masts shot away, near 400 of her men killed and disabled, and most of her upper tier of guns dismounted. As she lay thus like a wreck, a great Dutch man of war came down upon her with two fire ships, either to burn or carry her off; and Captain Rooke, afterwards Sir George, thinking it impossible to defend her, ordered the men to save their lives, and the colours to be struck. Mr Leake hearing this, ordered the lieutenant off the quarter deck, and took the command upon himself, saying, "The *Royal Prince* shall never be given up to the enemy while I am alive to defend her." The undaunted spirit of the brave gunner inspired the small residue of the ship's company with resolution; they returned with alacrity to the fight, and under the direction of this valiant gunner and his two sons sunk both the fire ships, and obliged the man of war to sheer off; and having thus saved the *Royal Prince*, he brought her into Chatham. But Mr Leake's joy in obtaining this victory was damped by the loss of Henry, his eldest son, who was killed near him. Soon after, Mr Leake was preferred to the command of a yacht, and also made gunner of Whitehall. In 1677, he obtained a grant for life of the office of master gunner of England, and storekeeper of the ordnance at Woolwich. By this post he had full scope for his genius.

Leake.

He accordingly, among other things, invented the culhee piece; and contrived to fire a mortar by the blast of a piece, which has been used ever since. He was also the principal contriver of what the French call *infernals*, used at the bombardment of St Malo's in 1693. Mr Leake had a surprising genius for all inventions of this kind; and had frequent trials of skill with French and Dutch gunners and engineers in Woolwich warren, at which King-Charles II. and the duke of York were often present, and he never failed to excel all his competitors: nor was he less skilled in the art of making compositions for fireworks; of which he likewise made frequent trials with equal success.

LEAKE, Sir John, an English admiral, distinguished by his bravery and success, was born in 1656, and was taught mathematics and gunnery by Mr Richard Leake his father, who was master gunner of England. Entering early into the navy, he distinguished himself under his father in 1673, in the memorable engagement between Sir Edward Spragg and Van Tromp, when but 16 years of age; and being afterwards made captain, he signalized himself, among other occasions, by executing the desperate attempt of conveying some victuallers into Londonderry, which obliged the enemy to raise the siege; and at the famous battle of La Hogue. In 1702, being made commodore of a squadron, he destroyed the French trade and settlements at Newfoundland, and restored the English to the possession of the whole island. On his return he was created rear admiral; soon after, he was made vice admiral of the blue, and was afterwards knighted. He was engaged with Admiral Rooke in taking Gibraltar: soon after which, he particularly distinguished himself in the general engagement off Malaga; when commanding the leading squadron of the van, consisting only of six ships, he drove that of the enemy, consisting of 13, out of the line of battle, so disabled that they never returned to the fight. In 1705 he relieved Gibraltar, which the French had besieged by sea, and the Spaniards by land, so seasonably, that the enemy was to have attacked the town that very night in several places, and would undoubtedly have made themselves masters of it. Five hundred Spaniards had, by the help of rope ladders, climbed up the rocks by a way that was thought inaccessible. At the same time they had got a great number of boats to land 3000 men at the New Mole, who, by making a vigorous assault on the side next the sea, were to draw the garrison to oppose the attack, while the 500 concealed men rushed into the town. These being the next day drawn by hunger out of their ambuscade, were discovered; on which Sir John assisting the garrison with sailors and marines, they were attacked with such vigour, that, though they had taken an oath not to surrender to the English, 190 common soldiers and 30 officers took quarter: 200 were killed on the spot; and the rest, who endeavoured to make their escape, fell headlong down the rock. He was soon after made vice admiral of the white, and then twice relieved that fortress. The last time, he attacked five ships of the French fleet coming out of the bay, of whom two were taken, and two run ashore and were destroyed: Baron Pointi died soon after, of the wounds he received in the battle; and in a few days the enemy raised the siege.

Leake
||
Leao.

siege. In the year 1705 Sir John was engaged in the reduction of Barcelona; and the next year relieved that city, when it was reduced to the last extremity, and obliged King Philip to raise the siege. Soon after he took the city of Carthagena; from whence proceeding to Alicant and Joyce, both these submitted to him; and he concluded the exploits of that year with the reduction of the city and island of Majorca. Upon his return home, Prince George of Denmark made him a present of a ring valued at 400l. and he had the honour of receiving 1000l. from the queen as a reward for his services. Upon the unhappy death of Sir Cloudesly Shovel, in 1707, he was made admiral of the white, and commander in chief of her majesty's fleet; and the next year, surprizing a convoy of the enemy's corn, he sent it to Barcelona, and thus saved both that city and the confederate army from the danger of famine: soon after conveying the new queen of Spain to King Charles her consort, her majesty made him a present of a diamond ring of 500l. value. He then proceeded to the island of Sardinia, which he reduced to the obedience of King Charles; and soon after assisted the lord Stanhope in the conquest of Minorca. Then returning home, he was appointed one of the council to the lord high admiral; and in 1709 was made rear admiral of Great Britain. He was several times chosen member of parliament for Rochester; and in 1712 conducted the English forces to take possession of Dunkirk. But upon the accession of King George I. he was superseded, and allowed a pension of 600l. a-year. After this he lived privately till his death, which happened at his house in Greenwich in 1720.

LEAKE, *Stephen Martin, Esq;* son of Captain Martin, went through different ranks in the heralds office till he came to be garter. He was the first person who wrote professedly on our English coins, two editions of his "Historical Account" of which were published by him with plates, under the title of *Nummi Britannici Historia*, London, 1726, 8vo.; the second, much improved, London, 1745, 8vo. He printed, in 1750, "The Life of Sir John Leake, knight, admiral of the fleet," &c. to whom he was indebted for a considerable estate; which the admiral devised to trustees for the use of his son for life; and upon his death to Captain Martin (who married Lady Leake's sister) and his heirs: By which means it came to the Captain's son; who, in gratitude to the memory of Sir John Leake, wrote an accurate account of his life, of which only 50 copies were printed. In 1766, he printed also 50 copies of "The Statutes of the Order of the Garter," 4to. He died in 1773; and was buried in his chancel in the parish church of Thorp in Essex, of which manor he was lord.

LEANDER, in poetic history, a young man of Abydos in Asia. He used to swim over the Hellespont by night to visit Hero his mistress, who set forth a light to guide him: but in a tempestuous winter night he was drowned; upon which Hero seeing him dead on the shore, cast herself headlong from the tower, and died also. See HERO.

LEAO, in *Natural History*, a mineral substance approaching to the nature of the lapis lazuli, found in the East Indies, and of great use in the Chinese por-

celain manufactures, as it affords the finest blue they are possessed of.

LEAP, in *Music*, is when the song does not proceed by conjoint degrees, as when between each note there is an interval of a third, a fourth, fifth, &c.

LEAP Year. See YEAR, and CHRONOLOGY, N^o 24.
LOVER'S LEAP. See LEUCATA.

LEAPING, or VAULTING, was an exercise much used both amongst the Greeks and Romans. The Grecians called it *Αλμα*, and performed it with weights upon their heads and shoulders. Sometimes they carried the weights in their hands, which were of different figures, but generally oval and made with holes or covered with thongs, through which the contenders put their fingers. These weights were called *άλτρες*. The contest was who could leap the highest and farthest. The place from whence they jumped was called *βατης*, and that to which they leaped, *εσκαμμενα*, because the ground was there dug up. This exercise was performed in the same manner by the Romans.

LEAR, the name of a British king, said in old chronicles to have succeeded his father Bladud, about A. M. 3160. The story of this king and his three daughters is well known, from Shakespeare's excellent tragedy founded on it.

LEASE, from the French *leiser*, *demittere*, "to let," in law, a demise, or letting of lands, tenements, or hereditaments, unto another for life, term of years, or at will, for a rent reserved.

A lease is either written, called an *indenture*, *deed-roll*, or *lease* in writing; or by word of mouth, called *lease parole*.

All estates, interests of freehold, or terms for years in lands, &c. not put in writing and signed by the parties, shall have no greater effect than as estates at will; unless it be of leases not exceeding three years from the making; wherein the rent reserved shall be two thirds of the value of the things demised. Leases exceeding three years must be made in writing; and if the substance of a lease be put in writing, and signed by the parties, though it be not sealed, it shall have the effect of a lease for years, &c.

An *assignment* differs from a lease only in this, that by a lease one grants an interest less than his own, reserving to himself a reversion; in assignments he parts with the whole property, and the assignee stands to all intents and purposes in place of the assignor.

LEASE, in *Scots Law*. See TACK.

LEASE and *Release*, a species of conveyance used in the English law, first invented by Serjeant Moore, soon after the statute of uses, and now the most common of any, and therefore not to be shaken; though very great lawyers (as particularly Mr Noy) have formerly doubted its validity. It is thus contrived: A lease, or rather bargain and sale, upon some pecuniary consideration, for one year, is made by the tenant of the freehold to the lessee or bargainee. Now this without any enrolment, makes the bargainor stand seized to the use of the bargainee, and vests in the bargainee the *use* of the term for a year; and then the statute immediately annexes the *possession*. He therefore, being thus in possession, is capable of receiving a release of the freehold and reversion, which must

Leap
||
Lease.

Leash ||
Leather must be made to a tenant in possession: and accordingly, the next day, a release is granted to him. This is held to supply the place of livery of seisin; and so a conveyance by lease and release is said to amount to a feoffment.

LEASH, among sportsmen, denotes three creatures of any kind; but chiefly greyhounds, foxes, bucks, and hares.

The term *leash* also signifies a line to hold in a hunting dog; and a small long thong of leather, by which a falconer holds his hawk.

LEASING-MAKING, in *Scots Law*, the uttering of words tending to excite discord between the king and his people; also called *verbal sedition*.

LEATHER, the skin of several sorts of beasts dressed and prepared for the use of various manufacturers, whose business it is to make them up.

Dyeing of LEATHER, Skins, &c. *Blue* is given by steeping the subject a day in urine and indigo, then boiling it with alum: or it may be given by tempering the indigo with red wine, and washing the skins therewith. *Red* is given by washing the skins, and laying them two hours in galls, then wringing them out, dipping them in a liquor made with lignustrum, alum, and verdigris in water; and lastly, in a dye made of Brazil wood, boiled with ley. *Purple* is given by wetting the skins with a solution of roche alum in warm water; and, when dry again, rubbing them with the hand with a decoction of logwood in colder. *Green* is given by smearing the skin with sap-green and alum-water boiled. *Dark green* is also given with steel filings and sal ammoniac steeped in urine till soft, then smeared over the skin; which is to be dried in the shade. *Sky colour* is given with indigo steeped in boiling water, and the next morning waimed and smeared over the skin. *Yellow*, by smearing the skin over with aloe and linseed oil dissolved and strained; or by infusing it in weld. *Orange colour* is given by smearing with fustic berries boiled in alum water; or, for a deep orange, with turmeric.

Processes for Dyeing LEATHER Red and Yellow as practised in Turkey, with directions for Preparing and Tanning the Skins; as communicated by Mr Philippo, a native of Armenia, who received from the Society for the Encouragement of Arts, &c. one hundred pounds, and also the gold medal of the Society, as a reward for discovering this secret.

1. *First Preparation of the Skins, both for Red and Yellow Leather, by dressing them in Lime.* Let the skins, dried with the hair on, be first laid to soak in clean water for three days; let them then be broken over the flesh side, put into fresh water for two days longer, and afterwards hung up to drain half an hour. Let them now be broken on the flesh side, limed in cold lime on the same side, and doubled together with the grain side outward. In this state they must be hung up within doors over a frame for five or six days, till the hair be loose; which must then be taken off, and the skins returned into the lime pit for about three weeks. Take them out, and let them be well worked flesh and grain, every sixth or seventh day during that time: after which, let them be washed ten times in clear water, changing the water at each washing. They are next to be prepared in drench, as below mentioned.

VOL. XI. Part II.

2. *Second Preparation of the Skins for both the Red and Yellow Dyes by drenching.* After squeezing the water out of the skins, put them into a mixture of bran and water, warm as new milk, in the following proportions; viz. about three pounds of bran for five skins, and water sufficient to make the mixture moderately fluid, which will be about a gallon to each pound of bran. In this drench let the skins lie three days; at the end of which time they must be well worked, and afterwards returned into the drench two days longer. They must then be taken out and rubbed between the hands; the water squeezed from them, and the bran scraped off clear from both sides of the skins. After this they must be again washed ten times in clear water, and the water squeezed out of them.

Thus far the preparatory process of all the skins, whether intended to be dyed red or yellow, is the same; but afterwards those which are to be dyed red, must be treated as follows.

3. *Preparation in Honey and Bran of Skins that are to be dyed Red.* Mix one pound of honey with three pints of lukewarm water, and stir them together till the honey is dissolved. Then add two double handfuls of bran; and taking four skins (for which the above quantity of the mixture will be sufficient) work them well in it one after another. Afterwards fold up each skin separately into a round form, with the flesh side inwards; and lay them in an earthen pan, or other proper vessel; if in the summer, by the side of each other; but in the winter, on the top of each other. Place the vessel in a sloping position, so that such part of the fluid as may spontaneously drain from the skins, may pass from them. An acid fermentation will then rise in the liquor, and the skins will swell considerably. In this state they must continue for seven or eight days; but the moisture that drains from them must be poured off, once or twice a-day, as occasion may require. After this a further preparation in salt is necessary; and which must be performed in the following manner.

4. *Preparation in Salt, of the skins to be dyed Red.* After the skins have been fermented in the honey and bran, as above mentioned, let them be taken out of that mixture on the eighth or ninth day, and well rubbed with dry common sea salt, in the proportion of about half a pound to each skin; the salt must be well rubbed and worked with them. This will make them contract again, and part with a further considerable quantity of moisture; which must be squeezed out by drawing each skin separately through the hands. They must next be scraped clean on both sides from the bran, superfluous salt, and moisture that may adhere to them. After which, dry salt must be strewed over the grain-side, and well rubbed in with the hand. They are then to be doubled with the flesh side outwards, lengthwise from neck to tail, and a little more dry salt must be thinly strewed over the flesh side, and rubbed in; for the two last operations, about a pound and a half of salt will be sufficient for each skin. They must then be put, thus folded on each other, between two clean boards, placed sloping, breadthwise; and a heavy weight laid on the upper board, in order gradually to press out what moisture they will thus part with. In this state of pressure, they must be continued two days

Leather. or longer, till it is convenient to dye them, for which they will then be duly prepared.

5. *Preparation of the Red Dye, in a proper proportion for four Skins.* Put eight gallons of water into a copper, with seven ounces of shenan (A) tied up in a linen bag. Light a fire under a copper; and when the water has boiled about a quarter of an hour, take out the bag of shenan, and put into the boiling fluid or lixivium, 1st, Two drams of alum; 2dly, Two drams pomegranate bark; 3dly, Three quarters of an ounce of turmeric; 4thly, Three ounces of cochineal; 5thly, Two ounces of loaf sugar. Let the whole mixture boil about six minutes, then cover the fire, and take out a quart of liquor, putting it into a flat earthen pan; and when it is as cold as new milk, take one skin, folded lengthwise, the grain side outwards, and dip it in the liquor, rubbing it gently with the hands. Then taking out the skin, hang it up to drain, and throw away the superfluous dye. Proceed in the same manner with the remaining three skins; repeating the operation of each skin separately, eight times, squeezing the skins by drawing them through the hands before each fresh dipping. Lay them now on one side of a large pan, set sloping, to drain off as much of the moisture as will run from them without pressure, for about two hours, or till they are cold; then tan them as below directed.

6. *Tanning the Red Skins.* Powder four ounces of the best white galls in a marble mortar, sifting it through a fine sieve. Mix the powder with about three quarts of water, and work the skins well in this mixture for half an hour or more, folding up the skins fourfold. Let them lie in this tan for 24 hours; when they must be worked again as before; then taken out, scraped clean on both sides from the first galls, and put into a like quantity of fresh galls and water. In this fresh mixture they must be again well worked for three quarters of an hour; then folded up as before, and left in the fresh tan for three days. On the fourth day they must be taken out, washed clean from the galls in seven or eight fresh quantities of water, and then hung up to dry.

7. *Manner of Dressing the Skins after they are tanned.* When the skins have been treated as above, and are very near dry, they should be scraped with the proper instrument or scraper on the flesh side, to reduce them to a proper degree of thickness. They are then to be laid on a smooth board, and glazed by rubbing them with a smooth glass. After which they must be oiled, by rubbing them with olive oil, by means of a linen rag, in the proportion of one ounce and a half of oil

for four skins: they are then to be grained on a graining board, lengthwise, breadthwise, and cornerwise, or from corner to corner.

8. *Preparations with Galls, for the Skins to be dyed Yellow.* After the four skins are taken out of the drench of bran, and clean washed as before directed in the second article, they must be very well worked, half an hour or more, in a mixture of a pound and a half of the best white galls, finely powdered, with two quarts of clean water. The skins are then to be separately doubled lengthwise, rolled up with the flesh side outwards, laid in the mixture, and close pressed down on each other, in which state they must continue two whole days. On the third day let them be again worked in the tan; and afterwards scraped clean from the galls, with an ivory or brass instrument (for no iron must touch them). They must then be put into a fresh tan, made of two pounds of galls finely powdered, with about three quarts of water, and well worked therein 15 times. After this they must be doubled, rolled up as before, and laid in the second tan for three days. On the third day a quarter of a pound of white sea-salt must be worked into each skin; and the skins doubled up as before, and returned into the tan, till the day following, when they are to be taken out, and well washed six times in cold water, and four times in water lukewarm. The water must be then well squeezed out, by laying the skins under pressure, for about half an hour, between two boards, with a weight of about 200 or 300 pounds laid upon the uppermost board, when they will be ready for the dye.

9. *Preparation of the Yellow Dye, in the proper proportion for four Skins.* Mix six ounces of cassiari gehira (B), or dgehira, or the berries of the eastern rhamnus, with the same quantity of alum; and pound them together till they be fine, in a marble or brass mortar, with a brass pestle. Then dividing the materials, thus powdered, into three equal parts of four ounces each, put one of those three parts into about a pint and a half of water, in a china or earthen vessel, and stir the mixture together. Let the fluid stand to cool, till it will not scald the hand. Then spreading one of the skins flat on a table, in a warm room, with the grain-side uppermost, pour a fourth part of the tinging liquor, prepared as above directed, over the upper or grain-side, spreading it equally over the skin with the hand, and rubbing it well in. Afterwards do the like with the other three skins, for which the mixture first made will be sufficient.

This operation must be repeated twice more on each skin

(A) Shenan is a drug much used by dyers in the east; and may easily be procured at any of the ports of Syria and Africa, in the Levant. It is the eastern jointed-kali, called by botanists *falicornia*; and grows in great plenty in those and other parts of the east. There is a lesser species of the *falicornia* on our coast, which, from its great affinity with the shenan, might be presumed to have the same qualities. On some trials, however, it has not appeared to answer the intention of the shenan; but it will not be prudent to pursue the examination of this further, as some unknown circumstances in the collecting or using the English *falicornia* might occasion the miscarriage. But be this as it may, the eastern shenan may, at all events, be easily procured in any quantity, at a very trifling expence, by any of the captains of Turkey ships, at Aleppo, Smyrna, &c.

(B) The cassiari gehira is the berries of an eastern rhamnus, or buckthorn tree; and may be had at Aleppo, and other parts of the Levant, at a small price. The common Avignon or yellow berries may be substituted, but not with so good an effect; the cassiari gehira being a stronger and brighter yellow dye, both for this use and also that of colouring paper hangings, &c.

Leather. skin separately, with the remaining eight ounces of the powder of the berries, and alum, with the above-mentioned due proportions of hot water, put to them as before directed.

The skins, when dyed, are to be hung up on a wooden frame, without being folded, with the grain-side outwards, about three quarters of an hour to drain; when they must be carried to a river or stream of running water, and well washed therein six times or more. After this they must be put under pressure for about an hour, till the water be well squeezed out; afterwards the skins must be hung up to dry in a warm room.

This being done, the skins are to be dressed and grained as before directed for those dyed red; except the oiling, which must be omitted.

Blacking LEATHER. In the tanning of leather it is so much impregnated with the astringent parts of oak bark, or with that matter which strikes a black with green vitriol, that rubbing it over three or four times with a solution of the vitriol, or with a solution of iron made in vegetable acids, is sufficient for staining it black. Of this we may be convinced by dropping a little of the solution on the unblackened side of common shoe leather. This operation is performed by the currier; who, after the colouring, gives a gloss to the leather with a solution of gum arabic and size made in vinegar. Where the previous astringent impregnation is insufficient to give due colour, and for those sorts of leather which have not been tanned, some galls or other astringents are added to the solution of iron; and in many cases, particularly for the finer sorts of leather, and for renewing the blackness, ivory or lamp-black are used. A mixture of either of these with linseed oil makes the common oil blacking. For a shining blacking, small beer or water are taken instead of oil, in the quantity of about a pint to an ounce of the ivory black, with an addition of half an ounce of brown sugar and as much gum arabic. The white of an egg, substituted for the gum, makes the black more shining, but is supposed to hurt the leather, and make it apt to crack. It must be obvious, however, that all these compositions admit of a great many variations.

Gilding of LEATHER. Take glair of the whites of eggs, or gum water, and with a brush rub over the leather with either of them: then lay on the gold or silver, and, letting them dry, burnish them. See the articles GILDING and BURNISHING.

To dress or cover LEATHER with Silver or Gold Take brown-red; grind or move it on a stone with a muller, adding water and chalk; and when the latter is dissolved, rub or lightly daub the leather over with it, till it looks a little whitish; and then lay on the leaf-silver or gold before the leather is quite dry, laying the leaves a little over each other, that there may not be the least part uncovered; and when they have well closed with the leather, and are sufficiently dried on and hardened, rub them over with an ivory polisher, or the foretooth of a horse.

By several statutes, regulations are made for the tanning and manufacturing of leather; and by the 27th Geo. III. c. 13. a duty is laid upon all hides and skins imported, and drawbacks allowed on the exportation thereof. Several duties are also imposed on hides and skins tanned in Great Britain, of what kind soever, as

set forth in schedules annexed to the said act. By the 23 Geo. III. c. 37. further regulations are made respecting the said duties, which are under the management of the officers of excise.

Leaven
||
Lecco.

LEAVEN, a piece of four dough, used to ferment and render light a much larger quantity of dough or paste. See BREAD, BARM, and BAKING.

Leaven was strictly forbidden by the law of Moses during the seven days of the passover; and the Jews, in obedience to this law, very carefully purified their houses from all leaven as soon as the vigil of the feast began. Nothing of honey or leaven was to have place in any thing presented to the Lord, upon his altar, during this solemnity. If, during the feast, the least particle of leaven was found in their houses, they imagined the whole was polluted, for a little leaven leaveneth the whole lump. Leaven, in its figurative sense, signifies the bad passions of envy and malice, and rancour, which sour the temper, and extend their ferment over the social affections; whereas unleavened bread implies sincerity and truth. It is frequently used for any kind of moral contagion.

LEAVES OF PLANTS. See LEAF.

Colours extracted from LEAVES. See COLOUR-Making, N^o 37.

LEBADEA, or **LEBADIA**, an ancient town of Bœotia, on the borders of Phocis, situated between Helicon and Chæronea, near Coronæa. In it stood the oracle of Jupiter Trophonius, which whoever went to consult, descended into a subterranean gulf.

LEBEDA, an ancient sea port town of Africa, in the kingdom of Tripoli, with a pretty good harbour, and an old castle, seated on the Mediterranean sea; in E. Long. 14. 50. N. Lat. 32. 10.

LEBEDOS, reckoned among the twelve ancient cities of Ionia, was situated to the south of Smyrna. It was the residence of stage-players, and the place where they met from all parts of Ionia, as far as the Hellespont, and celebrated annual games in honour of Bacchus, (Strabo). It was overthrown by Lysimachus, who removed the inhabitants to Ephesus; scarce ever after recovering itself, and becoming rather a village than a town, (Horace.)

LEBEN, or **LEBENA**, in *Ancient Geography*, one of the port towns of the Gortynians, near the promontory Leon, on the south-east side of Crete; famous for a temple of Æsculapius in imitation of that of Cyrenaica.

LEBRIXA, an ancient, strong, and pleasant town of Spain, in Andalusia; seated on a territory abounding in corn, wine, and a great number of olive trees, of whose fruit they make the best oil in Spain. W. Long. 5. 32. N. Lat. 36. 52.

LEBUS, a town of Germany, in the circle of Upper Saxony, and in the marquisate of Brandenburg, with a bishop's see, secularized in favour of the house of Brandenburg. It is seated on the river Oder, in E. Long. 14. 55. N. Lat. 52. 28.

LECCE, a rich, populous, and most beautiful town of Italy, in the kingdom of Naples and in the Terra d'Otranto, of which it is the chief place, and the see of a bishop. E. Long. 18. 20. N. Lat. 40. 38.

LECCO, a town of Italy in the duchy of Milan, seated on the eastern side of the lake Como. E. Long. 9. 40. N. Lat. 45. 45.

Lechlade
||
Lecturers.

LECHLADE, a town of Gloucestershire in England, seated at the confluence of the rivers Lech and Thames. W. Long. 2. 15. N. Lat. 51. 42.

LECHNICH, a town of Germany, in the circle of the lower Rhine, and in the electorate of Cologne. E. Long. 6. 35. N. Lat. 50. 40.

LECTI, beds or couches, were, of two kinds amongst the Romans, as being destined to two different uses, to lie upon at entertainments, and to repose upon for nightly rest. The first were called *lecti tricliniaries*, the other *lecti cubicularii*. See BEDS.

LECTICA, was a litter or vehicle in which the Romans were carried. It was of two kinds, covered and uncovered. The covered lectica is called by Pliny *cubiculum viatorum*, a traveller's bedchamber: And indeed we are informed that Augustus frequently ordered his servants to stop his litter that he might sleep upon the road. This vehicle was carried by six or eight men called *lecticarii*. The lectica differed from the *fella*, for in the first the traveller could recline himself for sleep, in the latter he was obliged to sit. The lectica was invented in Bithynia; the *fella* was a Roman machine, and esteemed the more honourable of the two. Lectica was also the name of the funeral bed or bier for carrying out the dead.

LECTICARII, among the Romans, servants who carried the LECTICA.

LECTICARIUS was also an officer in the Greek church, whose business it was to bear off the bodies of those who died, and to bury them. These were otherwise denominated *decani* and *copiatæ*.

LECTIO, Reading. Considered in a medicinal view, it is said by Celsus, lib. i. cap. 4. to be bad, especially after supper, for those whose heads are weak; and in lib. i. cap. 8. he recommends reading with an audible voice for such as have weak stomachs. It is also directed by Paulus Æginetus as an exercise, lib. i. cap. 19.

LECTISTERNIUM, a solemn ceremony observed by the Romans in times of public danger, wherein an entertainment was prepared with great magnificence, and served up in the temples. The gods were invited to partake of the good cheer, and their statues placed upon couches round the table in the same manner as men used to sit at meat. The first lectisternium held at Rome was in honour of Apollo, Latona, Diana, Hercules, Mercury, and Neptune, to put a stop to a contagious distemper which raged amongst the cattle, in the year of Rome 354. At these feasts the Epulones presided, and the sacred banquet was called *epulum*. See EPULO, EPULUM, &c.

Something like the lectisternium was occasionally observed amongst the Greeks, according to Casaubon.

LECTORES, among the Romans, servants in great men's houses, who were employed in reading while their masters were at supper. They were called by the Greeks ANAGNOSTÆ.

LECTOURE, an ancient and strong town of France, in Gascony, with a castle and a bishop's see; seated on a mountain, at the foot of which runs the river Gers. E. Long. 0. 42. N. Lat. 43. 56.

LECTURERS, in England, are an order of preachers in parish churches, distinct from the rector, vicar, and curate. They are chosen by the vestry, or chief

inhabitants of the parish, supported by voluntary subscriptions and legacies, and are usually the afternoon preachers in the Sunday service. The term is also more generally applied to those who preach on Sunday, or on any stated day of the week, in churches, or other places of public worship. By 13 and 14 Car. II. cap. 4. lecturers in churches, unlicensed, and not conforming to the liturgy, shall be disabled, and shall also suffer three months imprisonment in the common gaol; and two justices, or the mayor in a town corporate, shall, upon certificate from the ordinary, commit them accordingly. Where there are lectures founded by the donations of pious persons, the lecturers are appointed by the founders without any interposition or consent of rectors of churches, &c. though with the leave and approbation of the bishop; such as that of Lady Moyer's at St Paul's. But the lecturer is not entitled to the pulpit, without the consent of the rector or vicar, who is possessed of the freehold of the church.

LEDA, in fabulous history, a daughter of King Thespius and Eurythemis, who married Tyndarus king of Sparta. She was seen bathing in the river Eurotas by Jupiter, when she was some few days advanced in her pregnancy, and the god, struck with her beauty, resolved to deceive her. He persuaded Venus to change herself into an eagle, while he assumed the form of a swan, and after this metamorphosis Jupiter, as if fearful of the tyrannical cruelty of the bird of prey, fled through the air into the arms of Leda, who willingly sheltered the trembling swan from the assaults of his superior enemy. The caresses with which the naked Leda received the swan, enabled Jupiter to avail himself of his situation, and nine months after this adventure the wife of Tyndarus brought forth two eggs, of one of which sprung Pollux and Helena, and of the other Castor and Clytemnestra. The two former were deemed the offspring of Jupiter, and the others claimed Tyndarus for their father. Some mythologists attribute this amour to Nemesis and not to Leda; and they farther mention, that Leda was intrusted with the education of the children which sprung from the eggs brought forth by Nemesis. To reconcile this diversity of opinions, others maintain that Leda received the name of *Nemesis* after death. Homer and Hesiod make no mention of the metamorphosis of Jupiter into a swan, whence some have imagined that the fable was unknown to those two ancient poets, and probably invented since their age.

LEDBURY, a town of Herefordshire in England. It is a well built town, seated on a rich clay soil, and inhabited mostly by clothiers, who carry on a pretty large trade. W. Long. 2. 27. N. Lat. 52. 6.

LEDESMA, an ancient and strong town of Spain, in the kingdom of Leon, seated on the river Tome, in W. Long. 5. 25. N. Lat. 47. 2.

LEDGER, the principal book wherein merchants enter their accounts. See BOOK-KEEPING.

LEDUM, MARSH CISTUS, or *Wild Rosemary*; a genus of plants belonging to the decandria class; and in the natural method ranking under the 18th order, *Bicornes*. See BOTANY Index.

LEE, an epithet used by seamen to distinguish that part of the hemisphere to which the wind is directed, from the other part whence it arises; which latter is accordingly called *to windward*. This expression is chiefly

Leda
||
Lee.

Lee.

chiefly used when the wind crosses the line of a ship's course, so that all on a side of her is called to *windward*, and all on the opposite side to *leeward*. Hence,

Under the LEE, implies farther to the leeward, or farther from that part of the horizon whence the wind blows: as,

Under the LEE of the Shore; i. e. at a short distance from the shore which lies to windward. This phrase is commonly understood to express the situation of a vessel anchored, or sailing under the weather-shore, where there is always smoother water, and less danger of heavy seas, than at a great distance from it.

LEE Larches, the sudden and violent rolls which a ship often takes to the leeward in a high sea, particularly when a large wave strikes her on the weather-side.

LEE Side, all that part of a ship or boat which lies between the mast and the side farthest from the direction of the wind; or otherwise, that half of a ship which is pressed down towards the water by the effort of the sails, as separated from the other half by a line drawn through the middle of her length. That part of the ship which lies to windward of this line is accordingly called the *weather-side*. Thus admit a ship to be sailing southward, with the wind at east, then is her starboard or right side the *lee-side*; and the larboard, or left, the *weather-side*.

LEE-Stone. See *LEE-Penny*.

LEE-Way. See NAVIGATION.

LEE, NATHANIEL, a very eminent dramatic poet of the last century, was the son of a clergyman, who gave him a liberal education.—He received his first rudiments of learning at Westminster school; from whence he went to Trinity college, Cambridge.—Coming to London, however, his inclination prompted him to appear on the theatre; but he was not more successful in representing the thoughts of other men, than many a genius besides, who have been equally unfortunate in treading the stage, although they knew so well how to write for it. He produced 11 tragedies, all of which contain a very great portion of true poetic enthusiasm. None, if any, ever felt the passion of love more truly; nor could any one describe it with more tenderness. Addison commends his genius highly; observing, that none of our English poets had a happier turn for tragedy, although his natural fire and unbridled impetuosity hurried him beyond all bounds of probability, and sometimes were quite out of nature. The truth is, this poet's imagination ran away with his reason; so that at length he became quite crazy; and grew so mad, that his friends were obliged to confine him in bedlam, where he made that famous witty reply to a coxcomb scribbler, who had the cruelty to jeer him with his misfortune, by observing that it was an easy thing to write like a madman:—"No (said Lee), it is not an easy thing to write like a madman; but it is very easy to write like a fool." Lee had the good fortune to recover the use of his reason so far as to be discharged from his melancholy confinement; but he did not long survive his enlargement, dying at the early age of 34. Cibber, in his *Lives of the Poets*, says he perished unfortunately in a night ramble in London streets.—His Theodosius and Alexander the Great are stock plays, and to this day are often acted with great applause. The late Mr

Barry was particularly fortunate in the character of *Lee-Penny*, the Macedonian hero.

LEE-Penny, or *Lee-stone*, a curious piece of antiquity belonging to the family of Lee in Scotland, and of which the following account has been given in the *Gentleman's Magazine* for December 1787.

It is a stone of a dark red colour and triangular shape, and its size about half an inch each side. It is set in a piece of silver coin, which, though much defaced, by some letters still remaining is supposed to be a shilling of Edward I. the cross being very plain, as it is on his shillings.—It has been, by tradition, in the Lee family since the year 1320; that is, a little after the death of King Robert Bruce, who having ordered his heart to be carried to the Holy Land, there to be buried, one of the noble family of Douglas was sent with it, and it is said got the crowned heart in his arms from that circumstance: but the person who carried the heart was Simon Locard of Lee, who just about this time borrowed a large sum of money from Sir William de Lendfay, prior of Air, for which he granted a bond of annuity of ten pounds of silver, during the life of the said Sir William de Lendfay, out of his lands of Lee and Cartland. The original bond, dated 1323, and witnessed by the principal nobility of the country, is still remaining among the family papers.

As this was a great sum in those days, it is thought it was borrowed for that expedition; and, from his being the person who carried the royal heart, he changed his name to *Lockheart*, as it is sometimes spelled, or Lockhart, and got a heart within a lock for part of his arms, with the motto *Corda serata pando*.—This Simon Lockhart having taken prisoner a Saracen prince or chief, his wife came to ransom him; and on counting out the money or jewels, this stone fell out of her purse, which she hastily snatched up; which Simon Lockhart observing, insisted to have it, else he would not give up his prisoner.—Upon this the lady gave it him, and told him its many virtues, viz. that it cured all diseases in cattle, and the bite of a mad dog both in man and beast. It is used by dipping the stone in water, which is given to the diseased cattle to drink; and the person who has been bit, and the wound or part infected, is washed with the water. There are no words used in the dipping of the stone, or any money taken by the servants, without incurring the owner's displeasure. Many are the cures said to be performed by it, and people come from all parts of Scotland, and even as far up in England as Yorkshire, to get the water in which the stone is dipped, to give their cattle, when ill of the murrain especially, and black-leg.—A great many years ago, a complaint was made to the ecclesiastical courts against the laird of Lee, then Sir James Lockhart, for using witchcraft.—It is said, when the plague was last at Newcastle, the inhabitants sent for the Lee-penny, and gave a bond for a large sum in trust for the loan; and that they thought it did so much good, that they offered to pay the money, and keep the Lee-penny; but the gentleman would not part with it. A copy of this bond is very well attested to have been among the family papers, but supposed to have been spoiled, along with many more valuable ones, about 50 years ago, by rain getting into the charter room, during a long minority, and no family residing at Lee.

We

Leech,
Leeds.

We have given this history, not on account of the utility of the information, but as a proof of the superstition of the times. None of the virtues which the stone was formerly supposed to possess, are now ascribed to it, excepting, we believe, in the case of some of the diseases of cattle; and even these in more enlightened times will become daily less numerous and less powerful.

LEECH, in *Zoology*. See HIRUDO, HELMINTHOLOGY *Index*.

LEECHES, in a ship, the borders or edges of a sail which are either sloping or perpendicular.

The leeches of all sails whose tops and bottoms are parallel to the deck, or at right angles to the mast, are denominated from the ship's side, and the sail to which they belong; as the *starboard* leech of the main-sail, the *lee* leech of the fore-top sail, &c. But the sails which are fixed obliquely on the masts have their leeches named from their situation with respect to the ship's length; as the *fore* leech of the mizen, the *after*-leech of the jib or fore-stay sail, &c.

LEECH Lines, certain ropes fastened to the middle of the leeches of the main-sail and fore-sail, and communicating with blocks under the opposite sides of the top, whence they pass downwards to the deck, serving to truss up those sails to the yard as occasion requires. See BRAILS.

LEECH-Rope, a name given to that part of the bolt-rope to which the border or skirt of a sail is sewed. In all sails whose opposite leeches are of the same length, it is terminated above the earing, and below the clue. See *BOLT-Rope*, CLUE, and EARING.

LEEDS, a town of the west riding of Yorkshire, 196 miles from London, has a magnificent stone bridge over the river Aire to the suburbs. It was incorporated by King Charles I. with a chief alderman, nine burgeses, and 20 assistants; and by Charles II. with a mayor, 12 aldermen, and 24 assistants. It has been a long time famous for the woollen manufacture, and is one of the largest and most flourishing towns in the county, yet had but one church till the reign of Charles I. By means of inland navigation, it has communication with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles in the counties of Lincoln, Nottingham, Lancaster, Westmorland, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c. Here is a long street full of shops, and a hall for the sale of cloth, built in 1758. The merchants of this place, York, and Hull, ship them off at the latter port, for Holland, Hamburgh, and the north. After ringing of the market-bell at six or seven in the morning, the chapmen come and match their patterns, when they treat for the cloth with a whisper, because the clothiers' standings are so near each other; and perhaps 20,000l. worth of cloth is sold in an hour's time. At half an hour after eight the bell rings again, when the clothiers make room for the linen-draper, hardware men, shoemakers, fruiterers, &c. At the same time the shambles are well stored with all sorts of fish and flesh; and 500 horse loads of apples have been counted here in a day. There is a magnificent hall, where they also sell great quantities of white cloth; and here is a noble guildhall, with a fine marble statue of Queen Anne, erected about the year 1714.

Leeds
||
Leeds

Its river being navigable by boats, they send other goods, besides their cloth, to Wakefield, York, and Hull, and furnish York with coals. There is a house called *Red hall*, because it was the first brick building in the town, and King Charles I. had an apartment in it, which is ever since called the *King's chamber*. There is another place called *Tower hill*, on which there was once a tower; besides which, there was a castle which King Stephen besieged in his march to Scotland. Here was also a park, where are now inclosures. There is a workhouse here of free stone, where poor children are taught to mix wool, and perform other easy branches of that manufacture, and a part of it has been used many years as an hospital for the reception of the aged poor. Here are three alms houses, and two charity schools of blue coat boys to the number of 100. In the ceiling of St Peter's, its only parochial church, the delivery of the law to Moses is finely painted in fresco by Parmentier. It is a venerable free stone pile built in the cathedral fashion, and seems to have been the patch work of several ages. The increase of building in Leeds in the year 1705, was nearly 400 houses. There is a Presbyterian meeting-house here, erected in 1691, called the *new chapel*, which is the stateliest, if not the oldest, of that denomination in the north of England: and in the town and its suburbs are several other meeting-houses, as is always observable in towns of great trade and manufacture. It is noted for some medicinal springs; one of which, called *St Peter's*, is very cold, and has been found very beneficial in rheumatisms, rickets, &c. Here is an hospital for relief of the poor who had been honest and industrious, endowed with 80l. a year, besides 10l. a year for a master to read prayers and instruct them; also a free school. Its markets are Tuesdays and Saturdays, and the market-laws are more strictly observed here than anywhere. It has two fairs in the year. Leeds, though a large town, sends no members to parliament.

LEEK. See ALLIUM, *BOTANY Index*; and for its culture see GARDENING.

LEEK, a town of Staffordshire in England, 155 miles from London. It lies among the barren moorlands, has a manufacture of buttons, a market on Wednesday, and seven fairs in the year. In the churchyard, at the south-east corner of the chancel, are the remains of a Danish cross, now upright, and 10 feet high from the ground, beneath which are three steps. In Blue-hills in the neighbourhood are coal mines; and a salt stream comes from thence, which tinges the stones and earth through which it runs with a rusty colour, and, with the infusion of galls, turns as black as ink. Here are rocks of a most surprising height, without any turf or mould upon them.

LEER, in glass-making, a sort of third furnace, intended to anneal and cool by proper degrees the vessels when made. This properly comprehends two parts, the tower and leer. The tower is that part which lies directly above the melting furnace, with a partition between them of a foot thick, in the midst whereof there is a round hole, placed exactly over the furnace, through which the flame and heat pass into the tower: on the floor of this tower the vessels are set to anneal. There are two openings by which the vessels are put into this tower; and after standing there some

Lees
||
Leetakoo.

some time, they are put into iron pans, which by degrees are drawn out all along that part of this furnace, which is properly called the *leer*; which is five or six yards long, that the vessels may cool by degrees. This leer is continued to its tower and arched all along, and is about four feet wide, and high within. The glasses are cool by that time they are come to the mouth of this, which enters into a room where the glasses are placed are taken out.

LEES, the grossest and most ponderous parts of liquors, which, being separated by fermentation, fall to the bottom. The word comes from the French *lie*; and that either from *limus* "mud," or from *Lyeus* one of the surnames of Bacchus; or, according to Du Cange, from *la*, a corrupt Latin word signifying the same.—The vinegar-makers make a great trade of the lees of wine dried and made into cakes, after having squeezed out the remains of the liquor in presses.

LEET, or COURT LEET (*leta visus franci plegii*), is a court of record, ordained for punishing offences against the crown; and is said to be the most ancient court of the land. It inquires of all offences under high treason; but those who are to be punished with loss of life or member, are only inquirable and presentable here, and to be certified over to the justices of assize, (Stat. 1. Edw. III.). And this court is called the view of frank pledge, because the king is to be there certified by the view of the steward, how many people are within every leet, and have an account of their good manners and government; and every person of the age of 12 years, who hath remained there for a year and a day, may be sworn to be faithful to the king, and the people are to be kept in peace, &c. A leet is incident to a hundred, as a court baron to a manor: for by grant of a hundred, a leet passeth; and a hundred cannot be without a leet.—The usual method of punishment in the court leet, is by fine and amercement; the former assessed by the steward, and the latter by the jury.

LEETAKOO, a considerable town in southern Africa, situated in 26° 30' S. Lat. and 27° E. Long. A river runs through the middle of it, which from the extent of the channel must be sometimes of considerable magnitude. This town, which was discovered by a mission from the Cape of Good Hope in 1801 and 1802, is computed to be fully of as great extent as Cape Town; but the exact number of the houses, says Mr Barrow, could not be ascertained, owing to the irregularity of the streets and the lowness of the buildings. It contains, according to some, about 10,000 inhabitants of all descriptions, while others make them amount to nearly 15,000. The ground plan of every house is a complete circle, from 12 to 15 feet diameter; the floor consists of hard beaten clay, raised four inches above the surface of the enclosure. One-fourth of it, commonly facing the east, is entirely open, the other three-fourths walled up with clay and stones, to the height of about five feet. The people deposit their valuable articles in another apartment described with the same radius as the former, such as skin clothing, ivory ornaments, knives and other articles, which to them are of essential service. In this also the elder part of the family take their repose, and the children sleep in the half-closed *viranda*.

The whole house is covered with a roof in the form of a tent, supported by poles built into the wall. The

Leeward
||
Legate.

roof is thatched with reeds, bound together with leather thongs. The inhabitants preserve their grain and pulse in large clay vessels adjacent to the house, exhibiting the appearance of large oil jars, and some of them containing about 200 gallons.

The regularity and decorum with which the people of Leetakoo conduct themselves, give a very favourable opinion of them, as being greatly superior to savages, and evince them to be bordering on a state of civilization which it would be no difficult matter to introduce among them. They are friendly, peaceable, and inoffensive, and appear to live under a government which may be denominated purely patriarchal, and the chief of consequence must be the idol of the people. They do not appear to have any particular form of religious worship, in the common acceptance of that word, yet they circumcise all male children, and dance in a circle the whole night of the full moon. They seem also to believe that there is a power directing the operations of nature, who is infinitely superior to themselves, and to whose influence they are subject. *Barrow's Travels to Cochinchina*. Appendix.

LEEWARD Ship, a vessel that falls much to leeward of her course, when sailing close hauled, and consequently loses much ground.

TO LEEWARD, towards that part of the horizon which lies under the lee, or whither the wind bloweth. Thus, "We saw a fleet *under the lee*," and, "We saw a fleet *to leeward*," are synonymous expressions.

LEG, in *Anatomy*, the whole lesser extremity from the acetabula of the ossa innominata, commonly divided into three parts, viz. the thigh, the leg properly so called, and the foot. See ANATOMY, N° 60.

LEGACY, in *Scots Law*, a donation by one person to another, to be paid by the giver's executor after his death. See LAW, N° clxxxii. 3.

LEGATE, a cardinal or bishop, whom the pope sends as his ambassador to sovereign princes. See AMBASSADOR.

There are three kinds of legates, viz. legates à *latere*, legates *de latere*, and legates by office, or *legati nati*: of these the most considerable are the legates à *latere*, the next are the legates *de latere*. See the article LATERE.

Legates by office are those who have not any particular legation given them; but who, by virtue of their dignity and rank in the church, become legates: such are the archbishop of Rheims and Arles: but the authority of these legates is much inferior to that of the legates à *latere*.

The power of a legate is sometimes given without the title. Some of the nuncios are invested with it. It was one of the ecclesiastical privileges of England from the Norman conquest, that no foreign legate should be obtruded upon the English, unless the king should desire it upon some extraordinary emergency, as when a case was too difficult for the English prelates to determine.

The term *legate* comes from *legatus*, which Varro derives from *legere*, "to choose;" and others from *legare*, *delegare*, "to send, delegate."

Court of the LEGATE, was a court obtained by Cardinal Wolsey of Pope Leo X. in the ninth year of Henry VIII. wherein he, as legate of the pope, had

power

Legatee
||
Legend.

power to prove wills, and dispense with offences against the spiritual laws, &c. It was but of short continuance.

LEGATEE, in *Scots Law*, the person to whom a legacy is provided.

LĒGATIO LIBERA, was a privilege frequently obtained of the state, by senators of Rome, for going into any province or country, upon their own private business, in the quality of *legati* or envoys from the senate, that the dignity of this nominal office might secure them a good reception, and have an influence on the management of their concerns. The cities and towns through which they passed were obliged to defray their expences.—This was called *libera legatio*, because they might lay aside the office as soon as they pleased, and were not encumbered with any actual trust.

LEGATUS, a military officer amongst the Romans, who commanded as deputy of the commander in chief. The *legati*, at their first institution, were not so much to command as to advise. They were generally chosen by the consuls, with the approbation of the senate. As to the number of the *legati*, we have no certain information, though we may upon good grounds assign one to every legion. In the absence of the consul or proconsul, they had the honour to use the *fasces*.

Under the emperors there were two sorts of *legati*, *consulares* and *prætorii*. The first commanded whole armies, as the emperors lieutenant-generals; and the other had the command of particular legions.

The *legati* under the proconsuls in the provinces, served for judging inferior causes, and management of smaller concerns, remitting things of great moment to the governor or president himself. This was the original office of the *legati*, as was hinted above; though, as we have seen, they were afterwards admitted to command in the army.

LEGEND, any idle or ridiculous story told by the Romanists concerning their saints, and other persons, in order to support the credit of their religion.

The legend was originally a book used in the old Roman churches, containing the lessons to be read at divine service; hence the lives of the saints and martyrs came to be called *legends*, because chapters were read out of them at matins, and at the refectories of

religious houses. Among these the golden legend, which is a collection of the lives of the saints, was received in the church with great applause, which it maintained for 200 years; though it is so full of ridiculous and romantic stories, that the Romanists themselves are now ashamed of it.

LEGEND is also used by authors to signify the words or letters engraven about the margin, &c. of coins. Thus the legend of a French crown is, SIT NOMEN DOMINI BENEDICTVM; that of a moidore, IN HOC SIGNO VINCES: on those of the last emperors of Constantinople, we find IESVS CHRISTVS. BASILEVS BASILEON, IHS XPS NIKA, IESVS CHRISTVS VINCIT.

LEGEND is also applied to the inscription of medals, which serves to explain the figures or devices represented on them. In strictness, the legend differs from the inscription; this last properly signifying words placed on the reverse of a medal, in lieu of figures.

It seems as if the ancients had intended their medals should serve both as images and as emblems; the former for the common people, and the other for persons of taste and parts; the images to represent the faces of princes; emblems their virtues and great actions; so that the legend is to be looked on as the soul of the medal, and the figures as the body.

Every medal has properly two legends; that on the front, and that on the reverse. The first generally serves only to distinguish the person by his name, titles, offices, &c. the latter is intended to express his noble and virtuous sentiments, his good deeds, and the advantages the public has reaped by him. This, however, does not hold universally; for sometimes we find the titles shared between both sides, and sometimes also the legend.

In the medals of cities and provinces, as the head is usually the genius of the place, or at least some deity adored there, the legend is the name of the city, province, or deity, or of both together; and the reverse is some symbol of the city, &c. frequently without a legend, sometimes with that of one of its magistrates.

Legends generally commemorate the virtues of princes, their honour and consecrations, signal events, public monuments, deities, vows, privileges, &c. which are either in Latin or Greek, or a mixture of both, and are intended to eternize their names, and the benefits done by them to the empire.

L E G E R D E M A I N,

OR SLEIGHT OF HAND,

A DENOMINATION given to certain deceptive performances, which either depend altogether on dexterity and address, or derive but a small degree of aid from philosophical principles. Of these we shall present our readers with a selection of the best that have been either explained in books or publicly exhibited.

SECT. I. Performances with Cups and Balls.

Preliminary explanations.

THE following method of exercising this simple and ingenious amusement is that practised by one Mr

Kopp a German, whose performances are deservedly preferred to those of former artists. In this, however, as in all the other branches belonging to the art of legerdemain, it is not sufficient that a person has the requisite dexterity or sleight of hand; it is necessary also to take off the attention of the spectators by some entertaining discourse; which not only prevents discovery, but adds greatly to the amusement of the company; for which reason, such discourse is inserted in this article.

To play his part properly, the performer on cups and

Performances with
Cups and
Balls.

and balls ought to provide himself with a bag about 12 inches long, and from eight to ten in depth. The inside must be furnished with a number of pockets for holding the several articles, necessary in the amusement; and this bag the performer must hang before him.

The materials necessary for the performer are,

Plate
CCXC.

1. Three white polished tin cups, represented by A, B, and C (fig. 1.) in the shape of a truncated cone with a double ledge D towards the base. This ledge, which is about half an inch in breadth, serves to raise the cups easily by, admitting also the hand to pass a small cork ball (see fig. 5.) The upper part E of the cup ought to be hollowed in the form of a sphere, sufficient to contain the balls without their appearing above the upper edge of the cups.

2. It is also necessary to have a small rod, called *Jacob's staff*; which is usually made of ebony, and neatly tipped with ivory at both ends. This is frequently used for striking on the cups; and being held in the hand where the balls are also kept, it gives the operator an opportunity of keeping that hand generally shut, or of varying its position, in order to avoid being discovered. The balls are made of cork, blackened by slight burning on the outside.

The dexterity in performing this operation consists in artfully secreting a ball in the right hand, and making it to appear or disappear in the same hand. The secreting it between the fingers is called *conjuring the ball*, at which time the spectators are to suppose that it is kept in the other hand, or that it was passed under a cup; but if it is made to reappear when held secretly in the hand, they must believe that it came out of the place last touched by the fingers.

Conjuring the ball is performed by putting it between the place of the thumb A and the finger B (fig. 2.), conveying it with the thumb, by rolling it upon the fingers the length of the line BC, moving the middle finger D to a distance, and placing the ball at the junction of the fingers C (fig. 3.); but in this part of the operation it is necessary to hold the ball rather tight, lest it should fall down and discover the secret. In order to make it appear, we must bring back the ball the same way from C to D; and every time that it is conjured, or made to disappear, as well as when it is made to reappear, the palm of the hand should be turned from the side of the table on which the operator is playing.

While this part of the trick is performing, the operator must let the spectators know that the ball has been passed under a cup, or into another hand; and in the first case he makes a motion with the hand; (as represented fig. 4.) indicating that he had thrown it through the cup; at which time also he conjures it, approaching the two fingers of the right hand towards the left, which last he holds open, and makes a motion as if the ball had been placed there, shutting the left hand instantly. It is also to be supposed, at every time when a ball seems to be placed below a cup, that it has been held in the left hand; and when he raises the cup with the right hand as in fig. 5. the left hand must be opened, and he rests the ball at that instant upon the hollow of the other, sliding it along the fingers.

At the time the ball is to be put secretly under
VOL. XI. Part II.

the cup, it should lie between the two fingers of the right hand (fig. 5.) With this hand he raises the cup; and placing it on the table, lets go the ball, which, according to its position in fig. 6. should be found near the edge of the cup when taken into the hand. If he would put the ball secretly between the two cups, it must be let go by jerking it towards the bottom of the cup which he holds, and places it very quickly on that in which the ball is to be found. When the ball is in this situation, if the operator should want it to disappear, he must raise the two cups with his right hand, and draw out hastily that under which the ball is placed; at the same instant lowering with his left hand the other cup, under which he places it.

In speaking of the tricks which follow, terms are made use of which explain whether what is said be feigned or true; of which terms explanations are given, and numbers adapted to the explanations of the different operations which follow.

I. *To put the ball under the cup*: Really done, with the fingers of the right or left hand.

II. *To put the ball under the cup, or in the hand*.—A feigned conjuration; pretending to shut it up in the left hand, which is afterwards opened, in order to have it supposed that the ball is under the cup or elsewhere. See fig. 3.

III. *To pass the ball under the cup*.—The ball supposed to be conjured is to be really introduced.

IV. *To pass the ball between the cups*, is likewise real.

V. *To make the ball which is between the cups disappear*.—This is likewise real; and performed, as has already been described, by drawing back with much precipitation and dexterity the cup on which it is placed, and lowering upon the table that which is above, and under which the ball must of consequence be found.

VI. *To take the ball*. Real.—It is taken between two fingers of the right hand, and shown before conjuration.

VII. *To take away the ball from under the cup*. This is done by taking it away in the sight of the spectators.

VIII. *To draw the ball*. Feigned; or by pretending to draw it from the end of the rod, from the cup, or any other place, by bringing into the fingers the ball which was secreted.

IX. *To throw the ball through the cup*, is to conjure it in pretending to throw it.

X. *To raise up the cups*. This is really done in three ways; viz. either with the right hand, the rod, or the left hand. The first is when the ball is to be secretly inserted in returning the cup to its place. In the second, the rod is to be put on the tops of the cups to turn them over again, so that the balls may be shown which were to be passed into them. The third is when the operator intends to show that no balls are in the cups, or that there are some.

XI. *To cover a cup*. This is really done, by taking with the right hand that which is to be put over another, and introducing at the same time a ball between the two.

XII. *To recover a cup*. It is done by taking with the left hand the cup to be put over or above, without introducing any thing into it.

Performances with
Cups and
Balls.

Performances with
Cups and
Balls.

The PERFORMANCES.

1. *To put a ball under each cup, and take it out again.* Having placed on the table the three cups and little rod, as shown in fig. 1. the performer must begin his manœuvres, by endeavouring to amuse the spectators with some kind of entertaining discourse. Nothing can be more *apropos* than the origin of the little rod and cups; and he must be very assiduous in this sort of discourse, to take off the eyes of the spectators as much as possible. The following may be a specimen of the manner in which he ought to address his audience: "There are many persons who meddle with the play of the cups and balls, and yet know nothing about them. This is by no means extraordinary: even I who now play before you, pretend to know but little. Nay, some time ago, I was such a novice as to think of playing before a numerous assembly with glass cups, in which you may guess I did not meet with great applause. I do not indeed practise this method but before such as are actually blind; neither do I play with China cups, lest, through awkwardness in feigning to break their handles, I should do so in reality. These are the cups which answer my purposes. They are made of such metal as the alchemists attributed to Jupiter and Mars, or, to speak more properly and intelligibly, they are made of tin. Behold and examine these cups (*showing the cups to the company, and putting them on the table:*) All my science, and it is in that in which it is admirable, consists in deceiving the eyes, and passing the balls into the cups without your perceiving how it is done. I advise you therefore to pay no attention to my words, but to examine well my hands, (*showing his hands*). If there is in this company any person who has the misfortune to use spectacles, he may retire; but the most clear sighted will see nothing there.

"Here is the little Jacob's rod (*showing the rod with the left hand*); that is to say, the magazine from which I take all my balls (*taking secretly with the other hand a ball from his bag, which he hides between his fingers*). There is not one in England so well furnished. Observe, that the more I take from it the more remain: I draw from it (VIII.) this ball (*showing it, and placing it upon the table, (I.)*). Observe that there is nothing under the cups (*showing the inside of the cups*), and that I have no other ball in my hands, (*showing his hands*). I take (VI.) this ball: I put it (II.) under the first cup. I draw (VIII.) a second ball from my little rod, and I put it under this second cup (*actually done*). It is proper here to tell you, that the generality of those who play the cups only feign to put the balls there; but I do not deceive you, and I actually put them there. (*He raises the cup B, and taking the ball which he has put under it into his right hand fingers, shows it to the company*). I return it (II.) under the same cup. I take (VIII.) this third, and put it (II.) in the same way under this last cup. You are about to say that this is not very extraordinary, and that you could do it as well yourselves. I agree with you; but the difficulty consists in taking out these balls again through the cups, (*striking the first cup with the rod*). I take (VIII.) this first ball (*showing it*). I put it (II.) into my hand, and send it to Constantinople, (*he opens the left hand*). I take

(VIII.) this (*striking with the rod on the second cup*). I put it (II.) into my hand, and I send it to the East Indies, (*opening his left hand*). I take (VIII.) the last and I put it (I.) on the table: Observe that there are no more under any of these cups (*turning down the cups with the rod*).

2. *With the single ball remaining on the table to pass a ball through each of the cups, and to take it off from the same.* "I return the cups to their places, and take (VI.) this ball, and I put it under this first cup. I take it back again (VIII.): observe that it is not there now, (*raising (X.) the cup with the left hand*). I put it (II.) under this other cup: I take it out again (VIII.) in the same manner, (*raising (X.) the cup*). I put it (II.) under the last cup, and take it out again (VIII.) (*raising the last cup with the left hand, and placing the ball on the table*).

3. *With the single ball remaining on the table, to take away a ball through two or three cups.*—In this performance the three cups are distinguished by A, B, C, as in fig. 1.

"I never have any ball secreted in my hands, as the greatest part of them, who play the cups and balls have (*showing his hands*). I take (VI.) this ball, and I put it (II.) under this cup B. I cover it (XII.) with this cup C, and I take again (VIII.) this ball through the two cups (*shows the ball placing it on the table, returns afterwards the cup C to its place, and raises (X.) the cup B to show that there is nothing there*). I take again (VI.) this same ball. I put it (II.) under the same cup B: I cover it (XII.) with the two other cups C and A; and I take out (VIII.) this ball through the three cups (*showing it and placing it on the table*).

4. *With the single ball remaining on the table, to pass the same ball from cup to cup.*—"I now beg of you to pay every possible attention, and you will very distinctly see this ball pass from one cup into the other (*putting the cups at a greater distance from each other*). I take (VI.) this ball, and I put it (II.) under the cup C: there is nothing under this cup B (*raising it, introducing the ball and taking the rod in his hand*). I command that which I have put under the cup to pass under that B. You see it (*moving the end of the rod from one cup to the other, as if he followed the ball*): observe that it is passed (*raising the cup with his left hand, and taking the ball with his right, shows it to the company*). I return it (II.) under this cup B; there is nothing under this A (*raising the cup with his right hand, and introducing the ball there*). I am going to pass it under this last cup A. Look well; come near: (*making as if seeing it he would show with the end of the rod the path that it took*). You did not see it pass? I am not much surprised: I did not see it myself; however, here it is under the cup (*raising the cup A, and placing it on the table*).

5. *With the same ball remaining on the table. The cups being covered, to pass a ball from one into the other, without raising them up.*—I was very right in telling you, that the most clear sighted would not see very much; but for your comfort, here is a trick in which you will see nothing at all. I take this ball, and put it (II.) under this cup B. I cover it (XI.) with the two other cups (*taking one in each hand, and introducing the ball upon the cup B*): pay attention, that there

Performances with
Cups and
Balls.

Perform-
ances with
Cups and
Balls.

is absolutely nothing in my hands (*showing them*). I command this ball to mount up upon the first cup (*taking up the two cups, and putting them in their places, he shows that it has mounted*). I return (II.) this ball under the same cup B. I cover it as before (*covers it in taking a cup in each hand, and introducing a ball between the second and third cup*). I take (*the only ball with which he plays being under the third cup, he cannot show it, but acts as if he had taken it out, and puts it into the fingers of his left hand, which he holds in the air, in conducting the hand from one side to the other.*) I take the ball, which is under these three cups; and I throw it through the first cup (*feigning to throw it*): observe that I have not conjured the ball, having nothing in my hands (*showing them*); it is passed, however, (*raising the first cup with the left hand, putting the ball upon the table and the cups in their places*).

6. *With the single ball remaining on the table, to pass a ball through the table and two cups.*—"You are undoubtedly surpris'd, that, having but a single ball, I have been able, after having shown it to you, to pass it under this cup without raising it; but let not that astonish you: I have secrets much more wonderful. I convey, for example, the steeple of one village into another: I have sympathetic quadrants, with which a conversation may be held at 200 leagues distance: I have a flying chariot which can conduct me to Rome in three days. I will show all these curiosities as soon as my machines are entirely completed; that is to say, in a few centuries: but to amuse you till the arrival of all these prodigies, I now continue the entertainment of the cups and balls. I put (II.) this ball under the cup A. I take it away again (VIII.) (*showing it, and feigning to put it into his left hand fingers*). I cover (XI.) this cup with the two others B and C (*introducing the ball between these two cups, using always the right hand, and feigning still to hold it in his left*), and I pass this same ball through the table and the two cups (*putting the left hand under the table*). There it is passed (*raising the first cup*).

7. *With the same ball. A ball having been put under a cup, to take it away again, and to pass it between two others.*—"Here is again a very pretty trick: I take this ball, and I put it (II.) under this cup A. Observe, that there is nothing under the others (*showing them and introducing the ball under the cup C*), nor in my hands: I take this ball, which is under the cup A (*feigning to take it out, and raising the bottom of the cup so that the spectators may not attend to his fingers*). I cover this cup C with the two others A and B, and I throw it (IX.) through these two cups (*raising them, and showing that the ball is passed there*).

8. *With this single ball and a shilling; to pass a ball from one hand into the other.*—"I take this ball; I put it (II.) into this hand, and I put into the other the shilling. In which hand do you think the ball is? or in which do you think the shilling may be?" (*Whatever answer the spectator makes, the performer shows him that he is mistaken, and that the whole is in the right hand; and this truth serves as a pretence to take a ball from the bag in putting the shilling back into it.*)

The performer may, however, without breaking the connexion of these operations, dispense with this trick,

and feign to drop the ball he plays with, which affords him a pretence for taking another.

9. *With the ball remaining on the table, and that which is secretly taken out of the bag; to pass under a cup the two balls put under the others.*—The operator goes on with his discourse: "In order to give you still farther amusement, I take this ball and cut it in two (*taking it in his left hand, and holding the rod with his right; feigning to cut it, he puts afterwards the rod on the table, and brings back to his fingers ends the ball which he took out of the bag*). Nothing is so commodious as to be able in this manner to multiply the balls. When I am in want of money, I cut them again and again, until I may have had five or six bushels (*placing the two balls on the table*). Observe that there is nothing under this cup A. I put there (II.) this first ball: there is nothing more under the two other cups (*introducing the ball under the cup B*). I take this second ball, and I put it (II.) under the cup C: there is now a ball under these two cups A and C. I take away (VIII.) from this cup C this ball, and I throw it (IX.) through the middle cup B: observe that it is passed (*raising the cup B, and introducing there the second ball*). I command this, which is under the other cup A, to pass under the same cup B (*raising this cup, and showing that they are both there, and placing them on the table*).

10. *With the two balls which are upon the table. Two balls having been put under the same cup, to pass them under two others.*—"When I was at college, the tutor told me, it was necessary to know how to do my exercise in two ways. I have just now passed these two balls into the middle cup; I am now to make them go out; the one is not more difficult for me than the other. I take therefore these two balls, and place them under this cup B (*putting one ball under the cup, and conjuring the other*); observe that there is nothing under the cup A, nor under the other C (*introducing into this last the ball that he conjured*): I command one of these balls, which are under the middle cup, to pass under the one or the other of these two cups A and C. Behold it already gone (*raising the cup B to show that there is no more than a single ball; and taking, with the right hand, the ball which is underneath, he shows it, and puts it (II.) under the same cup B*). Let us see into which cup it has passed (*raising immediately the cup A, and introducing the ball that he took from the cup B*): here it is under this cup C (*raising the cup*); I command the other ball to pass under this cup A (*he raises it, and shows that it passed there*)." This trick is frequently done with three balls, but it appears much more extraordinary with two.

11. *With these two balls, a third which he shows, and a fourth secreted in his hands; to pass three balls under the same cup.*—"All this is but a trifle; I am going to show you another trick with three balls (*taking out of the bag a third ball, and placing it on the table, secreting at the same time a fourth in his hand*). Observe that there is nothing under any of these cups (*raising them, and introducing them under the cup C*). I take this first ball, and throw it (IX.) through this cup C. Observe that it is passed (*raising (X.) the cup with the right hand*); I take this second ball, and throw it (XI.) through the same cup. There it is passed (*raising (X.) again the cup*); I take the third, and I make it pass the

Perform-
ances with
Cups and
Balls.

Performances with
Cups and
Balls.

same (raising (X.) the cup, and showing that these are passed under all the three).

12. With the three balls remaining under the cup, and that held secretly in the hand; to pass two balls from one cup into another, at the choice of a person, without touching any of the cups.—“Here is another in which I have never been able to comprehend any thing; but it will astonish you much (raising the cup C, and taking away the three balls from their places, he puts them under each cup, and in raising the cup C introduces there the fourth ball which he held secretly in his hand). I take this ball (that which is under the cup B), and I put it (II.) under the same cup. I take this (the ball from the cup A), and I place it (I.) under the same cup (putting there also that which was secreted in his hand): I take this last, and I throw it (IX.) through the cup C; and to show that I do not deceive you, behold it passed (raising (X.) the cup that has been fixed upon, which suppose to be C, and showing that there are two). I take again these two balls, and put them under the cup C (putting really but one): observe that there is no more under this cup B (introducing there the ball that he had just taken away, and showing that he had no other in his hand); I command one of these balls, which are under this cup C, to go and join that which is under this A. Observe that it is passed. There! (raising the cup C, and returning the two balls under the same cup, and raising C, in order to show that there is but a single one; and he places it again under the same cup: he does not raise the cup B under which a ball remains).

13. With the three balls that were placed upon cups, and that which remains hidden under the middle cup; to pass under the same cup the balls put under the others.—“I take this ball (that which is upon the cup C), and I put it (II.) under the same cup C; and I order it to pass into this cup B: there it is passed (in raising this cup he introduces a third ball.) I take this third ball, and put it (II.) under this cup C; and I command it to pass into the cup B along the table, and in the sight of the spectators (taking the rod in his left hand, feigning to show the way that it passed between the two cups). You did not see it then? Here it is (He draws it (VIII.) from the end of the rod, which appears to show it). Go quickly (throwing it (IX.) through the cup B; and showing that they are all three there, and that there is nothing under the two others; placing afterwards three of the balls on the table, and secreting the fourth in his hand.)

15. With the three balls remaining upon the table, and that which is held secretly in his hand.—Multiplication of the balls.

For this trick there must be a tin vase (see fig. 8.), at the bottom of which there must be contrived a false bottom A, which will fall down at pleasure; that is to say, in reversing it upon the table, by means of a small trigger placed at the base of one of the handles B, introducing previously between the false and true bottoms a dozen of balls. The operator goes on with his discourse.

“If any of the company believe in witches, I would give my advice that they should believe in them no longer; as what I am about to do is much more surprising than the feats of any witch.—I put (I.) these three balls under the three cups you see on the table; I take away (VII.) this first ball (that which is

under the cup C), and I put it (II.) into this vase. I take this, and I also put it (II.) into the vase. I take away (VII.) this third (that which is under the cup A), and I throw it (II.) the same way.” (Every time that he raises one of the cups to take away the ball, he introduces that which always remains secreted in his right hand; and this he repeats, constantly taking out one ball and putting in another, till he has introduced all the twelve balls; after which he resumes his discourse.) “You imagine, perhaps, that I always make use of the same balls; but to prove the contrary, here they are, (inverting the vase so as to turn them all out.)

In this trick, if the vase be well made, the inside may be shown, and it may even be previously inverted; in which case, it will not be supposed that any balls have been put into it.

15. With the three balls remaining under each of the cups, and that which is hidden in his hand; to pass one ball under each of the three cups.

“I put all these balls into my pocket. I take (VI.) this (the one secreted in his hand), and I make it pass through the table under this first cup C, (conjuring it). I take another from my bag (showing the same ball). I make it pass in the same manner through this B, (conjures it again). I take a third (showing still the same), and I make it pass under this last cup A (conjuring it). Here are all the three passed (turning over the cups, and in taking them up again introduces the ball that he has in his hand under the cup B, and puts the three balls upon the three cups.

16. With the three balls put upon each cup, and that which was introduced under the middle cup; to draw two balls through the same cup.—“There will be wanted now only two balls.” Here the operator takes that which is under the cup C, and puts it (II.) into his bag. He takes in the fingers of his right hand the ball which is on the cup B, showing it; and with the other covers the cup B, with that passing (IV.) there the ball which he feigned to put into his bag. He then takes the ball which is under the cup A with the right hand; and, showing a ball in each hand, tells the company that he put them (II.) under the cup A; though he actually puts but one, which he holds in his left. He then draws one of these balls through the same cup A, showing it, and placing it upon the cup C. He then raises the cup A, and takes the ball which is under it with his right hand, adding, “There remains but one more.” While pronouncing these words, he puts it (II.) under the cup. “I take (adds he) the other ball,” raising the cup, and showing that it is there no longer; then, taking one of the two balls which seemed to remain alone, he put it (II.) into his bag, saying, “I return this into my bag.”

17. With a ball which is hidden under the middle cup, another hidden under that which covers it, that which remains in the hand, and a fourth which is upon the table; to pass the same ball successively through the three cups.—The preceding trick was only on purpose to prepare the spectators for this; as they now imagine that the performer played only with one ball. He may now address them in the following manner:

“I am now going to make a very pretty trick with this single ball. I forgot to show it to you at the beginning: I cover (XI.) these cups (putting the cup A

Performances with
Cups and
Balls.

Performances with Cups and Balls.

A upon C and B). I take (VI.) this ball, and I throw it (IX.) through the first cup;” (*raising* (X.) *the cup A with the right hand*). He then shows that it is passed between C and A; and, putting it in its place, he introduces there that which he has in his hand. “I take (says he) (VI.) this same ball, and I throw it through the other cup C;” and while he says so, he raises (X.) the cup C, showing that it has passed, introducing there that which he has in his hand, and putting it in the place of the former. “I take again (continues he) (VI.) this same ball, and I throw it (IX.) through that last cup B,” (*raising* (IX.) *the cup B*). During which time he takes away the ball from under it with his left hand, then places it on the table, and returns the cup to its place, introducing there the ball which he has in his left hand.

18. *With the three balls which are under the caps, that which is on the table, and two which he takes from the bag; to pass under a cup the balls put under the two others without raising these last.*—The performer may proceed in his discourse in the following manner:

“Let us now return to the order of the entertainment which I have interrupted, and continue to play with three balls.” He now takes two balls from his bag, by which means he in fact plays with six balls, though he pretends to play only with three. These two balls, together with that which remains on the table, he puts on the top of each cup. “I take (says he) (VI.) this ball, (*that which is on the cup C*). I throw it (IX.) through that cup: there it is passed.” He now raises (X.) the cup, shows it; and thus has an opportunity of introducing the ball which he has in his hand. “I take (VI.) this (*the ball which is under the cup B*), and throw it (IX.) through the cup B.” At this he raises the cup with his left hand, showing that it has passed, and covering it again. “I take again (VIII.) this ball from the same cup, and throw it (IX.) through that C: observe that it is passed.” Then, raising up (X.) the cup C, showing that there are then two there, he introduces other two which he had in his hand. “I take (says he) (IV.) this ball (*that which is under the cup A*), and I throw it (IX.) through the same cup A. There! it is passed,” (*raising the cup C*); after which he shows the three balls, and introduces there that which was in his hand, putting the three balls upon the table.

19. *With the three balls which remain under the cups, and the three others which remain upon the table; to pass separately the three balls through each cup.* In this manoeuvre the performer puts again the three balls which are upon the table upon the top of each cup. He takes that which is on the cup C, and throws it (IX.) through the same cup; and while he announces this to the company, he raises (X.) the cup: taking away (VIII.) the ball, showing that it has passed, introducing there that which was in his hand, and putting the same ball upon the same cup. He then takes that which is upon the cup B, and throws it (IX.) through the same cup; shows that it is passed, takes it away (VII.) and introduces the ball that was in his hand under this cup, putting it in like manner on the cup. Then he takes the ball which is on the cup A, and throws it (IX.) through the same cup A. As he announces its passage he raises the cup, taking away (VII.) and showing the ball; introdu-

cing in the same manner that which was in his hand; putting this first at the top of the cup A, and then shows that it is not in his hand, and that he has but three balls.

20. *With the three balls remaining upon the table, and those which are under each cup. Having put the balls into the bag, to make them return under the cups.*—“I take these three balls, and I return them into my bag, (*keeping one in his hand*). Behold to what all is reduced that I had to show you for your amusement. I did know some more very pretty tricks, but I have forgot them. (*Pretending to muse for a moment*): Ah! I still remember two or three very pleasing ones. Come, my little balls! Return under the cups, (*turning over the cups*.) See how nimble they are, and obedient at the same time;” (*covering them again with the cups*.)

21. *With the three balls which are under the cups, and that in his hand; to pass the balls through the two cups.*—Here the operator begins with taking away (VII.) the ball which is under the cup C; he covers it with the cup B; and passes (III.) the other ball which he has in his right hand between the two cups. He then takes (VI.) the ball which he had in his left hand, and throws it (IX.) between the two cups B and C. In announcing its passage he raises the cup (X.), shows that it is passed, and introduces the ball in his hand. He then takes the ball under the cup B, and throws it (IX.) through the two cups C and B. Announcing to the company its passage, he raises (X.) the cup, and shows that there are two balls, introducing (III.) at the same time the third. He then takes the last ball, viz. that which is under the cup A, covers again with the left hand the two cups B and C, and throws (IX.) the third ball through these two cups. He then announces their passage, raises the two cups, and shows the three balls, covering again the cup C with the two others.

22. *With the three balls which are upon the cup C, and the one in his hand; to take out the three through two cups.*—“I take (says the performer) (VIII.) the first ball, and put it (II.) into my bag. I take (VIII.) in the same manner the second, and I put it also into my bag. I take (VIII.) the third, and I put it into my bag, (*putting in really that which he had in his hand*.) While he desires the spectators to observe that there are no more in the cups, he raises the cup A with the left hand, and, putting it in its place, raises with the right hand the cup C. In supporting it with the cup B, he puts it down quickly, and a little on the side of B, and at the same time places C on the table, under which will be found the three balls, which had not time to separate.

23. *With the three balls remaining under the middle cup, and three others taken out of the bag; to pass, in one action, three balls through a cup.*—This trick is begun by the performer taking three balls from his bag, and putting them on the top of the cup B, which he covers with the cup A. Ordering them to disappear and to pass under the cup C, he takes away very suddenly with the left hand the cup B, as is done in the preceding trick, leaving in the middle of the play the cup C, under which the balls are found. Taking them then away, and replacing them on the same cup, he makes them return again in the same manner under the cup.

Performances with Cups and Balls.

Performances with
Cups and
Balls.

cup C. At last he takes the three balls, and putting them in his bag, pretends to pass them through the table under the cup where the others were. He then returns two or three of these last balls into his bag, and takes two white balls, which he puts upon the table.

24. *With the black ball remaining on the table, two other white balls, and a black one which he holds secretly in his hand; to pass three balls from one cup into another.*

N. B. To make the balls white, they are rubbed with a little chaik instead of being blackened with the candle.

“ Let us now (says the operator) have a trick to prove that I do not conjure the balls. There is nothing under this cup C, (*introducing the black ball that was in his hand*). There is no great thing under this B. I place there these three balls, (*the three which are upon the table, of which he conjures the white one*.) There is nothing more under this third cup A, (*introducing there the white ball*). I order one of these two white balls which are under the cup B, to pass under this A.” With these words he raises the cup B; and taking the white ball in the fingers of his left hand, and the black one in those of the right, he shows them, saying, “ Observe that there is but one white one. I put again these two balls under the cup B.” While speaking thus he puts the white one under the cup, and conjures the other, while feigning to put it in with that of the left hand. He then announces its passage; and while he does so, raises the cup A, and introduces the black ball. Commanding then the black ball to pass under the cup A, he raises the cup B, takes in his right hand fingers the ball which is there, and shows it. “ I put it again (says he) (II.) under this cup (*conjuring it*); and I show you that it is passed under this A, (*introducing there the white ball*.) I order at last the white ball, which is under this cup B, to pass into this A.” While telling the company that it is passed, he raises the cup A, and puts the three balls upon each cup, the black one upon the middle.

25. *With the three balls put at the top of the cups, and that which has been inserted under one of them in the preceding trick; to change the colour of the balls.* The operator goes on with his discourse: “ If there is any one here who knows how to play the cups and balls, he will do well to observe, that it is not possible to do this trick by the common method, and with three balls only. However I have no more, (*showing his hands*). I take this white ball (*that which is upon the cup C*), and I throw it (IX.) through this cup (*the same under which he left a black ball in the preceding trick*). I take this black ball (*with the left hand fingers*); there is nothing under this cup B, (*introducing there the white ball*). I throw it (IX.) through this cup B, (*taking again the ball in his right hand fingers*). I take this other white ball, (*with his left hand fingers*). There is nothing under this cup A, (*introducing the black ball*): I throw it (IX.) through the cup A, (*taking it again into his right hand fingers to conjure it*). Observe that they have all changed their colour,” (*covering each of them with their cups*).

26. *With the three balls which are left under the cups, two white balls, and a black one that he took trick by trick*

from his bag; to change the sizes of the balls.—In performing this trick the operator takes away the white ball which is under the cup C with his left hands fingers, and, raising the cup with his right, introduces there a white ball which he took out of his bag. The white ball which he introduces is kept in his hand with the fourth and little finger; and he raises the cup in the same manner as when he introduces the balls. In turning over the cup afterwards, he advances his hand to introduce this ball. These balls should be filled with horse hair or paper, so that they may be very light, and make no noise. The operator then tells his company, that he makes the ball pass through the table under the same cup; and while he speaks thus, he takes the ball again in his right hand, and while putting his hand under the table, he takes a black ball out of the bag. He then takes away the ball from the cup B, introducing the black one in its stead. He then tells the spectators, that he makes it repass through the table; and, while he tells them so, he takes a white ball; then, while taking away that which is under the cup A, he introduces that ball, making it repass in the same manner through the table, and at last throws them to the company, and covers them with their cups.

27. *With the three balls which are under the cups, two other black balls, and a white one that was taken trick by trick from his bag; to pass the balls from one cup into another.*—“ Observe well (says the operator), that there are two white balls under these two cups A and C, and a black one under this (*raising the cups*). I cover again these three balls (*covering each of them with a cup*.) I make to pass out through the table the white ball which is under the cup C.” Here he takes a white ball from his bag; and in order not to fail, the black and white balls should be in separate pockets. Having taken out the ball, he puts the first into his bag, telling the company that there is now nothing under the cup C; and while he says so, he raises it, holding the ball with his little finger, proceeding in his discourse as follows: “ I take away this ball (*that which is under the cup A*), and I pass it through the table under the cup C (*taking a black ball from his bag*.”) While the passage of this ball is announced, he raises the cup C to take it away and show it; introducing there this black ball, “ I put again (says he) this other white ball into my bag, and I command the black one which is under the cup B to pass under this. It is no longer under this cup:” and while he says so, he raises the cup B, in supporting with his little finger the ball which remains there. Announcing its passage, he raises the cup C and shows the ball; taking it afterwards into the left hand, throws it into the air; returning it into his right hand, and feigning to throw it into the air a second time, he lets it fall into his bag; casting his eyes upwards and downwards as if he saw it fall upon the cup B: he raises this cup, and shows it to the spectators, as the former, passed through the cup.

SECT. II. Performances with the Cards.

PREVIOUS to the performances with cards, it will be necessary to explain the method of making the pass; that is, bringing a certain number of cards from the bottom

Performances with
the Cards.

Performances with the Cards.
Of making the pafs.

bottom of the pack to the top; as many of these performances depend on that manœuvre.

1. Hold the pack of cards in your right hand, so that the palm of your hand may be under the cards: place the thumb of that hand on one side of the pack, the first, second, and third fingers on the other side, and your little finger between those cards that are to be brought to the top and the rest of the pack. Then place your left hand over the cards, in such a manner that the thumb may be at C (fig. 20, 21.), the fore finger at A, and the other fingers at B.

Plate CCXCI.

The hands and the two parts of the cards being thus disposed, you draw off the lower cards confined by the little finger and the other parts of the right hand, and place them, with an imperceptible motion, on the top of the pack.

It is quite necessary, before you attempt any of the experiments that depend on making the pafs, that you can perform it so dexterously that the eye cannot distinguish the motion of your hand; otherwise, instead of deceiving others, you will expose yourself. It is also proper that the cards make no noise, as that will occasion suspicion. This dexterity is not to be attained without some practice.

There is a method of preparing a pack of cards by inserting one or more that are a small matter longer or wider than the rest; which preparation will be necessary in several of the following experiments.

The card of divination.

2. Have a pack in which there is a long card; open the pack at that part where the long card is, and present the pack to a person in such a manner that he will naturally draw that card. He is then to put it into any part of the pack, and shuffle the cards. You take the pack, and offer the same card in like manner to a second or third person; observing, however, that they do not stand near enough to see the card each other draws. You then draw several cards yourself, among which is the long card, and ask each of the parties if his card be among these cards, and he will naturally say Yes, as they have all drawn the same card. You then shuffle all the cards together, and cutting them at the long card, you hold it before the first person, so that the others may not see it, and tell him that is his card. You then put it again into the pack, and shuffling them a second time, you cut again at the same card, and hold it in like manner to the second person, and so of the rest (A).

If the first person should not draw the long card, each of the parties must draw different cards; when cutting the pack at a long card, you put those they have drawn over it; and seeming to shuffle the cards indiscriminately, you cut them again at the long card and show one of them his card. You then shuffle and cut again, in the same manner, and show another person his card, and so on: remembering, that the card drawn by the last person is the first next the long card, and so of the others.

This experiment may be performed without the long

card, in the following manner. Let a person draw any card whatever, and replace it in the pack: you then make the pafs, and bring the card to the top of the pack, and shuffle them without losing sight of that card. You then offer that card to a second person, that he may draw it, and put it in the middle of the pack. You make the pafs and shuffle the cards a second time in the same manner, and offer the card to a third person, and so again to a fourth or fifth, as is more fully explained further on.

Performances with the Cards.

3. You let a person draw any four cards from the pack, and tell him to think on one of them. When he returns you the four cards, you dexterously place two of them under the pack and two on the top. Under those at the bottom you place four cards of any sort; and then, taking eight or ten from the bottom cards you spread them on the table, and ask the person if the card he fixed on be among them. If he say No, you are sure it is one of the two cards on the top. You then pass those two cards to the bottom, and drawing off the lowest of them, you ask him if that is not his card. If he again say No, you take that card up, and bid him draw his from the bottom of the pack.

The four confederated cards.

If the person say his card is among those he first drew from the bottom, you must dexterously take up the four cards that you put under them, and, placing those on the top, let the other two be at the bottom cards of the pack, which you are to draw in the manner before described.

4. After a card has been drawn, you place it under the long card, and by shuffling them dexterously you bring it to the top of the pack. Then lay or throw the pack on the ground, observing where the top card lies. A handkerchief is then bound over your eyes, in such a manner however that you can see the ground, which may be easily done. A sword is then put into your hand, with which you touch several of the cards, seemingly in great doubt but never losing sight of the top card, in which at last you fix the point of the sword, and present it to him who drew it. Two or three cards may be discovered in the same manner, that is, by placing them under the long card, and then bringing them to the top of the pack.

Divination by the sword.

5. You must have in the pack two cards of the same sort, suppose the king of spades. One of these is to be placed next the bottom card, which may be the seven of hearts, or any other card. The other is to be placed at top. You then shuffle the cards without displacing those three cards, and show a person that the bottom card is the seven of hearts. Then drawing that card privately aside with your finger, which you have wetted for that purpose, you take the king of spades from the bottom, which the person supposes to be the seven of hearts, and lay it on the table, telling him to cover it with his hand. You then shuffle the cards again, without displacing the first and last card, and passing the other king of spades at the top to the bottom, you show it to another person. You then draw that

The transfutable cards.

(A) There is frequently exhibited another experiment, similar to this, which is by making a person draw the long card; then giving him the pack, you tell him to place his card where he pleases and shuffle them, and you will then name his card or cut the pack where it is. You may also tell him to put the pack in his pocket, and you will draw the card; which you may easily do by the touch.

Performances with the Cards.

that privately away; and taking the bottom card, which will then be the seven of hearts, you lay that on the table, and tell the second person, who believes it to be the king of spades, to cover it with his hand.

You then command the seven of hearts, which is supposed to be under the hand of the first person, to change into the king of spades; and the king of spades, which is supposed to be under the hand of the second person, to change into the seven of hearts; and when the two parties take their hands off, and turn up the cards, they will see to their no small astonishment, after having so carefully observed the bottom cards, that your commands are punctually obeyed.

The incomprehensible transposition.

6. Take a card, the same as your long card, and rolling it up very close, put it in an egg, by making a hole as small as possible, and which you are to fill up carefully with white wax. You then offer the long card to be drawn; and when it is replaced in the pack, you shuffle the cards several times, giving the egg to the person who drew the card, and, while he is breaking it, you privately withdraw the long card, that it may appear, upon examining the cards, to have gone from the pack into the egg. The experiment may be rendered more surprising by having several eggs, in each of which is placed a card of the same sort, and then giving the person the liberty to choose which egg he thinks fit.

This deception may be still further diversified, by having, as most public performers have, a confederate, who is previously to know the egg in which the card is placed; for you may then break the other eggs, and show that the only one that contains a card is that in which you directed it to be.

To name several cards that two persons have drawn.

7. Divide a piquet pack of cards into two parts by a long card. Let the first part contain a quint to a king in clubs and spades, the four eights, the ten of diamonds, and ten of hearts; and let the other part contain the two quart majors in hearts and diamonds, the four sevens, and the four nines (B).

Then shuffle the cards, but observe not to displace any of those cards of the last part which are under the long card. You then cut at that card, and leave the pack in two parts. Next, present the first of those parts to a person, and tell him to draw two or three cards, and place the remainder on the table. You present the second parcel in like manner to another. Then having dexterously placed the cards drawn by the first person in the second parcel, and those drawn by the second person in the first parcel, you shuffle the cards, observing to displace none but the upper cards. Then spreading the cards on the table, you name those that each person drew; which you will very easily do, by observing the cards that are changed in each parcel.

The two convertible aces.

8. On the ace of spades fix, with soap, a heart, and on the ace of hearts, a spade, in such a manner that they will easily slip off.

Show these two aces to the company; then taking the ace of spades, you desire a person to put his foot upon it, and as you place it on the ground, draw away the spade. In like manner you place the seem-

ing ace of hearts under the foot of another person. You then command the two cards to change their places; and that they obey your command, the two persons, on taking up their cards, will have ocular demonstration. A deception similar to this is sometimes practised with one card, suppose the ace of spades, over which a heart is placed slightly. After showing a person the card, you let him hold one end of it, and you hold the other, and while you amuse him with discourse, you slide off the heart. Then laying the card on the table, you bid him cover it with his hand. You then knock under the table and command the heart to turn into the ace of spades. By deceptions like these, people of little experience and much conceit are frequently deprived of their money, and rendered ridiculous.

Performances with the Cards.

9. You must be prepared with two cards, like those represented by fig. 22. and with a common ace and a five of diamonds. The fifteen thousand livres.

The five of diamonds and the two prepared cards are to be disposed as in fig. 23. and holding them in your hand, you say, "A certain Frenchman left 15,000 livres, which are represented by these three cards, to his three sons. The two youngest agreed to leave their 5000; each of them, in the hands of the elder, that he might improve it." While you are telling this story, you lay the 5 on the table, and put the ace in its place, and at the same time artfully change the position of the other two cards, that the three cards may appear as in fig. 24. You then resume your discourse, "The eldest brother, instead of improving the money, lost it all by gaming, except 3000 livres, as you here see." You then lay the ace on the table, and, taking up the 5, continue your story: "The eldest, sorry for having lost the money, went to the East Indies with these 3000, and brought back 15,000." You then show the cards in the same position as at first, in fig. 22.

To render this deception agreeable, it must be performed with dexterity, and should not be repeated, but the cards immediately put in the pocket; and you should have five common cards in your pocket, ready to show, if any one should desire to see them.

10. Take a parcel of cards, suppose 40, among which insert two long cards: let the first be, for example, the 15th, and the other the 26th, from the top. Seem to shuffle the cards, and then cutting them at the first long card, poise those you have cut off in your hand, and say, "there should be here 15 cards." Cut them again at the second long card, and say, "There are here only 11 cards." Then poising the remainder, you say, "here are 14 cards."

11. Several different cards being shown to different persons, that each of them may fix on one of those cards, to name that on which each person has fixed.—There must be as many different cards shown to each person as there are persons to choose: therefore, suppose there are three persons, then to each of them you must show three cards; and telling the first person to retain one in his memory, you lay those three cards down, and show three others to the second person, and so to the third. To tell the number of cards by the weight. several cards on which different persons have fixed.

(B) The cards may be divided in any other manner that is easy to be remembered.

Performances with the Cards. third. You then take up the first person's cards, and lay them down one by one, separately, with their faces upward. You next place the second person's card over the first, and in like manner the third person's card over the second's; so that in each parcel there will be one card belonging to each person. You then ask each of them in which parcel his card is; and when you know that, you immediately know which card it is; for the first person's card will always be the first, the second person's the second, and the third person's the third, in that parcel where they each say his card is.

This experiment may be performed with a single person, by letting him fix on three, four, or more cards. In this case you must show him as many parcels as he is to choose cards, and every parcel must consist of that number, out of which he must fix on one; and you then proceed as before, he telling you the parcel that contains each of the cards.

The magic ring. 12. Make a ring large enough to go on the second or third finger (fig. 15.) in which let there be set a large transparent stone, to the bottom of which must be fixed a small piece of black silk, that may be either drawn aside or expanded by turning the stone round. Under the silk is to be the figure of a small card.

Then make a person draw the same sort of card as that at the bottom of the ring, and tell him to burn it in the candle. Having first shown him the ring, you take part of the burnt card, and reducing it to powder, you rub the stone with it, and at the same time turn it artfully about, so that the small card at bottom may come in view.

The magic tea caddy. Plate CCXC. 13. *To change one card into another.*—Provide a mahogany tea caddy about four or five inches deep, and long enough to admit a common-sized playing card: (see fig. 9.) This caddy must be furnished with a moving false bottom B, moveable upon hinges on the inside edge of the front A. This bottom may be made of brass, tin, or lead; and the false bottom must be so exactly fitted, that it cannot, from a slight view, be distinguished from the other. The inside of both caddy and false bottom ought to be lined with black or other dark-coloured cloth or velvet, so that it may not make any noise in falling down. It would be proper that the false bottom should rise with a spring towards the front, and it must be kept tight with a brass spring catch (*a*, fig. 10.) screwed to the left side of the box near the top, and which is hid by the cloth covering. The end of this spring projects a little into the front. It is driven back, to let go the false bottom, by means of a small bent wire *bb* let into the front of the caddy; and this pin is moved by the bolt *c*, which, when the box is locked, shoots out against it, by reason of the spring being driven in; by which means the bottom springs down, and covers the card placed in the box.

Before you attempt to show any trick with this caddy, a card must be placed, in the inside between the front A and the false bottom B, springing up the bottom afterwards against the front; after which it is ready for use, and shown openly to the company without any danger of a discovery.

Two persons may now be desired to draw two different cards from a pack, one of which must be the

same with the one concealed in the caddy. Taking this card from the person who drew it, you put it in the pack, pretend to shuffle it, but keep the card either uppermost or undermost, so that you can easily find it afterwards. Desiring then the other person to come forward and put his card very attentively into the caddy, you in the mean time secretly convey away from the pack the card drawn by the other; then, giving him the key, you desire the caddy to be locked up. After some pretended conjurations, desire him to unlock it again and take out the card; which he will find not to be his, but that drawn by his neighbour: his card being apparently vanished from the caddy, as the other is from the pack.

Performances with the Cards.

14. Provide two pieces of pasteboard A and B (fig. 11.) of equal dimensions, $3\frac{1}{2}$ inches long and three broad. Place these beside one another, as shown in the figure. Take then a very smooth silk ribbon, and put a band of it from C to E towards the edge of the pasteboard A, and another from D to F in such a manner as to come beyond the pasteboard, and to admit of being folded over at the two ends. This must be glued on the back of the board A at the places C and D, and at the back of the board B at the places E and F. Place two other bands in a similar manner on the pasteboard B, turning them over on the back of the same board at the places I and L, and at the back of A at the places G and H. These two bands should fall in the inside of the pasteboard, according to the breadth of the ribbons. The two pasteboards being now placed the one upon the other, will form a kind of port-folio, one of the sides of which will always be hinged when the other is opened. Four small bands of the same ribbon are to be put at the four extremities of the sides MNQR of the two pieces of pasteboard; observing that they pass below the bands already placed. Glue their ends in the same manner, as their ends at the back of the boards, ornamenting also the two sides O and P of the pasteboard B with pieces of the same ribbon; but these six last bands are of no use in the performance.

The two magic port-folios.

Two pieces of paper folded like the cover of a letter must now be provided, large enough to cover the two ribbons GI and HL, as well as the space contained within them. Glue one of these upon the two ribbons, and apply the other below this; so that the uppermost of these two wrappers may fall exactly over the other, enclosing and hiding the two ribbons entirely. A second port-folio similarly constructed is now to be provided, and both of them covered with coloured paper from the sides where the ribbons are glued and folded.—The deceptions with these port-folios are as follows:

1. *Two cards, chosen at random, having been shut up in two separate places; to make them pass reciprocally from the one into the other.*—The port-folios being constructed in the manner above described; if you open one of them either on the one side or on the other, one of the paper wrappers will always be visible; and thus it will naturally be supposed that there is no more but one. Having then secretly enclosed a card in each of the wrappers of the port-folios, procure a pack of cards that has but two sorts, and cause two persons fairly draw two cards similar to the first. Present then a port-folio, open, to the first person who drew a card

5 A similar

Performances with the Cards.

similar to that which was placed in the second, desiring him to place it in the wrapper which he finds vacant. Take back then the port-folio; and, in placing it on the table, artfully turn it over: having placed, likewise in the vacant wrapper of the second port-folio the card drawn by the second person; and putting it in the same way upon the table, command the cards reciprocally to pass from the one port-folio into the other; and open them so that each of the persons may take out the card which the other inserted.

2. *A card being shut up in the port-folio; to make it return into the pack.*—To perform this, procure a pack which has two cards of the same kind. One of these is to be openly drawn, and the person who has done so must be told to shut it up under the wrapper of one of the port-folios; and inform him that you will make it return into the pack. Give him the port-folio to blow upon; and on opening it, present him with the empty wrapper, to show him that his card is not there; after which, presenting him with the pack, he will find there the other card, which he will naturally imagine to be the one he put into the wrapper.

3. *To make an answer appear to a question secretly written.* Transcribe on different cards a certain number of questions, and on others the same questions with their answers; taking care to have the handwriting as much alike as possible, so that no difference can easily be perceived. The same caution must be observed with regard to the cards themselves; which, for that reason, ought to be plain ones. Having written with a pencil at the bottom of the first questions their corresponding answers, shut up one of them secretly in the port-folio; and presenting them to any person, let him draw as by chance that which is similar to the one thus shut up. Make him then place in the other wrapper the question which he had drawn; and telling him that you are about to write an answer even through the port-folio, take a glass, and pretend to read in it the answer to the question. Open it afterwards, so that he may take out the other card himself, and he will imagine it to be the one he selected.

In performing this trick, it will be proper to have a port-folio of the same kind with the two described, which opens only at one side, and which consequently has but one wrapper. This must be shown to such as seem to be too inquisitive, and will be of use to prevent them from entertaining any idea that the folio opens upon both sides. The former must therefore be immediately put into the pocket, in order to give an opportunity of drawing out the other in case the port-folio should be asked for.

The card in the mirror.
Plate CCXCI.

15. Provide a mirror, either round, as A (fig. 18.), or oval, the frame of which must be at least as wide as a card. The glass in the middle must be made to move in the two groves CD and EF, and so much of the quicksilver must be scraped off as is equal to the size of a common card. You will observe that

the glass must likewise be wider than the distance between the frame by at least the width of a card.

Then paste over the part where the quicksilver is rubbed off a piece of pasteboard, on which is a card that must exactly fit the space, which must at first be placed behind the frame.

This mirror must be placed against a partition, through which is to go two strings, by which an assistant in the adjoining room can easily move the glass in the grooves, and consequently make the card appear or disappear at pleasure (c).

Matters being thus prepared, you contrive to make a person draw the same sort of card with that fixed to the mirror, and place it in the middle of the pack: you then make the pass, and bring it to the bottom; you then direct the person to look for his card in the mirror, when the confederate behind the partition is to draw it slowly forward, and it will appear as if placed between the glass and the quicksilver. While the glass is drawing forward, you slide off the card from the bottom of the pack, and convey it away.

The card fixed to the mirror may easily be changed each time the experiment is performed. This experiment may also be made with a print that has a glass before it and a frame of sufficient width, by making a slit in the frame through which the card is to pass; but the effect will not be so striking as in the mirror.

16. Place a vase of wood or pasteboard AB (fig. 19.) The margin of this vase be divided into five parts, *c, d, e, f, g*; and let the divisions *c* and *d* be wide enough to admit a pack of cards, and those of *e, f, g*, one card only.

Fix a thread of silk at the point H, the other end of which passing down the division *d*, and over the pulley I, runs along the bracket L, and goes out behind the partition M.

Take three cards from a piquet pack, and place one of them in each of the divisions *e, f, g*, making the silk thread or line go under each of them. In the division *c*, put the pack of cards from which you have taken the three cards that are in the other divisions.

Then take another pack of cards, at the top of which are to be three cards of the same sort with those in the three small divisions; and making the pass, bring them to the middle of the pack, and let them be drawn by three different persons. Then give them all the cards to shuffle; after which place the pack in the division *d*, and tell the parties they shall see the three cards they drew come, at their command, separately out of the vase.

An assistant behind the partition then drawing the line with a gentle and equal motion, the three cards will gradually rise out of the vase. Then take the cards out of the division *c*, and show that those three cards are gone from the pack.

The

(c) This experiment may be performed without an assistant, if a table be placed against the partition, and the string from the glass be made to pass through a leg of it, and communicate with a small trigger, which you may easily push down with your foot; and at the same time wiping the glass with your handkerchief, as if to make the card appear the more conspicuous. It may also be diversified, by having the figure of a head, suppose that of some absent friend, in the place of the card.

Performances with the Cards.

The vase must be placed so high that the inside cannot be seen by the company. You may perform this experiment also without an assistant, by fixing a weight to the end of the silk line, which is to be placed on a support, and let down at pleasure by means of a spring in the partition.

The divining perspective glass.

17. Let a small perspective glass be made, that is wide enough, at the end where the object glass is placed, to hold a table similar to the following.

1.131	10..132	19.133
2.231	11..232	20.233
3.331	12..332	21.333
4.121	13..122	22.123
5.221	14..222	23.223
6.321	15..322	24.323
7.111	16..112	25.113
8.211	17..212	26.213
9.311	18..312	27.313

Take a pack of cards that consists of 27 only, and giving them to a person, desire him to fix on any one, then shuffle them, and give the pack to you. Place the 27 cards in three heaps, by laying down one alternately on each heap; but before you lay each card down, show it to the person, without seeing it yourself; and when the three heaps are finished, ask him at what number, from 1 to 27, he will have his card appear, and in which heap it then is? Then look at the heap through the glass, and if the first of the three numbers which stands against that number it is to appear at be 1, put that heap at top; if the number be 2, put it in the middle; and if it be 3, put it at bottom. Then divide the cards into three heaps, in the same manner, a second and third time, and his card will then be at the number he chose.

For example: Suppose he desire that his card shall be the 20th from the top, and the first time of making the heaps he say it is in the third heap: you then look at the table in the perspective, holding it at the same time over that heap, and you see that the first figure is 2; you therefore put that figure in the middle of the pack. The second and third times you in like manner put the heap in which he says it is, at the bottom, the number each time being 3. Then looking at the pack with your glass, as if to discover which the card was, you lay the cards down one by one, and the 20th card will be that he fixed on.

You may show the person his card in the same manner, without asking him at what number it shall appear, by fixing on any number yourself.

The foregoing experiments with the cards will be found sufficient to explain most others of a similar nature that have or may be made: the number of which is very great. To perform those we have described

requires no great practice; the two principal points are, the making the pass in a dexterous manner, and a certain address by which you influence a person to draw the card you present. Those that are performed by the long card are in general the most easy, but they are confined to a pack of cards that is ready prepared; whereas those which depend on making the pass, may be performed with any pack that is offered.

Experiments with Sympathetic Inks.

SECT. III. *Experiments with Sympathetic Inks.*
[See *Sympathetic Inks.*]

EXPERIMENTS with CLASS I.

1. MAKE a book of 70 or 80 leaves; and in the cover at the end of it let there be a case, which opens next the binding, that it be not perceived.

At the top of each right hand page write any question you please; and at the beginning of the book let there be a table of all those questions, with the number of the page where each is contained. Then write with common ink, on separate papers, each about half the size of the pages in the book, the same questions that are in the book, and under each of them write, with the ink made of the impregnation of saturn, or the solution of bismuth, the answer.

Soak a double paper in the vivifying liquor made of quicklime and orpiment, or the phlogiston of the liver of sulphur, and place it, just before you make the experiment, in the case that is in the cover of the book.

Then deliver some of the papers on which the questions are wrote to the company; and, after they have chosen such as they would have answered, they put them in those leaves where the same questions are contained, and, shutting the book for a few minutes, the sulphureous spirit with which the paper in the cover of the book is imbibed, will penetrate the leaves, and make the answers visible, which will be of a brown colour, and more or less deep in proportion to the time the book has been closed (D).

2. Make a box about four inches long, and three wide, as ABCD, and quite shallow. Let it shut with hinges and fasten with a hook; and let it have two bottoms, the lowest of wood, that draws out by a groove, and the uppermost of pasteboard. Between these two bottoms is to be placed a paper dipped in the vivifying liquor mentioned in the last experiment. Let there be also a board of the same size with the inside of the box, which being placed in it may press a paper against the pasteboard bottom.

Then take several pieces of paper, of the same size with the inside of the box, and draw on them the figures of men and women, in different attitudes and employments, as walking, riding, reading, writing, &c. These figures must be drawn with a new pen, or pencil, dipped in the impregnation of saturn.

Being thus provided, and having privately placed the paper dipped in the vivifying liquor between the two bottoms, you tell a person you will show him what an

5 A 2

absent

(D) If a weight be placed upon the book, the effect will be the sooner produced. Or you may put the book in a box that will press it close down.

Experiments with Sympathetic Inks.

absent friend of his is doing at the present hour. You then give him the paper adapted to the employment you intend, and tell him to write his friend's name at the bottom, that you may not change the paper. Then placing that paper next the pasteboard bottom, and putting the piece of wood over it, you shut the box. After amusing him with discourse for three or four minutes, you take out the paper, when he will see his friend in the employment you have assigned him.

The artificial hand.

3. Let a workman make a hand of wood, as in fig. 16. fixed at the end next the elbow to the piece E, the ends of which go through the screws CD and EF. The fore and middle fingers, and the thumb, are to be moveable at their joints. There must go a wire through the arm, that is fixed at one end to the fore finger, and at the other to the piece E, round which it is to move: under the two joints of the two fingers are also placed two small springs, which are to raise it up.

To the fore finger and thumb fix two small rings, through which a pin may be put, so as not to impede their motion. Under the arm at the point I, place a small brass roller, which serves to sustain the arm.

The pedestal on which this hand is placed must be at least a foot long, if the hand be of the natural size, and about eight inches wide. The pedestal must be hollow, and at the part ST there must be an opening about three inches long and two inches wide; the whole pedestal may be covered with a thin stuff, by which the hole will be concealed. There is to be a valve, or sort of trap door, on the inside of the pedestal, which is to fasten against the opening.

Over the hand and pedestal place a glass frame, as in the figure: cover the hand with fine leather of flesh colour, and decorate the arm with a ruffle and cuff, which will entirely conceal the machinery.

Then take a number of cards, and write on them different questions; and on the same number of papers write, with the impregnation of lead, the answers. Give the cards to any one, and let him choose a question; and you place the paper with the answer under the pen in the hand, letting him first see there is no writing on it (E). Now the pedestal being placed against a partition, the end F is to go through it. Therefore an assistant, upon a signal given, turns a handle fixed to F; and, as the piece E turns round, the wires that move the fingers and thumb are alternately lengthened and shortened, by which their joints are kept in continual motion; and the screw at the same time turning gently from F towards G, gives the whole arm a motion which very much resembles that of nature (F).

The hand and pen serve here merely to assist the il-

lusion: but if a bit of sponge, dipped in the vivifying liquor, be placed at the end of the pen, as it goes over the writing on the paper, it will make it become gradually visible, and in this case the trap door and dipped paper may be omitted (G).

Experiments with Sympathetic Inks.

DECEPTION with CLASS II.

4. Take several pieces of paper, of a size that you can put in any book that will go into your pocket, and write at the top of each of them a question, with common ink, and under it write the answer with the solution of gold or silver. Give any of these papers, closely wrapt up, to a person, and tell him to place it against the wall of his chamber, and keeping the door locked he will next day find the answer wrote on it.

The writing against the wall.

As the gold ink will sometimes give a yellow cast to the paper, you may previously give a slight tincture of that kind to the papers you use for this purpose.

DECEPTION with CLASS III.

5. On different papers draw the figures of several leaves or flowers with one of the colourless juices mentioned: then take one of the corresponding leaves or flowers, and laying it on an iron plate, over a chafing-dish of hot coals, let it burn to ashes. Put these ashes into a sieve, in which there is some very fine steel filings, and sift them over the paper on which the flower is drawn, when they will adhere to the glutinous liquor, and form an exact representation of the figure of the leaf or flower.

Magical vegetations.

DECEPTIONS with CLASS IV.

6. Make a little triangular box, each side of which is to be about five inches, and let its inside be divided into three parts. The first part A, which makes the bottom of the box, is to be covered by the second part B, in form of a case, and let the top C exactly cover the part B, as is expressed in the figure and the profiles.

The talisman, fig. 7.

Upon the bottom of the box let there be a plate of copper, about one-twentieth of an inch thick, on which let there be a number of hieroglyphic characters contiguous to each other, and cut in different sorts of metal.

On the top of the cover place a knob O, that goes through it, and to which the copper triangle Q is to be fixed occasionally, in such manner as it may go into the case B. There must be a space of one quarter of an inch between the triangle Q and the bottom of the case B; into which another plate of copper, of that thickness, may be placed.

The outside of this talisman may be decorated with uncommon

(F) The paper dipped in the vivifying liquor is to be previously placed against the opening in the table, and supported by the trap door.

(F) This might be performed without an assistant, by means of a trigger placed in the leg of the table, and communicating with the handles, which the operator might thrust down with his foot. Where expence is not regarded, there may be a complete figure of a man in wood, or plaster of Paris, seated by the table.

(G) You may also have a glass ink-stand with some of the vivifying liquor, into which the pen may be dipped, and it will then appear to write with common ink. The spectators should not be permitted to come very near this machine, which may be applied to several other purposes.

Experiments with Sympathetic Inks.

uncommon figures or characters, to give it the appearance of greater mystery.

On several pieces of paper, of the same size with the inside of the talisman, write different questions in common ink, and write the answers in those different sorts of sympathetic ink that appear when heated, observing that each word of the answer is to be wrote in a different ink.

Having properly heated the triangle, and placed it under the cover, you introduce the talisman, and tell any one of the company to choose one of the papers on which the questions are wrote, and place it in the talisman, and he will immediately have an answer wrote on that paper, the words of which will be of different colours, according to the different metals of which the talisman is composed. The paper being placed in the talisman, and the cover placed over it, the heat of the triangle will make the answer visible in a few moments. This experiment may be repeated if the triangle be made sufficiently hot; and two papers may be placed in the talisman at the same time.

This deception, when well executed, occasions a surprize that cannot be conceived by a mere description.

The sibyls, fig. 5.

7. Make a wooden pedestal AB, about ten inches long, eight wide, and one deep: and at one end erect a box C, about ten inches high, eight broad, and two and a half deep.

The top of the pedestal must slide in a groove, on which inscribe a dial M, of six inches diameter, and which is to be divided into nineteen equal parts, in twelve of which write the names of the months, and mark the respective signs of the zodiac; and in the seven other divisions, which must be next the end B, write the days of the week, and mark the figures of the planets. Next the inner circle NO, make an opening into the box, of about one-tenth of an inch. On the centre of the dial place an index that turns freely on its centre.

Within the pedestal place a pulley P, about four inches diameter, which is to turn on an axis that is directly under the centre of the dial; and on the upper part of that axis fix a bent index R, which comes out at the opening made by the inner circle (H), and passes over those seven divisions only on which are wrote the days of the week.

Within the box C, let there be two rollers S and T, as in the figure: let that of S contain a spring; and at the end of T let there be a pulley V, of three quarters of an inch diameter, round which goes a string or thread that passes under the small pulley X, and is fastened to that of P: so that when the last pulley makes about one-third of a turn, that of V may make three or four turns.

There must also be a scroll of paper, about two feet long, and each end of which must be pasted to one of the rollers. In the front of the box, between the two rollers, make an aperture D, about four inches long,

and one inch and a half wide: to this opening let there be a little flap or slider, by which it may be closed at pleasure.

Experiments with Sympathetic Inks.

The apparatus being thus disposed, place the index R successively against each of the divisions marked with one of the planets; and as the paper is gradually wound up the roller, mark, against that part which is at the aperture D, the name of one of the following sibyls:

The Hellepontian	}	sibyl.
Cumean		
Artemisian		
Phrygian		
Albanean		
Persian		
Libyan		

On each of the seven cards write a different question, and draw one of the seven planets. Next, take a memorandum book that contains seven leaves, and on each of them write the name of one of the foregoing sibyls; in each of the leaves place several pieces of paper, and on each of them write, with the sympathetic ink that does not appear till the paper is heated, different answers to the same question.

Then give a person the seven cards on which the questions are wrote, and tell him to choose one of them privately, and conceal the rest, so that it cannot possibly be known which of them he has chosen.

Next, tell him to place the index that points to the month against that in which he was born (1), and to place the index of the planets against that which is on the card he has chosen, and which is to preside over the answer: you tell him to do this privately, that no one may see him, and after that to cover the dial with his handkerchief. Then let him open the door that is before the aperture in the box, and tell you the name of the sibyl there visible.

You then open the memorandum book, and taking out the papers that are in the leaf where the name of the sibyl just mentioned is wrote, you desire him to choose any one of them he thinks proper. The talisman used in the last experiment being properly heated, is then to be introduced, when you direct the person to put the blank paper into it; and taking it out a few moments after, he will find the answer to his question.

To make this operation appear the more extraordinary, it will be proper to have a small press or cupboard, at the back of which there is a door that opens into an adjoining room, by which means an assistant having prepared the talisman, may place it in the cupboard the moment before it is wanted. This contrivance will be useful on many other occasions.

8. Provide an urn of wood or metal about six inches high, and two and a half diameter in the widest part, and of such figure in other respects as you think proper (see fig. 9.) Let there be a cylinder of copper C, (fig. 10.) of about one eighth of an inch diameter,

The magic urn.

(H) If the axis be made to pass through the top of the pedestal, this opening will not be necessary.

(I) These months and the index are of no other use than to give the experiment an air of greater mystery.

Experiments with Sympathetic Inks.

meter, which is to fill a hole AB made in the urn. The top of this cylinder is to be in the top of the urn, so that it may be easily taken out. To this urn there must be a cover D, which fits it exactly.

On a small square piece of paper draw the figure of a flower or leaf, with that sort of sympathetic ink whose colour most resembles it. You then present several sorts of flowers or leaves to a person, and desire him to choose any one of them. Then put that flower on a chafingdish of hot coals; and taking the paper on which it is secretly drawn, you give it to the person to examine, and then put it in the urn, having previously heated the cylinder (K). Then taking some of the ashes of the burnt flower, you strew them over the paper, after which you take it out and show the company the figure of that flower. While the flower is burning, you may sprinkle some powder over it, suppose that of saltpetre; and by that, mixed with the ashes of the flower, the company may imagine the effect is produced.

The press or cupboard mentioned in the preceding experiment, will be here very convenient for heating the cylinder and placing it in the urn. A similar deception may be performed by putting the paper in a copper vessel, that may be placed on an iron plate over the chafingdish in which the flower is burnt. But this method has not so mysterious an appearance as the other, and in some persons may cause a suspicion that the effect is produced by heat.

The convertible cards.

9. To perform this experiment, you must observe, that there are several letters which may be changed into others, without any appearance of the alteration; as, the *a* into *d*, the *c* into *e*, *d*, *g*, *o*, or *q*, the *i* into *b*, *d*, or *l*, the *l* into *t*, the *o* into *a*, *d*, *g*, or *q*, the *v* into *y*, &c.

Take a parcel of cards, suppose 20, and on one of them write, with the ink of the fourth class, the word *law* (L), and on the other, with the same ink, the words *old woman*; then holding them to the fire, they will both become visible. Now you will observe, that by altering the *a* in the word *law* into *d*, and adding *o* before the *l*, and *oman* after the *w*, it becomes *old woman*. Therefore, you make those alterations with the invisible ink, and let it remain so. On the rest of the cards you write any words you think fit.

Present the cards in such a manner to two persons, that one of them shall draw the word *law*, and the other the words *old woman*. You then tell the person who drew the word *law*, that it shall disappear, and the words on the other card shall be wrote in its place; and that you may not change the cards, desire each of the parties to write his name on the cards. Then putting the cards together, and holding them before the fire, as if to dry the names just wrote, the word *law* will presently change into *old woman*.

This experiment may be varied by fixing on a word that may be changed into three other words, and making four persons draw the cards on which those words

are wrote; and it may be further diversified by choosing three such words, as that the first can be changed into the second, and the second into the third. You then tell him who drew the first word, that it shall be changed into that drawn by the second person; and him you tell, that his word shall be changed into that of the third person.

Experiments with Sympathetic Inks.

10. Write on several slips of paper different questions, and such as may be answered by the name of some person; for example, Who is the merriest man in the company? Answer, Mr * * *. To whom will Miss * * * be married? Answer, To Mr * * *. These questions are to be wrote in the sympathetic ink of this class, and exposed to the fire, and the answers wrote in the same ink, and left invisible. The papers are to be folded in form of letters, and in such manner that the part where the name is wrote shall be directly under the seal, and the heat of the wax will make it visible. Then give the letter to the person who requires the answer, and he will find it plainly wrote.

A deception similar to this may be made with a number of blank cards, on each of which an ace of spades is drawn with the invisible ink; then let a person choose any one of them, and enclose it in a letter-case, prepared in such a manner that the figure of the ace shall be directly under the seal, and on opening the letter it will be immediately visible.

DECEPTIONS with CLASS V.

11. Have a box that is divided into three parts after the same manner as the talisman in the 21st experiment, except that, instead of being triangular, it must be of a long square (see fig. 14.) Divide its top B into two equal parts D and E, as in fig. 13. and to the part D adjust a plate of copper L, about one quarter of an inch thick, and under both the plate L and the opening E place a cloth. The upper part C must have a button by which it may be fixed on the cover B, so as to appear of one piece with it.

At the bottom of the box place a piece of cloth, or other stuff, on which you may stamp certain mysterious characters, and observe that the bottom of the cover must rest upon the cloth.

Then provide a slip of paper GH (fig. 12.) of the same size with the bottom of the box; and at each end of it write, with the green sympathetic ink, the name of a different card, and make some private mark by which you can tell at which end each name is wrote (M).

Take a parcel of cards, and offer those two of them whose names are wrote on the paper to the two persons, that they may draw them. You tell the parties to keep their cards to themselves, and you propose to make the names of those cards appear upon a slip of paper, which you put into the box. You then ask which name of the two cards shall appear first. The copperplate being previously heated and placed in the

cover,

(K) There are some sorts of sympathetic inks that require much more heat than others.

(L) These letters should not be joined.

(M) That there may be no suspicion of the paper being prepared, you may cut it from a whole sheet, before the company, having previously wrote the names.

Experiments with Sympathetic Inks.

cover, you put it over that end of the paper on which is the name required, and it will presently appear. Then taking the paper out and showing the name wrote, you put it in again, turning the other end to the side of the box where the plate is, and it will in like manner become visible.

The first name may be made to disappear at the same time that the second appears, if the cloth at the end opposite to that where the plate is be made damp.

Winter changed into Spring.

12. Take a print that represents winter, and trace over the proper parts of the trees, plants, and ground, with the green sympathetic ink; observing to make some parts deeper than others, according to their distance. When those parts are dry, paint the other objects with their natural colours. Then put the print in a frame with a glass, and cover the back of it with a paper that is pasted over its border only.

When the print is exposed to the heat of a moderate fire, or to the warm rays of the sun, all the grass and foliage will turn to a pleasing green; and if a yellow tint be given to some parts of the print, before the sympathetic ink be drawn over, this green will be of different shades; and the scene that a minute before represented winter, will now be changed to spring. When this print is placed in the cold, winter will again appear, and will again be driven away by the warm rays of the sun. This alternate change of seasons may be repeated as often as you please; remembering, however, as was before observed, not to make the print at any time too hot, for then a faded autumn will for ever remain.

DECEPTIONS with CLASS VII.

The revived bouquets.

13. Provide a number of artificial flowers, such as roses, jonquils, pinks, or any other you find convenient. These flowers must be made of white thread or silk, and their leaves of parchment. Dip the roses in the red sympathetic ink, the jonquils in the yellow, the pinks in the violet, and their leaves in a solution of salt or tartar. When they are all dry, form them into small bouquets, which will all appear white, and may be used in this experiment, either the day they are dipped, or several days after.

You take one of these bouquets, and after showing the company that every part of it is white, you dip it in an infusion of any of the blue flowers mentioned under the article *COLOUR-MAKING*, N^o 13. and, drawing it presently out, all the flowers and leaves will appear in their natural colours (N).

The transcolored writing.

14. Write on a paper, with the violet liquor, as many letters or words as you please; and ask any person whether he will have that writing turn to yellow, green, or red.

Have a sponge with three sides that you can readily distinguish, and dip each of its sides in one of the three sympathetic inks. Draw the side of the sponge that corresponds to the colour the person has chosen, over

the writing once only; and it will directly change to the colour required (O).

Miscellaneous Performances.

SECT. IV. Miscellaneous Performances.

15. *A person having an even number of counters in one hand, and an odd number in the other, to tell in which hand the odd or even number is.*—Let the person multiply the number in his right hand by an odd number, and the number in his left hand by an even number, and tell you if the sum of the products added together be odd or even. If it be even, the even number is in the right hand; but if it be odd, the even number is in the left hand.

Example.

1. Number in the right hand	} 18	In the left	7
Multipliers	3		2
	—		—
	54		14
	14		
	—		—
	Their sum	68	
2. Number in the right hand	} 7	In the left	18
Multipliers	3		2
	—		—
	21		36
	36		
	—		—
	Their sum	57	

16. *To tell, by the dial of a watch, at what hour any person intends to rise.*—Let the person set the hand of the dial to any hour he pleases, and tell you what hour that is: and to the number of that hour you add, in your mind, 12. Then tell him to count privately the number of that amount upon the dial, beginning with the next hour to that on which he proposes to rise, and counting backwards, first reckoning the number of the hour at which he has placed the hand. An example will make this plain.

Suppose the hour at which he intends to rise be 8, and that he has placed the hand at 5. You add 12 to 5, and tell him to count 17 on the dial, first reckoning 5, the hour at which the index stands, and counting backwards from the hour at which he intends to rise; and the number 17 will necessarily end at 8, which shows that to be the hour he chose.

That the hour at which the counting ends must be that on which he proposed to rise, will be evident on a little reflection; for if he had begun at that hour and counted 12, he would necessarily have come to it again; and calling the number 17, by adding 5 to it, only serves

(N) The liquor should be put in a sort of jar with a narrow neck, that it may not be seen by the company: and you should draw the flowers gently out that the liquor may drop if thin, and they may have time to acquire their colours.

(O) The sponge should be well cleaned immediately after the experiment.

Miscellaneous Performances.

erves to disguise the matter, but can make no sort of difference in the counting.

17. If the number 11 be multiplied by any one of the nine digits, the two figures of the product will always be similar. As follows :

11	11	11	11	11	11	11	11	11	11
1	2	3	4	5	6	7	8	9	
—	—	—	—	—	—	—	—	—	
11	22	33	44	55	66	77	88	99	

Place a parcel of counters on a table, and propose to any one to add, alternately, a certain number of those counters, till they amount to 100, but never to add more than 10 at a time. You tell him, moreover, that, if you stake first, he shall never make the even century, but you will. In order to which, you must first stake 1, and remembering the order of the above series, 11, 22, 33, &c. you constantly add, to what he stakes, as many as will make one more than the numbers of that series, that is, as will make 12, 23, 34, &c. till you come to 89, after which the other party cannot make the century himself, nor prevent you from making it.

If the other party has no knowledge of numbers, you may stake any other number first, under ten, provided you take care to secure some one of the last terms as 56, 67, 78, &c.

This deception may be performed with other numbers; and in order to succeed, you must divide the number to be attained by a number that has one digit more than what you can stake each time, and the remainder will be the number you must first stake. Observe, that, to be sure of success, there must be always a remainder. Suppose, for example, the number to be attained is 52, making use of a pack of cards instead of counters, and that you are never to add more than 6: then divide 52 by the next number above 6, that is, by 7, and the remainder, which is 3, will be the number you must stake first; and whatever the other stakes, you must add as much to it as will make it equal to the number by which you divided, that is 7. Therefore, if his first stake be 1, you must stake 6, &c. so that your second stake will make the heap 10, your third stake will make it 17, and so on, till you come to 45, when, as he cannot stake more than 6, you must make the number 52.

In this, as in the former case, if the other person has no knowledge of numbers, you may stake any number first under 7; or you may let him stake first, only taking care to secure either of the numbers 10, 17, 24, 31, &c. after which he cannot make 52, if you constantly add as many to his stake as will make it 7.

To tell what number a person privately fixes on.

18. A person privately fixing on any number, to tell him that number.—After the person has fixed on a number, bid him double it and add 4 to that sum, then multiply the whole by 5; to the product let him add 12, and multiply the amount by 10. From the sum of the whole let him deduct 320, and tell you the remainder; from which, if you cut off the two last figures, the number that remains will be that fixed on.

Example.

Let the number chosen be	-	-	-	7
Which doubled is	-	-	-	14

And 4 added to it, makes	-	-	-	18
Which multiplied by 5, gives	-	-	-	90
To which 12 being added, it is	-	-	-	102
That multiplied by 10, makes	-	-	-	1020
From which deducting 320, the remainder is	-	-	-	700
And, by striking off the two cyphers, it becomes the original number	-	-	-	7

19. Three dice being thrown on a table, to tell the number of each of them, and the order in which they stand. Let the person who has thrown the dice double the number of that next his left hand, and add 5 to that sum; then multiply the amount by 5, and to the product add the number of the middle die; then let the whole be multiplied by 10, and to that product add the number of the third die. From the total let there be subtracted 250, and the figures of the number that remains will answer to the points of the three dice as they stand on the table.

Example. Suppose the points of the three dice thrown on the table to be 4, 6, and 2,

Then the double of the first die will be	-	-	-	8
To which add	-	-	-	5
	-	-	-	13
	-	-	-	5
	-	-	-	65
That sum multiplied by 5 will be	-	-	-	6
To which add the number of the middle die	-	-	-	71
	-	-	-	10
And multiply the sum by	-	-	-	710
	-	-	-	2
To that product add the number of the third die	-	-	-	712
Form the total	-	-	-	250
Subtract	-	-	-	

And the three remaining figures 462 will answer to the numbers on the dice, and show the order in which they stand.

20. Some person in company having put a ring privately on one of his fingers; to name the person, the hand, the finger, and the joint, on which it is placed.—Let a third person double the number of the order in which he stands who has the ring, and add 5 to that number; privately then multiply that sum by 5, and to the product add

10. Let him next add 1 to the last number if the ring be on the right hand, and 2 if on the left, and multiply the whole by 10: to this product he must add the number of the finger (counting the thumb as the first finger), and multiply the whole again by 10. Let him then add the number of the joint; and, lastly, to the whole join 35.

He is then to tell you the amount of the whole, from which you are to subtract 3535, and the remainder will consist of four figures, the first of which will express the rank in which the person stands, the second the hand (the number 1 signifying the right hand, and 2 the left), the third number the finger, and the fourth the joint.

Example. Suppose the person who stands the third in order has put the ring upon the second joint of the thumb of his left hand; then

The

Fig. 1.

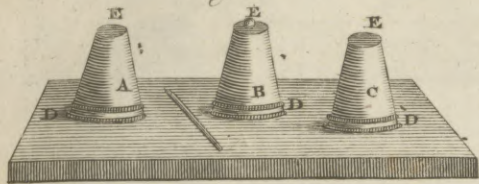


Fig. 2.



Fig. 3.



Fig. 4.



Fig. 5.



Fig. 6.



Fig. 7.



Fig. 8.



Fig. 9.

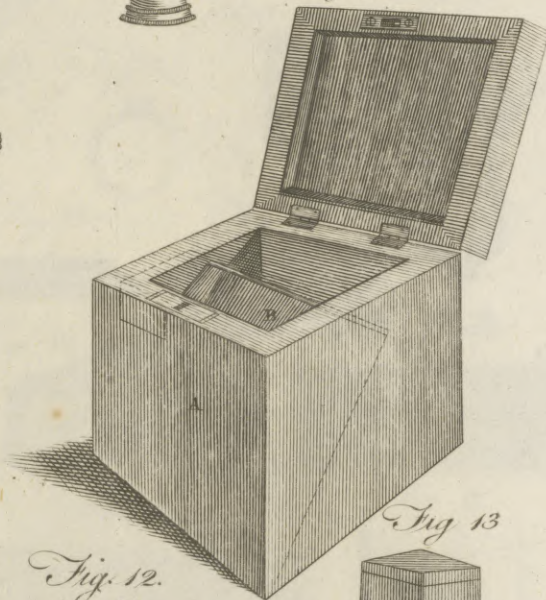


Fig. 10.

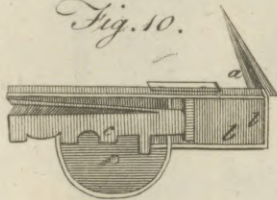


Fig. 11.

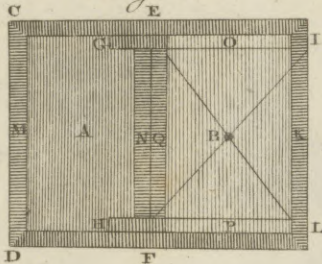


Fig. 14.

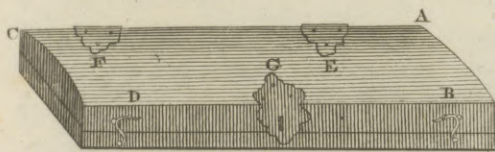


Fig. 19.

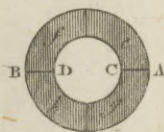


Fig. 12.

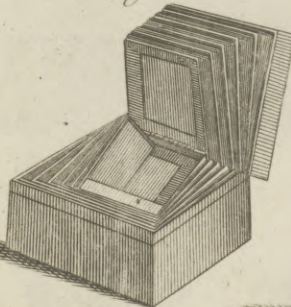


Fig. 13.

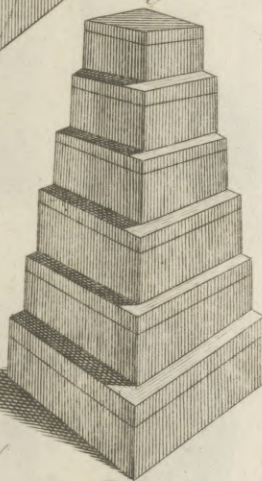


Fig. 15.

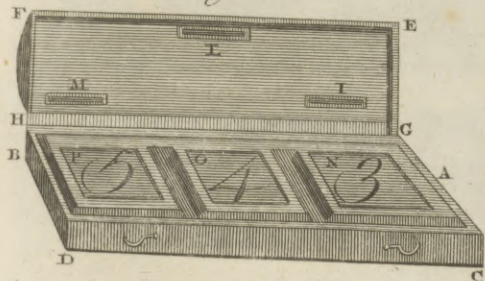


Fig. 22.

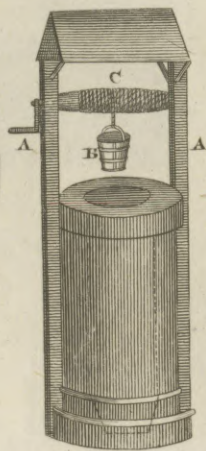


Fig. 16.

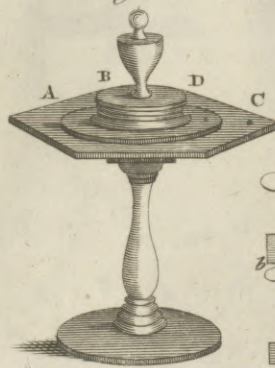


Fig. 23.

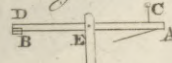


Fig. 17.

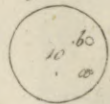


Fig. 18.

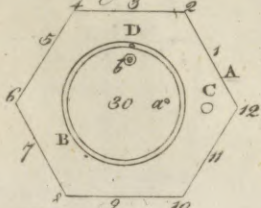


Fig. 21.



Al. Bell. Prim. Nat. Sculptor. fecit.

Fig. 1.

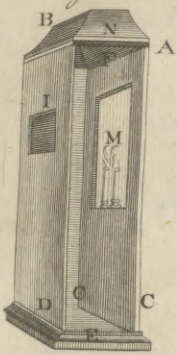


Fig. 2.

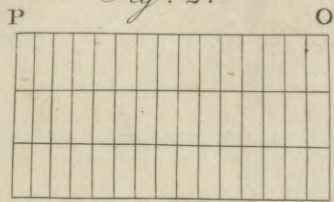


Fig. 3.



Fig. 7.

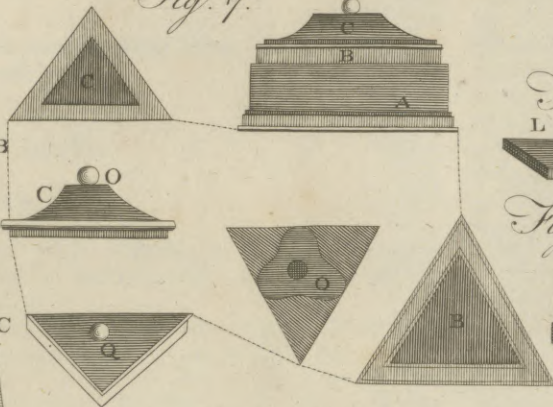


Fig. 4.

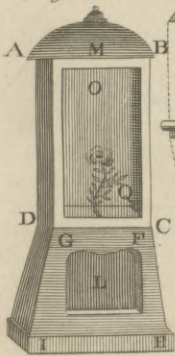


Fig. 5.

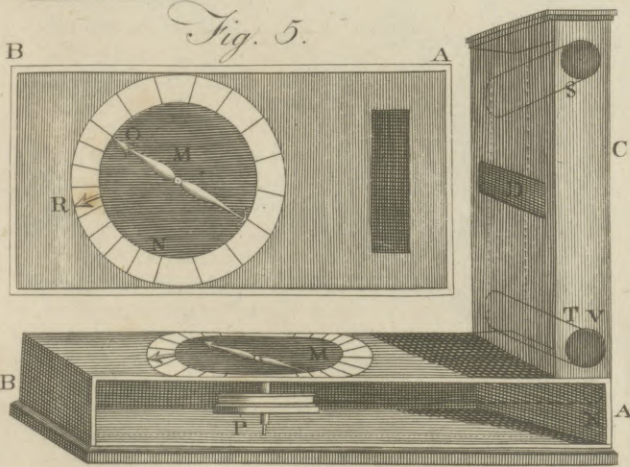


Fig. 8.

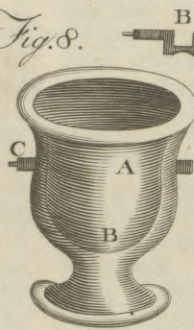


Fig. 6.

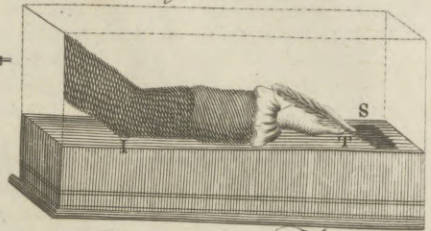


Fig. 10.



Fig. 9.



Fig. 11.



Fig. 12.



Fig. 14.

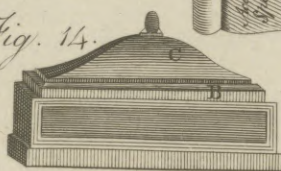


Fig. 13.

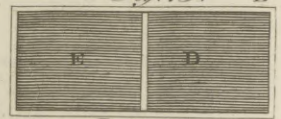


Fig. 16.

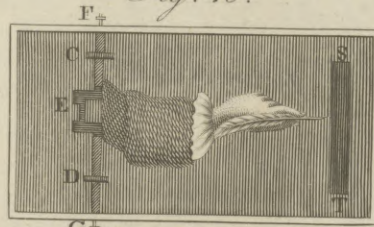


Fig. 17.

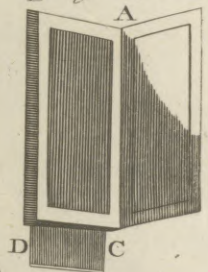


Fig. 19.

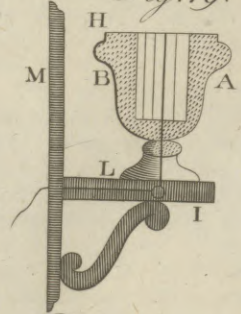


Fig. 18.

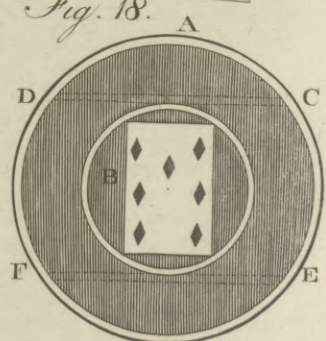


Fig. 20.

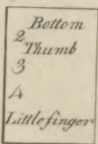


Fig. 21.

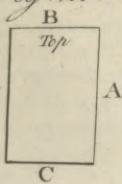


Fig. 22.

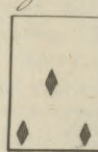


Fig. 23.

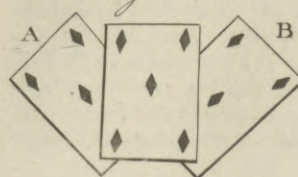
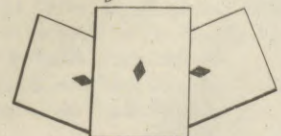


Fig. 24.



Miscellaneous Performances.	The double of the rank of the third person is	6
	To which add	5
		—
	Multiply the sum by	11
		5
		—
	To which add	55
	And the number of the left hand	10
		2
		—
	Which being multiplied by	67
		10
		—
	To which add the number of the thumb	670
		1
		—
	And multiply again by	671
		10
		—
	Then add the number of the joint	6710
	And lastly the number	2
		35
		—
	From which deducting	6747
		3535
		—
	The remainder is	3212

Of which, as we have said, the 3 denotes the third person, the 2 the left hand, the 1 the thumb, and the last 2 the second joint.

21. Cover the outside of a small memorandum book with black paper, and in one of its inside covers make a flap to open secretly, and observe there must be nothing over the flap but the black paper that covers the book.

Mix foot with black or brown soap, with which rub the side of the black paper next the flap; then wipe it quite clean, so that a white paper pressed against it will not receive any mark.

Provide a black lead pencil that will not mark without pressing hard on the paper. Have likewise a small box, about the size of the memorandum book, and that opens on both sides, but on one of them by a private method. Give a person the pencil, and a slip of thin paper, on which he is to write what he thinks proper: you present him the memorandum book at the same time, that he may not write on the bare board. You tell him to keep what he writes to himself, and direct him to burn it on an iron plate laid on a chafingdish of coals, and give you the ashes. You then go into another room to fetch your magic box above described, and take with you the memorandum book.

Having previously placed a paper under the flap in the cover of the book, when he presses hard with the pencil, to write on the paper, every stroke, by means of the stuff rubbed on the black paper, will appear on that under the flap. You therefore take it out, and put it into one side of the box.

You then return to the other room, and taking a slip of black paper, you put it into the other side of the box, strewing the ashes of the burnt paper over it. Then shaking the box for a few moments, and at the same time turning it dexterously over, you open the other side, and show the person the paper you first put

in, the writing on which he will readily acknowledge to be his.

22. Take two guineas and two shillings, and grind part of them away, on one side only, so that they may be but of half the common thickness; and observe that they must be quite thin at the edge: then rivet a guinea and a shilling together. Lay one of these double pieces with the shilling upwards, on the palm of your hand, at the bottom of your three first fingers; and lay the other piece, with the guinea upwards, in like manner, in the other hand. Let the company take notice in which hand is the guinea, and in which the shilling. Then as you shut your hands, you naturally turn the pieces over; and when you open them again, the shilling and the guinea will appear to have changed their places.

23. Provide a round tin box, of the size of a large snuff box; and in this place eight other boxes, which will go easily into each other, and let the least of them be of a size to hold a guinea. Each of these boxes should shut with a hinge: and to the least of them there must be a small lock, that is fastened with a spring, but cannot be opened without a key: and observe that all these boxes must shut so freely, that they may be all closed at once. Place these boxes in each other, with their tops open, (see fig. 12.) in the drawer of the table on which you make your experiments; or, if you please, in your pocket, in such a manner that they cannot be displaced.

Then ask a person to lend you a new guinea, and desire him to mark it, that it may not be changed. You take this piece in one hand, and in the other you have another of the same appearance; and putting your hand in the drawer you slip the piece that is marked into the least box, and, shutting them all at once, take them out. Then showing the piece you have in your hand, and which the company suppose to be the same that was marked, you pretend to make it pass through the box, and dexterously convey it away.

You then present the box, for the spectators do not yet know there are more than one, to any person in company; who, when he opens it, finds another, and another, till he comes to the last, but that he cannot open without the key (see fig. 13.) which you then give him, and retiring to a distant part of the room, you tell him to take out the guinea himself, and see if it be that he marked.

This deception may be made more surprising, by putting the key into the snuff box of one of the company; which you may do by asking him for a pinch of his snuff, and at the same time conceal the key, which must be very small, among the snuff: and when the person who is to open the box asks for the key, you tell him that one of the company has it in his snuff box. This part of the deception may likewise be performed by means of a confederate.

24. ABCD, fig. 15. represents a small wooden box seven or eight inches long, two and a half broad, and half an inch deep; the bottom of which, by means of two cross pieces, is divided into three equal parts. EFGH represents the lid, which is fastened to the bottom by a hinge, and has in front a small plate shaped like a lock, and two small eyes for hooks which serve to fasten it when it is shut. ILM are three small flexible

Miscellaneous Performances.

The transparent pieces.

The penetrative guinea.

The three magic pictures. Plate CCXC. fig. 14, 15.

Miscellaneous Performances.

springs, flat, and about $\frac{1}{2}$ inch long. NOP are three wooden tablets of the same size, upon which are marked the figures 3, 4, and 5. The tablets are of different thicknesses, and the difference is so small as not to be perceived by the eye. The outside of the box is covered with shagreen or morocco leather, and on the inside with silk taffety; these coverings being indispensably necessary to hide the three small springs above mentioned. Fig. 14. shows the two hinges E and F bent close to the top of the lid ABCD; the piece of brass G, similar to a lock, being also curved to the lid. A small brass stud is rivetted upon the end of each of these springs inserted into the lid, and passes through the curved part of each of the hinges and the lock; so that on the outside they appear as the heads of small pins which fasten them upon the lid. These small studs will be elevated more or less according to the thicknesses of the tablets, that may be shut up in each of the partitions in which they may be found placed; so that the tablet N elevates them more than the tablet O, and the latter less than P; though these elevations are but barely sensible to the sight or touch, and that by a person accustomed to look at or handle them. Thus it may be easily known in whatever order the tablets are placed, however carefully shut; and consequently the numbers named as enclosed.

Give now the box to any indifferent person, leave him at liberty to form with the tablets any number he pleases, desiring him to return the box well shut up; then taking the box, and determining by the touch, or rather by the eye, what order the tablets are in, it will be very surprising to hear you declare the number without seeing it.

N. B. It will still be equally possible to discover the number, though the tablets should be returned with the bottom upwards, or even though one should be withdrawn in order to defeat your design; particularly if care has been taken to make the studs remain even with the plates when a number is omitted.

The numerical table.

25. To discover any particular counter which has been secretly placed within a box that turns upon it.—This table, which is made of wood, is represented by A, fig. 16. It is of an hexagonal shape, and about three or four inches diameter. For the sake of neatness in appearance, a proportionably sized pillar with a foot is fixed to it. Round a centre there turns a small round box B of about $\frac{1}{4}$ inch diameter in the inside, the lid of which takes off at B. At the bottom of this box, near the circumference in the inside, is fixed a brass pin to fit a hole made in a flat ivory counter shown at *b*, fig. 17. The pin and counter are represented in fig. 18. which is a flat view of fig. 16. with the lid of the box B taken off. Opposite to the pin *b*, in the same figure, D represents a fine dot designed as a secret mark on the outside of the box, which serves always as a guide to the number of the counter privately placed in the inside of the box, as is afterwards particularly explained. Upon one of the corners of the table is an ivory mark C, fig. 16. and 18. which serves to place the spot *a* upon the counters in its proper position. See fig. 17. There are 12 counters fitted to the box B, marked 10, 20, &c. as far as 120, on the middle of each. On each of these counters is the hole *b*, fig. 17. and 18. which goes over the pin in the bottom of the box; and on one side of this hole a red or black

spot is placed in the following manner. When N^o 10 is put into the box, the spot must be so far to the left hand of the hole, that when it is brought to the mark C, fig. 18. the hole *b* will be opposite to the side marked 1. When N^o 20 is put in, the spot being brought to the mark C will carry the hole to the corner marked 2. When N^o 30 is put in, and the spot brought opposite to C, the hole will be brought against the side marked 3, as is shown in the figure, and so on for the rest. Therefore, as opposite to the brass pin, or hole on the counter on the outside of the box B, there is a secret mark D already mentioned, this must serve as an index to the number contained in the box, according as it is opposite to a side or corner of the table.

Give now the table with the box and the 12 counters to any person, and desire him to put one of the counters secretly into the box, keeping the rest to himself; and, after having placed the hole over the pin in the box, to place particularly, by turning the box round, the spot *a* against the mark C on the table. Let him then cover the box, give you the table, and keep the counters himself. Observe then privately what side or corner the secret outside mark D stands against, reckon the tens accordingly, and tell him the number.

26. To draw out of the well with a bucket any one of four liquors which have been previously mixed and put into it.—Provide two tin cylinders of seven or eight inches height; the diameter of the largest, represented by AB fig. 19. to be four inches, and that of the least, CD two inches. Place the small one within the larger, and connect them together by soldering to them four tin partitions, making the equal spaces *e, f, g, h*. Turn a piece of wood three inches thick, hollow withinside, and lined with tin, of which a section is given, fig. 20. Into this the exterior cylinder should be closely fitted at *a* and *b*. Another circle of wood (of which a section is given fig. 21.), hollowed at *a, b*, and *c*, is also to be procured, and which may cover exactly the space between the two cylinders; and, lastly, let the whole be constructed in such a manner, that when these three separate pieces are placed together, they may represent a well, as in fig. 22. The two brass or wooden pillars AA, with the axis and handle C, serve to let down and draw up a small glass bucket B, an inch and a half in diameter. Make also four tin reservoirs of the same height with the cylinder, and so shaped as to fill the four spaces *e, f, g, h*, (fig. 19.) which must be well closed at their extremities B and C. On the top of each make a small hole about the tenth part of an inch diameter, and solder at the base C a small tube D, the end of which should be bent towards the inside of the well when the reservoir is placed in it. Solder on the top of each reservoir a small spring lever and prop ABDE, fig. 23. This spring will serve always to press the end of the lever D down upon the hole at the top of the reservoir B; and in order to cover it more perfectly, a small piece of leather is to be glued on to the end of the lever D. Lastly, A small peg or stud C is placed at the end of each of the levers, and which must be close to the under part of the wooden circle which covers the reservoirs. To conceal these studs, and at the same time to be able to press upon them with the fingers, circular apertures, as shown in fig. 21. must be made in the piece of wood, the top covered

Miscellaneous Performances.

Miscellaneous Performances.

covered with a piece of vellum, and the whole neatly painted with oil colour.

If now you plunge one of these reservoirs perpendicularly into any liquor, in pressing on the stud, so as to uncover the hole at the top, it will be filled with the liquor in proportion to the depth to which it is immersed; and as long as the lever continues to press upon the hole by means of the spring, the liquor cannot run out for want of air, though it will do so the moment the stud is pressed upon and the air admitted. If the reservoir is properly placed, then the liquor will flow out of it into the glass bucket when let down to a proper depth.

Fill now the four reservoirs with the four different liquors; putting them in their places, and covering them with the circular top. Take a quantity of the same liquor, mix them well together, and pour the whole into the well; after which you may draw out any one which the company desires, by letting down the bucket, and pressing secretly upon the stud belonging to the reservoir which contains it, and which will thus discharge the liquor it contains.

The refuscitated flower.
Plate CCXCI.

27. Provide a small tin mortar, that is double, as A (fig. 8.), whose bottom B turns round on an axis, by means of a spring which communicates with the piece C. There must be a hollow space under the false bottom. To the under side of the bottom fasten, by a thread of fine silk, a flower, with its stalk and leaves.

Then take a flower that exactly resembles the other, and plucking it from the stalk, and all the leaves from each other, put them into the mortar, and pound them with a small pestle; after which you show the mortar to the company, that they may see the parts are all bruised.

Then taking the mortar up in your hands, you hold it over the flame of a lamp or candle, by whose warmth the flower is supposed to be restored; and at the same time pressing the piece at C, the bottom will turn round, the bruised parts descend into the space under the bottom, and the whole flower will be at top: you then put your hand into the mortar, and easily breaking the silk thread, which may be very short as well as fine, you take the flower out and present it to the company.

There is an experiment similar to this, in which a live bird is concealed at the bottom of the mortar, and one that is dead is pounded in it: after which, by the motion of the bottom, the live bird is set at liberty. But surely the pounding a bird in a mortar, though it be dead, must produce, in persons of any delicacy, more disgust than entertainment.

The luminous oracle.
Plate CCXCI.

28. Procure a tin box ABCD (fig. 1.) about eight inches high, four wide, and two deep, and let it be fixed on the wooden stand E. On two of the insides let there be a groove FG; and in the front an opening I, three inches wide and one high.

At the back of the box let there be a little tin door, that opens outward, by which two wax candles M may be put in. Let the top of the box have a cover of the

same metal, in which there are several holes, and which may be taken off at pleasure.

Provide a double glass OP (fig. 2.) constructed in the same manner as that in the last experiment. On one of its sides you are to paste a black paper, the length of which is to be divided into three parts, and the breadth into fifteen; in every two of these fifteen divisions you cut out letters, which will make in the whole three answers to three questions that may be proposed. On the other side of the glass paste a very thin paper, and to the top fasten a small cord, by which they may be made to rise or descend in the groove FG.

Then take a slip of pasteboard RS (fig. 3.), one inch and a half wide and three inches long, which is to be divided into fifteen equal parts similar to those of the paper OP, and cut out spaces, as in the figure, so that this paper, sliding horizontally before OP, will either cover or conceal the letters cut in that.

This pasteboard is to slide between two brass wires, and is to be fastened to one side of the box, by a string that communicates with a small brass spring; and to the other side, by a string fastened to the box by a small piece of wax, so situated that the string may be easily set at liberty by the heat of the candles placed in the box.

Take a parcel of cards, and write on them different questions, three of which are to correspond with the answers on the glass. Shuffle these cards, and let a person draw any one of the three questions. Then by raising the glass you bring the answer against the hole in the front of the box. You next place the candles in the box, the heat of which will melt the wax that holds the paper RS, which being then drawn by the spring, the answer will be visible; and in proportion as the composition between the glasses becomes diluted by the increase of the heat, the letters will become more strongly illuminated.

The letters cut in the paper may be made to answer several different questions, as has been explained in other experiments; and the whole parcel of cards may consist of questions that may be answered by one or other of the three divisions in the paper.

29. Make a thin box ABCD (fig. 4.), with a cover M, that takes off. Let this box be supported by the pedestal FGHI, of the same metal, and on which there is a little door L. In the front of this box is to be a glass O.

In a groove, at a small distance from O, place a double glass of the same sort with that in the last experiment. Between the front and back glasses place a small upright tin tube supported by the cross piece R. Let there be also a small chafingdish placed in the pedestal FGHI. The box is to be open behind. You privately place a flower (Q) in the tin tube R; and presenting one that resembles it to any person (R), desire him to burn it on the coals in the chafingdish.

You then strew some powder over the coals, which may be supposed to aid the ashes in producing the flower; and then put the chafingdish in the pedestal,

5 B 2

under

Miscellaneous Performances.

(Q) This flower must not be placed so near as to make it in the least degree visible.

(R) You may present several flowers, and let the person choose any one of them. In this case, while he is burning

Miscellaneous Performances.

under the box. As the heat by degrees melts the composition between the glasses, the flower will gradually appear; but when the chafingdish is taken away, and the power of the ashes is supposed to be removed, the flower soon disappears.

For entertaining experiments, illusions, &c. of a philosophical nature, see the articles ACOUSTICS, CATOPTICS, CHROMATICS, DIOPTRICS, PYROTECHNICS, SCIENCE, *Amusements of*.

Miscellaneous Performances.

L E G

Leger Line, Leghorn.

LEGER LINE, in *Music*, one added to the staff of five lines, when the ascending or descending notes run very high or low; there are sometimes many of these lines both above and below the staff, to the number of four or five.

LEGHORN, anciently called *Liburnus Portus*, but by the modern Italians *Livorno*, a handsome town of Italy, in the duchy of Tuscany, and a free port, about 30 miles south-west from Florence, in the territory of Pisa. The only defect of the harbour is its being too shallow for large ships. Cosmo I. had this town in exchange for Sarzana, from the Genoese; and it is the only sea port in the duchy. It was then but a mean unhealthy place; but is now very handsome, and well built, with broad, straight, parallel streets. It is also well fortified; but wants good water, which must be brought from Pisa, 14 miles distant. It is about two miles in circuit, and the general form of it is square. Part of it has the convenience of canals; one of which is five miles in length, and, joining the Arno, merchandise and passengers are thus conveyed to Pisa. The port, consisting of two havens, one for the duke's galleys, and the other for merchant ships, is surrounded with a double mole, above a mile and a half in length, and defended, together with the town, by a good citadel, and 12 forts. Roman Catholics, Jews, Greeks, Armenians, Mahometans, and even the English factory, are indulged in the public exercise of their religion; but other Protestants must be satisfied with the private. The trade carried on here is very great, and most of it passes through the hands of the Jews. Though only two piasters, or scudi, are paid for every bale, great or small, imported or exported, yet the duties on all provisions and commodities brought from the continent to the town are very heavy. The number of the inhabitants is said to be about 45,000; and one third of these are Jews, who live in a particular quarter, but without any mark of distinction, and have a fine synagogue. They have engrossed the coral manufactory, have a considerable trade, and possess the chief riches of the place. The garrison consists of 2000 men. The walks on the ramparts are very agreeable. There is good anchorage in the road; but ships riding there are much exposed to the weather and the Barbary corsairs. The number of English families in Leghorn, some years ago, amounted to about 36; and they were formerly much favoured by the government. The power of the inquisition is limit-

L E G

ed to ecclesiastical matters and Roman Catholics. There are a great many Turkish slaves here, brought in by the duke's galleys, who are often sent out on a cruize against the corsairs of Barbary. The lighthouse stands on a rock in the sea; near which is the lazaretto, where quarantine is performed. Another source, from which the duke draws a great revenue, is the monopoly of brandy, tobacco, and salt; but that, with the heavy duties, makes provisions dear. The Turks, who are not slaves, live in a particular quarter, near that of the Jews. The common prostitutes also have a particular place assigned them, out of which they must not be seen, without leave from the commissary. The number of the rowers in the galleys, whether Turkish slaves, criminals, or volunteers, is about 2000. In the area before the *darfena* or inner harbour, is a fine statue of Duke Ferdinand, with four Turkish slaves, in bronze, chained to the pedestal. The ducal palace is one of the finest structures in the town, and the ordinary residence of the governor. Leghorn is the see of a bishop, and has a noble cathedral; but the other churches are not remarkable. Leghorn did not escape those changes in which the French revolutionary war involved the towns and states of Italy. E. Long. 11. o. N. Lat. 43. 30.

Legio VII. Legion.

LEGIO VII. GEMINA, in *Ancient Geography*, a town or station of that legion in Asturias. Now *Leon*, capital of the province of that name in Spain. W. Long. 6. 5. S. Lat. 43.—Another LEGIO, a town of Galilee; from which Jerome determines the distances of the places in Galilee; not a bare encampment, though the name might originally be owing to that circumstance. It lay 15 miles to the west of Nazareth, between Mount Tabor and the Mediterranean. Now thought to be *Legune*.

LEGION, in Roman antiquity, a body of foot which consisted of different numbers at different periods of time. The word comes from the Latin *legere*, to choose; because, when the legions were raised, they made choice of such of their youth as were most proper to bear arms.

In the time of Romulus the legion consisted of 3000 foot and 300 horse; though, after the reception of the Sabines, it was augmented to 4000. In the war with Hannibal, it was raised to 5000, after this it sunk to 4000 or 4500; this was the number in the time of Polybius. The number of legions kept in pay together, differed according to times and occasions. During the consular

burning the flower, you fetch the box from another apartment, and at the same time put in a corresponding flower, which will make the experiment still more surprising.

Legion, Legillator. consular state four legions were fitted up every year, and divided betwixt the two consuls; yet we meet with the number of 16 or 18, as the situation of affairs required. Augustus maintained a standing army of 23 or 25 legions; but this number in after times is seldom found. The different legions borrowed their names from the order in which they were raised; hence we read of *legio prima, secunda, tertia*: but as there might be many *primæ, secundæ, tertiæ, &c.* they were furnished from the emperors, as *Augusta, Claudiana, Galbiana, Flavia, Ulpia, Trajana, Antoniana, &c.* or from the provinces which had been conquered by their means, as *Parthica, Scythica, Gallica, Arabica, &c.* or from the deities under whose protection the commanders had particularly placed themselves, as *Minervia, Apollinaris, &c.* or from the region where they were quartered, as *Cretensis, Cyrenaica, Britannica, &c.* or from particular accidents, as *adjutrix, martia, fulmi-vatrix, rapax, victrix.*

Each legion was divided into 10 cohorts, each cohort into 10 companies, and each company into two centuries. The chief commander of the legion was called *legatus*, i. e. lieutenant.

The standards borne by the legions were various; at first, the standard was a wolf, in honour of Romulus's nurse; afterwards a hog, which animal was usually sacrificed at the conclusion of a treaty, to indicate that war is undertaken with a view to peace; sometimes a minotaur, to remind the general of his duty of secrecy, of which the labyrinth was an emblem, and consequently the minotaur; a horse was also borne, also a boar; and Marius, we are told, was the first who changed all these for the eagle.

LEGISLATOR, a lawgiver, or person who establishes the polity and laws of a state. Such was Moses, among the Jews; Lycurgus, among the Lacedæmonians, &c. See *Mosaic Law*.

The first laws amongst the Athenians seem to have been those of Theseus; for what we can find earlier than this period is involved in fable. After Theseus came Draco the archon, whose laws were said, for their severity, to have been written with blood: by his laws every offence was punished with death; so that stealing an apple, and betraying their country, were treated as equal crimes. These laws were afterwards repealed by Solon, except such as related to murder: By way of distinction, Draco's laws were called *Θεσμοί*, and Solon's *Νόμοι*. The laws of Solon were in a great measure suspended during the usurpation of Pisistratus; but, after the expulsion of his family, were revived with some additions by Clisthenes. After this, the form of government was again changed, first by the four hundred, and afterwards by the thirty tyrants; but these storms being over, the ancient laws were again restored in the archonship of Euclides, and others established at the instances of Diocles, Aristophon, and, last of all, of Demetrius the Phalerian. This is a short sketch of the history of the Athenian legislation, before that state submitted to the Roman yoke. But many laws were enacted by the suffrages of the people on particular exigencies; the decrees of the senate continued to have the force of laws no longer than a year. If a new law was to be proposed to the assembly, it was necessary to write it upon a white tablet, and fix it up some days before the meeting, lest their judgement

should be caught by surprize. The laws were carefully revised every year; and if any of them, from a change of circumstances, were found unsuitable or prejudicial, they were repealed: This was called *παρχειροποιου των νομων*, because the suffrages were given by holding up of hands. The first laws amongst the Grecians were unwritten and composed in verse, that the common people might with more ease commit them to memory. Solon penned his laws upon wooden tablets, called *Αξονες*; and some authors with great probability assert, that they were written in the manner called *Βαρεροφνον*, from left to right, and from right again to left, in the same manner as oxen walk the furrows in plowing, thus,

Legitima-
tion
||
Leibnitz.

ΕΚ ΔΙΟΣ ΑΡ
ΥΟΞΕΜΟΥΧ
ΧΜΜΕΣΑ

It was against the law for any person to erase a decree; and certain persons, called *Γραμματις*, were appointed to prevent any corruption; whole business it was also to transcribe the old and enter the new ones.

At Rome the people were in a great measure their own legislators; though Solon may be said, in some sense, to have been their legislator, as the decemviri, who were created for the making of laws, borrowed a great number from those of Solon. See **LEX**.

With us the legislative power is lodged in the king, lords, and commons assembled in parliament. See **LAW** and **PARLIAMENT**.

LEGITIMATION, an act whereby illegitimate children are rendered legitimate. See **BASTARD**.

LEGITIME, in *Scots Law*, that share of the moveable effects belonging to a husband and wife, which upon the husband's death falls to the children. See **LAW Index**.

LEGUMEN, or **POD**, in *Botany*; a species of seed-vessel which has two valves or external openings enclosing a number of seeds that are fastened along one future only. In this last circumstance the seed-vessel in question differs from that termed by botanists *siliqua*, in which the enclosed seeds are fastened alternately to both the futures or joinings of the pod.

The seed-vessel of all the pea bloom or butterfly-shaped flowers, the *diadelphia* of Linnæus, is of this pod kind. Such, for instance, is the seed-vessel of the pea, vetch, lupine, and broom.

LEGUMINOUS, an appellation given to all plants whose fruit is a legumen.

LEIBNITZ, GODFREY WILLIAM DE, an eminent mathematician and philosopher, was born at Leipzig in Saxony in 1646. At the age of 15 years, he applied himself to mathematics at Leipzig and Jena; and in 1663, maintained a thesis *de Principiis Individuationis*. The year following he was admitted master of arts. He read with great attention the Greek philosophers; and endeavoured to reconcile Plato with Aristotle, as he afterwards did Aristotle with Des Cartes. But the study of the law was his principal view; in which faculty he was admitted bachelor in 1665. The year following he would have taken the degree of doctor; but was refused it on pretence that he was too young, though in reality because he had raised himself several enemies by rejecting the principles of Aristotle and the schoolmen. Upon this he went to Altorf, where he maintained a thesis *de Casibus Perplexis*, with such applause,

Leibnitz, plause, that he had the degree of doctor conferred on him. He might have settled to great advantage at Paris: but as it would have been necessary to have embraced the Roman Catholic religion, he refused all offers. In 1673, he went to England; where he became acquainted with Mr Oldenburg, secretary of the Royal Society, and Mr John Collins, fellow of that society. In 1676, he returned to England, and thence went into Holland, in order to proceed to Hanover, where he proposed to settle. Upon his arrival there, he applied himself to enrich the duke's library with the best books of all kinds. The duke dying in 1679, his successor Ernest Augustus, then bishop of Osnaburgh, showed our author the same favour as his predecessor had done, and ordered him to write the history of the house of Brunswick. He undertook it, and travelled over Germany and Italy in order to collect materials. The elector of Brandenburg, afterwards king of Prussia, founded an academy at Berlin by his advice; and he was appointed perpetual president, though his affairs would not permit him to reside constantly at Berlin. He projected an academy of the same kind at Dresden; and this design would have been executed, if it had not been prevented by the confusions in Poland. He was engaged likewise in a scheme for an universal language. His writings had long before made him famous over all Europe. Beside the office of privy counsellor of justice, which the elector of Hanover had given him, the emperor appointed him in 1711 aulic counsellor; and the czar made him privy counsellor of justice, with a pension of 1000 ducats. He undertook at the same time the establishment of an academy of science at Vienna; but the plague prevented the execution of it. However, the emperor, as a mark of his favour, settled a pension on him of 2000 florins, and promised him another of 4000 if he would come and reside at Vienna. He would have complied with this offer, but he was prevented by death in 1716. His memory was so strong, that in order to fix any thing in it, he had no more to do but to write it once; and he could even in his old age repeat Virgil exactly. He professed the Lutheran religion, but never went to sermon; and upon his deathbed, his coachman, who was his favourite servant, desiring him to send for a minister, he refused, saying, *he had no need of one*. Mr Locke and Mr Molyneux plainly seem to think that he was not so great a man as he had the reputation of being. Foreigners ascribed to him the honour of an invention, of which, it is said, he received the first hints from Sir Isaac Newton's letters, who had discovered the method of fluxions in 1664 and 1665. But it would be tedious to give a detail of the dispute concerning the right to that invention. See FLUXIONS.

LEIBNITZIAN PHILOSOPHY, or the philosophy of Leibnitz, is a system of philosophy formed and published by its author in the last century, partly in emendation of the Cartesian, and partly in opposition to the Newtonian. The basis of Mr Leibnitz's philosophy was that of Des Cartes; for he retained the Cartesian subtle matter, with the universal plenitude and vortices; and represented the universe as a machine that should proceed for ever by the laws of mechanism, in the most perfect state, by an absolute inviolable necessity, though in some things he differs from Des Car-

tes. After Sir Isaac Newton's philosophy was published in 1687, he printed an essay on the celestial motions, Act. Erud. 1689, where he admits of the circulation of the ether with Des Cartes, and of gravity with Sir Isaac Newton; though he has not reconciled these principles, nor shown how gravity arose from the impulse of this ether, nor how to account for the planetary revolutions, and the laws of the planetary motions in their respective orbits. That which he calls the *harmonical circulation*, is the angular velocity of any one planet, which decreases from the perihelium to the aphelium in the same proportion as its distance from the sun increases; but this law does not apply to the motions of the different planets compared together; because the velocities of the planets, at their mean distances, decrease in the same proportion as the square roots of the numbers expressing those distances. Besides, his system is defective, as it does not reconcile the circulation of the ether with the free motions of the comets in all directions, or with the obliquity of the planes of the planetary orbits; nor resolve other objections to which the hypothesis of the plenum and vortices is liable. Soon after the period just mentioned, the dispute commenced concerning the invention of the method of fluxions, which led Mr Leibnitz to take a very decided part in opposition to the philosophy of Sir Isaac Newton. From the wisdom and goodness of the Deity, and his principle of a sufficient reason, he concluded that the universe was a perfect work, or the best that could possibly have been made; and that other things, which were incommodious and evil, were permitted as necessary consequences of what was best: the material system, considered as a perfect machine, can never fall into disorder, or require to be set right; and to suppose that God interposes in it, is to lessen the skill of the Author, and the perfection of his work. He expressly charges an impious tendency on the philosophy of Sir Isaac Newton, because he asserts, that the fabric of the universe and course of nature could not continue for ever in its present state, but would require, in process of time, to be re-established or renewed by the hand of its Former. The perfection of the universe, by reason of which it is capable of continuing for ever by mechanical laws in its present state, led Mr Leibnitz to distinguish between the quantity of motion and the force of bodies; and, whilst he owns, in opposition to Des Cartes, that the former varies, to maintain that the quantity of force is for ever the same in the universe, and to measure the forces of bodies by the squares of their velocities.

This system also requires the utter exclusion of atoms, or of any perfectly hard and inflexible bodies. The advocates of it allege, that according to the law of continuity, as they call a law of nature invented for the sake of the theory, all changes in nature are produced by insensible and infinitely small degrees; so that no body can, in any case, pass from motion to rest, or from rest to motion, without passing through all possible intermediate degrees of motion: whence they conclude, that atoms or perfectly hard bodies are impossible: because if two of them should meet with equal motions, in contrary directions, they would necessarily stop at once, in violation of the law of continuity.

Mr Leibnitz proposes two principles as the foundation of all our knowledge; the first, that it is impossible

Leibnitzian Philosophy Leicester. fible for a thing to be and not to be at the same time, which, he says, is the foundation of speculative truth: the other is, that nothing is without a sufficient reason why it should be so rather than otherwise; and by this principle, according to him, we make a transition from abstracted truths to natural philosophy. Hence he concludes, that the mind is naturally determined, in its volitions and elections, by the greatest apparent good, and that it is impossible to make a choice between things perfectly like, which he calls *indiscernibles*; from whence he infers, that two things perfectly like could not have been produced even by the Deity: and he rejects a vacuum, partly because the parts of it must be supposed perfectly like to each other. For the same reason he also rejects atoms, and all similar particles of matter, to each of which, though divisible in *infinitum*, he ascribes a *monad* (Act. Lipsiæ 1698, p. 435.) or active kind of principle, endued, as he says, with perception and appetite. The essence of substance he places in action or activity, or, as he expresses it, in something that is between acting and the faculty of acting. He affirms absolute rest to be impossible; and holds motion, or a sort of *nifus*, to be essential to all material substances. Each monad he describes as representative of the whole universe from its point of sight; and after all, in one of his letters he tells us, that matter is not a substance, but a *substantiatum*, or *phenomené bien fonde*. He frequently urges the comparison between the effects of opposite motives on the mind, and of weights placed in the scales of a balance, or of powers acting upon the same body with contrary directions. His learned antagonist Dr Clarke denies that there is a similitude between a balance moved by weights, and a mind acting upon the view of certain motives; because the one is entirely passive, and the other not only is acted upon, but acts also. The mind, he owns, is purely passive in receiving the impression of the motive, which is only a perception, and is not to be confounded with the power of acting after, or in consequence of, that perception. The difference between a man and a machine does not consist only in sensation and intelligence, but in this power of acting also. The balance, for want of this power, cannot move at all when the weights are equal; but a free agent, he says, when there appear two perfectly alike reasonable ways of acting, has still within itself a power of choosing; and it may have strong and very good reasons not to forbear.

The translator of Mosheim's Ecclesiastical History observes, that the progress of Arminianism has declined in Germany and several parts of Switzerland, in consequence of the influence of the Leibnitzian and Wolfian philosophy. Leibnitz and Wolf, by attacking that liberty of indifference, which is supposed to imply the power of acting not only without, but against, motives, struck, he says, at the very foundation of the Arminian system. He adds, that the greatest possible perfection of the universe, considered as the ultimate end of creating goodness, removes from the doctrine of predestination those arbitrary procedures and narrow views with which the Calvinists are supposed to have loaded it, and gives it a new, a more pleasing, and a more philosophical aspect. As the Leibnitzians laid down this great end as the supreme object of God's universal dominion, and the hope to which all his dis-

penfations are directed; so they concluded, that if this end was proposed, it must be accomplished. Hence the doctrine of necessity, to fulfil the purposes of a predestination founded in wisdom and goodness; a necessity, physical and mechanical, in the motions of material and inanimate things, but a necessity moral and spiritual in the voluntary determinations of intelligent beings, in consequence of propellent motives, which produce their effects with certainty, though these effects be contingent, and by no means the offspring of an absolute and essentially immutable fatality. These principles, says the same writer, are evidently applicable to the main doctrines of Calvinism; by them predestination is confirmed, though modified with respect to its reasons and its end; by them irresistible grace (irresistible in a moral sense) is maintained upon the hypothesis of propellent motives and a moral necessity: the perseverance of the saints is also explicable upon the same system, by a series of moral causes producing a series of moral effects.

LEICESTER, the capital of a county of the same name in England, upon the river Leire, now called *Source*. From its situation on the Fosse way, and the many coins and antiquities discovered here, it seems probable that it was a place of some note in the time of the Romans. In the time of the Saxons it was a bishop's see, and afterwards so repaired and fortified by Edelfida, that it became, according to Matthew Paris, a most wealthy place, having 32 parish churches; but in Henry the Second's reign it was in a manner quite ruined, for joining in rebellion against him with Robert earl of Leicester. In the reign of Edward III. however, it began to recover by the favour of his son Henry Plantagenet, duke and earl of Lancaster, who founded and endowed a collegiate church and hospital here. It is a borough and corporation, governed by a mayor, recorder, steward, bailiff, 24 aldermen, 48 common council men, a solicitor, a town clerk, and two chamberlains. It had its first charter from King John. The freemen are exempt from paying toll in all the fairs and markets of England. It has three hospitals; that mentioned above, built by Henry Plantagenet duke of Lancaster, and capable of supporting 100 aged people decently; another, erected and endowed in the reign of Henry VIII. for 12 poor lazars; and another for six poor widows. The castle was a prodigious large building, where the duke of Lancaster kept his court. The hall and kitchen still remain entire, of which the former is very spacious and lofty; and in the tower over one of the gateways is kept the magazine for the county militia. There was a famous monastery here, anciently called from its situation in the meadows, *St Mary de Pratis* or *Pres*. In these meadows is now the course for the horse race. It is said that Richard III. who was killed at the battle of Bosworth, lies interred in St Margaret's church. The chief business of Leicester is the stocking trade, which hath produced in general to the amount of 60,000l. a-year. In a parliament held here in the reign of Henry V. the first law for the burning of heretics was made, levelled against the followers of Wickliffe, who was rector of Lutterworth in this county, and where his pulpit is said still to remain. The town suffered greatly in the civil wars, by two sieges upon the back of one another. It has given

the

Leicester-
shire
||
Leighlin.

the title of *earl* to several noble families. The present earl was created in 1784, and is the marquis of Townshend's son. Its market on Saturday is one of the greatest in England for provisions, especially for corn and cattle; and it has four fairs in the year.

LEICESTERSHIRE, an inland county of England, in form almost circular. It has Nottinghamshire and Derbyshire to the north; Rutlandshire and Lincolnshire on the east; Warwickshire on the west, from which it is parted by the Roman military way called *Watling Street*; and by Northamptonshire on the south; and is about 170 miles in circumference. As it lies at a great distance from the sea, and is free from bogs and marshes, the air is sweet and wholesome. It is a champaign country in general, and abundantly fertile in corn and grass, being watered by several rivers, as the Soure, or Sare, which passes through the middle of it, and abounds in excellent salmon and other fish; the Wreke, Trent, Eye, Senfe, Anker, and Aven. These rivers being mostly navigable, greatly facilitate the trade of the county. In some parts there is a great scarcity of fuel, both wood and coal; but in the more hilly parts there is plenty of both, together with great flocks of sheep. Besides wheat, barley, oats, and pease, it produces the best beans in England. They grow so tall and luxuriant in some places, particularly about Barton in the Beans, that they look, towards the harvest time, like a forest; and the inhabitants eat them not only when they are green as in other places, but all the year round; for which reason their neighbours nickname them *bean bellies*. They have plenty of very good wool, of which they not only make great quantities of stockings, but send a great quantity unmanufactured into other parts of England. They make great profit of their corn and pulse; and likewise breed great numbers of coach and dray horses, most of the gentlemen being graziers; and it is not uncommon to rent grass farms from 500l. to 2000l. a-year. It is in the midland circuit, and diocese of Lincoln: and sends four members to parliament, two for Leicester, and two for the county.

LEIGH, SIR EDWARD, a very learned Englishman, was born at Shawel in Leicestershire, and educated at Magdalen hall, Oxford. He was a member of the long parliament, and one of the members of the house of commons who were appointed to sit in the assembly of divines. He was afterwards colonel of a regiment for the parliament; but in 1648 was numbered among the Presbyterians who were turned out, and in December he was imprisoned. From this period to the Restoration he employed himself in writing a considerable number of learned and valuable books, which showed profound learning, a knowledge of the languages, and much critical sagacity; and of which a list is given by Anthony Wood. Sir Edward died at his house called Rushall Hall, in Staffordshire, June 2. 1671; and was buried in the chancel of Rushall church.

LEIGHLIN, a town of Ireland, situated in the county of Carlow, and province of Leinster; about 43 miles from Dublin, near the river Barrow. It is a borough, and formerly returned two members to parliament; patronage in the bishop of the diocese, this being a bishopric united to Ferns. At the east end of the church of Old Leighlin is a famous well covered with

great ash trees, and dedicated to St Lassarian. This place was formerly a city, though now a very mean village, and the cathedral has been kept in good repair. It was a *sole* bishopric, founded in 632, and joined to Ferns in 1600. It is reported, that Gurmundus a Danish prince was buried in this church. The last bishop of Leighlin before its union with Ferns, was the right reverend Robert Grave, who coming by sea to be installed, suffered shipwreck in the harbour of Dublin, and perished in the waves. This cathedral was burnt to the ground, it is said, by lightning; and rebuilt, A. D. 1232, then dedicated to St Lassarian or Lazarinus, before mentioned; since the sees were joined, it is made use of as a parish church. Leighlin bridge is situated about two miles from this village; it was destroyed by the Irish in 1577. Here are the remains of a castle and of an old abbey. This is a post town, and has fairs in May, September, and October.

LEIGHTON, ROBERT, archbishop of Glasgow. During Cromwell's usurpation, he was minister of a church near Edinburgh, and distinguished himself by his charity, and his aversion to religious and political disputes. The ministers were then called over yearly in the synod, and were commonly asked, Whether they had preached to the times? "For God's sake (answered Leighton, when all my brethren preach to the times, suffer me to preach about eternity." His moderation, however, giving offence, he retired to a life of privacy. But soon after, he was called by the unanimous voice of the magistrates, to preside over the college of Edinburgh; where, during ten years, he displayed all the talents of a prudent, wise, and learned governor. Soon after the Restoration, when the ill-judged affair of introducing Episcopacy into Scotland was resolved on, Leighton was consecrated bishop of Dunblane, and immediately gave an instance of his moderation: for when Sharpe and the other bishops intended to enter Edinburgh in a pompous manner, Leighton remonstrated against it; but finding that what he said had no weight, he left them, and went to Edinburgh alone. Leighton, in his own diocese, set such a remarkable example of moderation, that he was revered even by the most rigid of the opposite party. He went about, preaching without any appearance of pomp; gave all he had to the poor; and removed none of the ministers, however exceptionable he might think their political principles. But finding that none of the other bishops would be induced to join, as he thought, properly in the work, he went to the king, and resigned his bishopric, telling him he would not have a hand in such oppressive measures. Soon after, the king and council, partly induced by this good bishop's remonstrances, and partly by their own observations, resolved to carry on the cause of Episcopacy in Scotland on a different plan; and with this view, Leighton was persuaded to accept of the archbishopric of Glasgow, on which he made one effort more; but finding it not in his power to stem the violence of the times, he resigned his archbishopric, and retired into Suffex, where he devoted himself to acts of piety. He died in the year 1684. He was of a most amiable disposition, strict in his life, polite, cheerful, engaging in his manners, and profoundly learned. He left many sermons and useful tracts, which are greatly esteemed.

LEINSTER, the eastern province of Ireland, bound-

Leipfic,
Leith.

Leith.

ed by Ulster on the north; St George's, or the Irish channel, on the east and south; and by the provinces of Connaught and Munster on the west. The capital city of this province and of the kingdom is Dublin. It contains 12 counties, viz. Carlow, Dublin, Kildare, Kilkenny, King's county, Longford, Louth, Meath, Queen's county, West Meath, Wexford, and Wicklow. It is the most level and best cultivated province in the kingdom; containing 2,642,958 Irish plantation acres, 858 parishes, 99 baronies, and 53 boroughs; it is about 124 miles long and 74 broad, and extends from 51° 45' to 55° 45' north latitude. Dermot king of Leinster marrying his daughter Eva to Strongbow earl of Pembroke, on his decease made him his universal heir; whereby the earl inherited the province of Leinster, and was afterwards enfeoffed of it by Henry II. He died in 1176, and left an only daughter Isabel, espoused to William Marshal earl of Pembroke; by her he had five sons, who succeeded to his great estates in Leinster. This province gives title of duke to the ancient and noble family of Fitzgerald. In the early ages, this district was almost one continued forest, and was principally the seat of the Kinfeleghs.

LEIPSIC, a large, strong, and populous town of Misnia in Germany, with a castle, and a famous university. It is neat, and regularly built, and the streets are lighted in the night; it carries on a great trade, and has a right to stop and sell the merchandises designed to pass through it, and the country for 75 miles round has the same privilege. There are three great fairs every year; at the beginning of the year, Easter and Michaelmas, which last 15 days each. There are six handsome colleges belonging to the university, besides the private colleges. The townhouse makes an indifferent appearance, but the exchange is a fine structure. The town was taken by the king of Prussia in the late war, but given up by the peace in 1763. It is seated in a plain between the rivers Saale and Muld, near the confluence of the Playffe, the Elster, and the Barde. E. Long. 12. 55. N. Lat. 51. 19.

LEITH, (anciently called *Inverleith*), the port of Edinburgh, is seated on the banks of the Forth, about two miles from the capital. It is built on both sides of the harbour; by which it is divided into two parts, called *North* and *South Leith*. The communication between these was by a stone bridge of three arches founded by Robert Ballentyne abbot of Holyroodhouse in 1493, but some time ago pulled down. The harbour is formed by the conflux of the rivulet called the *Water of Leith* with the frith of Forth. The depth of water, at neap tides, is about nine feet; but in high spring tides, it is about 16 feet. In the beginning of the 18th century, the town council of Edinburgh improved the harbour at an enormous expence, by extending a stone pier a considerable way into the sea. In 1777, they erected an additional stone quay towards its west side. Upwards of 100 ships could then lie conveniently in this port: but it can now admit of a much greater number, in consequence of having lately undergone great improvements. In order to enlarge it, the old bridge was pulled down, and an elegant drawbridge erected a little to the eastward of the former site. It is accommodated with wet and dry docks, and other conveniences for ship-building, which is there carried on to

VOL. XI. Part II.

some extent, as vessels come to Leith to be repaired from all parts of Scotland. A new basin was completed and opened in 1805, which affords a safe and convenient station for trading vessels. The road of Leith affords good anchorage for ships of the greatest size.

About the close of the American war, when the people were alarmed by the appearance of Paul Jones in the frith with no more than three armed vessels, threatening to destroy all the ships in the roads and harbour, a battery was erected to the westward of the citadel, mounting nine guns. A party of artillery with a considerable park is constantly stationed at the battery, which is kept in excellent repair.

The harbour of Leith was granted to the community of Edinburgh by King Robert in 1329; but the banks of the harbour belonged to Logan of Restalrig, a turbulent and ambitious baron, from whom the citizens were under the necessity of purchasing the bank or waste piece of ground between the houses and the rivulet above mentioned, for the purposes of wharfs, as well as for erecting shops and granaries, neither of which they could do before. As the situation of Leith, however, is much more convenient for trade than that of Edinburgh, which is two miles distant from the harbour, the inhabitants of the metropolis have fallen upon various methods of restraining the trade of Leith. They first purchased, from Logan of Restalrig, an exclusive privilege of carrying on every species of traffic in the town of Leith, and of keeping warehouses and inns for the entertainment of strangers in that place; and in 1483, the town council prohibited, under severe penalties, the citizens of Edinburgh from taking into partnership any inhabitant of Leith. To free themselves from this oppression, the people of Leith purchased the superiority of their town from Logan of Restalrig for 3000l. Scots, and it was erected into a burgh of barony by the queen regent, Mary of Lorraine, who promised to erect it into a royal borough. She died, however, before this was accomplished; and upon her death, Francis and Mary, in violation of the private rights of the people of Leith, resold the superiority to the town of Edinburgh, to whom it has since been confirmed by grants from successive sovereigns.

On the breaking out of the disturbances at the Reformation, the queen regent caused the whole town to be fortified, that the French troops might have a more ready inlet into the kingdom. It was accordingly surrounded with a wall, having eight bastions: but this wall went no farther than the street now called *Bernard's nook*, because at that time the sea came up the length of that street; and even as late as 1623, a house situated exactly where the weigh-house is at present, is described as bounded on the east by the "sand of the sea-shore." All that space, therefore, on which the row of houses nearest the harbour of Leith now stands, has been gained since that time from the sea.

In the time of Charles I. a fortification was erected at Leith by the Covenanters. Cromwell built a strong fort at the place still called the *citadel* in North Leith; but it was pulled down on the restoration of Charles II. by order of government. A gate with portcullises are the present remains of that fortification.—A palace

Leith. lace also appears to have formerly stood here, situated at the north-east boundaries of the former town, on the spot where the present weigh-house stands. It was destroyed by the English in the time of Henry VIII. The remains of this building, called the *king's work*, with a garden, and a piece of waste land that surrounded it, was erected into a barony by James VI. and bestowed upon Bernard Lindsay of Lochill, groom of the chamber to that prince. He is said to have fully repaired, and appropriated it to the recreations of the court; but it soon fell from its dignity, and became subservient to much more ignoble purposes. The tennis court was converted into a weigh-house; and the street which bounds it still bears the name of the founder, from whence it is called *Bernard's nook*.

As Leith lay within the parish of Restalrig, the church of Restalrig was of consequence the place of worship for the inhabitants of Leith; but in 1650 the Assembly ordered that church to be pulled down as a monument of idolatry, so that Leith wanted a parish church for upwards of 50 years. During that period they resorted for worship to a large and beautiful chapel already built, and dedicated to St Mary, which is now called *South Leith Church*; and in 1609 this chapel was by authority of parliament declared to be the parish church of the district: so that Restalrig is now in the parish of South Leith, as the latter was formerly in that of Restalrig. In 1772, a chapel of ease was erected by the inhabitants, as the parish church was insufficient to contain the number of hearers. There are also an Episcopal and several dissenting congregations in Leith. North Leith is a parish by itself, and the church which is proposed (1807) to be rebuilt, is situated at what was the north end of the old bridge.

Though a very great trade is carried on between Leith and many foreign ports, yet the articles of export and import fluctuate so much, that it would be useless to enter into any details either as to species or quantity. In general, the imports from France, Spain, and Portugal, are wines, brandy, and fruits; from the West Indies and America, rice, indigo, rum, sugar, and logwood. But the principal foreign trade of Leith is by the eastern seas, for the navigation of which it is most happily situated. To Germany, Holland, and the Baltic, it exports lead, glass ware, linen and woollen stuffs, and a variety of other goods, and from thence it imports immense quantities of timber, oak bark, hides, linen rags, pearl ashes, flax, hemp, tar, and many other articles. The Baltic trade has long been carried on to a great extent, owing no doubt to the vast increase of new buildings in Edinburgh and its environs. The coasting trade is a principal branch for the shipping at Leith, including those which belong to other ports on the Forth, which are said to make about one-fourth of the tonnage of the Leith vessels. The ships employed in the London trade are in general of a large size, elegantly constructed, well manned, and furnished with excellent accommodations for passengers. The largest ships in this port, however, are those employed in the Greenland fishery.

The shipping at Leith renders the demand for ropes, sail cloth, and cordage, very considerable. Different companies who carry on these manufactures, besides private persons who deal less considerably. The first

of those companies was established in the beginning of the 18th century. This has proved a prosperous and lucrative concern.

In the middle of the 17th century, a manufactory of green glass was established at the citadel of Leith. Chopin bottles were sold at 4s. 6d. per dozen, and other bottles in proportion. Soon afterwards this article was manufactured also in North Leith; and in 1707, chopin bottles were sold at 2s. 6d. per dozen, and so on proportionably. That house being burnt down in 1746, a new house was built the following year on South Leith sands, and an additional one in 1764. Two companies are now (1807) engaged in the glass manufacture; the one for common bottles, and the other for window glass and crystal ware of all sorts.

Manufactures of soft soap and candles were erected by St Clair of Roslin and some merchants; the former in 1750, and the latter in 1770: a manufacture of hard soap was also established in 1770. Besides these, there are a considerable manufacture for making cards with which wool is combed, a great carpet factory, and several iron forges. There was also a sugar house: but it has been given up, as has likewise Mr St Clair's soap work.

There is beside a branch of the British Linen Company, a banking house in Leith, called the *Leith Banking Company*, who issue notes and carry on business to a considerable extent. An elegant building for the accommodation of this company is now (1807) erecting.

The inhabitants of Leith were divided into four classes; and these erected into corporations by the queen dowager, Mary of Lorraine. These were mariners, maltmen, trades, and traffickers. The first of these consisted of shipmasters and sailors; the second, of malt-makers and brewers; the third, of coopers, bakers, smiths, wrights, &c.; and the fourth, of merchants and shopkeepers. Of these corporations the mariners are the most considerable. They obtained from Mary of Lorraine a gift, afterwards ratified by William and Mary, of one penny duty on the ton of goods in the harbour of Leith, for the support of their poor. This duty, which not many years ago did not amount to 40l. a-year, now rises from 70l. to 120l. as trade flourishes. For the same purpose the shipmasters also pay 6d. a pound out of their own wages annually; and the like sum they give upon the wages of their sailors. From these and other donations, this corporation is enabled to pay from 600l. to 700l. a-year to their poor. Opposite to South Leith church there is a large house belonging to them, called the *Trinity Hospital*, because originally consecrated to the Holy Trinity. In this house some of their poor used formerly to be maintained, but now they are all out-pensioners. Besides other apartments, this hospital contains a large handsome hall for the meetings of the corporation. Adjoining to the school house there is another hospital, called *King James's Hospital*; and bears upon its front the cypher and arms of that prince. Here some poor women belonging to the other corporations are maintained.

As the town of Leith was very ill supplied with water, and the streets were neither properly cleaned nor lighted, an act for remedying these defects was passed in the year 1771, appointing certain persons from among

Leitrim
||
Leland.

Leland.

mong the magistrates of Edinburgh, lords of session, inhabitants of Edinburgh and Leith, and members of the corporations of Leith, *commissioners of police*; empowering them to put this act in execution; and, for that purpose, to levy a sum not exceeding 6d. in the pound upon the valued rent of Leith. The great change which has since taken place on the streets of Leith shows the good effect of this act, and that it has both been judiciously prepared, and attentively executed. Leith however has never been well supplied with water; that brought in pipes from *Lochend* in the eastern part of the parish is not of a good quality, for it is not derived from springs.

Leith was computed to contain, in 1801, above thirteen thousand inhabitants. The government of the town is vested in a magistrate sent from Edinburgh, having admiral's power; and in two residing bailies elected by the town council.

LEITRIM, a county of Ireland, situated in the province of Connaught, is bounded on the north by the bay of Donnegal and part of Fermanagh, on the south and west by Sligo and Roscommon, and on the east by Fermanagh and Cavan. It is a fruitful county; and, though mountainous, produces great herds of black cattle; but has few places of note. It contains 206,830 Irish plantation acres, 21 parishes, 5 baronies, and 2 boroughs, and formerly sent six members to parliament; and is about 42 miles long; and 17 broad.

LEITRIM, the shire town of the county of that name, is pleasantly situated on the banks of the river Shannon, about 80 miles from Dublin; and appears to have been formerly a place of some note. St Mac Liagus, son of Cernac, was bishop here: and his festival is observed on the 8th of February.

LEIXLIP, a post and fair town of Ireland pleasantly situated in the county of Kildare and province of Leinster, about 8 miles from Dublin. Near it are the ruins of the church and castle of Confy. The castle of Leixlip is beautifully seated on the banks of the river Liffey; it is a fine edifice with large and pleasant gardens, at one side of which is a fine waterfall called the *Salmon leap*, there being plenty of that species of fish hereabouts. A mile from this is Castletown, the magnificent seat of Mr Conolly.

LELAND, JOHN, a celebrated English antiquary, was born in London about the year 1507. Having lost his parents when a child, he had the good fortune to find a friend and patron in one Mr Thomas Miles, who placed him in St Paul's school, of which the grammarian Lilye was master. From that school he was sent to Christ's college, Cambridge; whence, after some years residence, he removed to All Souls, Oxford. From Oxford he went to Paris, chiefly with a design to study the Greek language, which at that time was but little understood in this kingdom. On his return to England he took orders, and was soon appointed chaplain to King Henry VIII. who also gave him the rectory of Poppelling, in the marshes of Calais, appointed him his librarian, and in 1533 granted to him, by commission under the great seal, the office of king's antiquary; an office never borne by any other person before or since. By this commission he was empowered to search for ancient writings in all the libraries of colleges, abbeys, priories, &c. in his majesty's dominions. We are told by his

last biographer, that he renounced Popery soon after his return to England; but he quotes no authority. Be this as it may, in 1536, he obtained a dispensation to keep a curate at Poppelling, and set out on his journey in search of antiquities. In this employment he spent six years, during which time he visited every part of England where monuments of antiquity were to be expected. After his return, in the year 1542, he was presented by the king to the rich rectory of Hafeley in Oxfordshire; and in the following year he gave him a prebend of King's college, now Christ's church, in Oxford, besides that of East and West Knowle, in the cathedral of Salisbury. Being thus amply provided for, he retired to a house of his own in the parish of St Michael le Querne in London, where he spent six years more in digesting the materials which he had collected. King Henry VIII. died in 1547; and in a short time after, poor Leland lost his senses. He was at first seized with a deep melancholy, which was succeeded by a total deprivation of his reason. In this dreadful state he continued till the beginning of the year 1552, when he was happily released by death. He was buried in the church of St Michael le Querne, which was destroyed by the fire in 1666. Mr Leland is remembered as a man of great learning, an universal linguist, an excellent Latin poet, and a most indefatigable and skilful antiquary. On his death, King Edward VI. gave all his papers to Sir John Checke, his tutor and Latin secretary of state. The king dying, and Sir John being obliged to leave the kingdom, he gave four folio volumes of Leland's collections to Humphrey Purefoy, Esq; which in 1612, were by his son given to William Burton, author of the history of Leicestershire. This gentleman also became possessed of the Itinerary in 8 vols folio, which, in 1632, he deposited in the Bodleian library. Many other of Leland's manuscripts, after the death of Sir John Checke, fell into the hands of Lord Paget, Sir William Cecil, and others, which at last fortunately came into the possession of Sir John Cotton. These manuscripts were of great use to all our subsequent antiquarians, particularly Camden, Sir William Dugdale, Stowe, Lambard, Dr Batteley, Ant. Wood, &c. His Itinerary throughout most parts of England and Wales, was published by Mr Hearne, 9 vols. 8vo, in 1710-11; as was also his *Collectanea de rebus Britannicis*, 6 vols 8vo, in 1715.

LELAND, John, a distinguished writer in defence of Christianity, was born at Wigan in Lancashire in 1691, of eminently pious and virtuous parents. They took the earliest care to season his mind with proper instructions; but, in his sixth year, the small pox deprived him of his understanding and memory, and expunged all his former ideas. He continued in this deplorable state near a twelvemonth, when his faculties seemed to spring up anew; and though he did not retain the least traces of any impressions made on him before the distemper, yet he now discovered a quick apprehension and strong memory. In a few years after, his parents settled in Dublin, which situation gave him an easy introduction to learning and the sciences. When he was properly qualified by years and study, he was called to be pastor to a congregation of Protestant dissenters in that city. He was an able and acceptable preacher, but his labours were not confined to the pul-

Leleges

Lely.

pit. The many attacks made on Christianity, and by some writers of no contemptible abilities, engaged him to consider the subject with the exactest care, and the most faithful examination. Upon the most deliberate inquiry, the truth and divine original, as well as the excellence and importance of Christianity, appearing to him with great lustre, he published answers to several authors who successively appeared in that cause. He was indeed a master in this controversy; and his history of it, styled "A View of the Deistical Writers that have appeared in England in the last and present Century, &c. is very greatly and deservedly esteemed. In the decline of life he published another laborious work, entitled, "The Advantage and Necessity of the Christian Revelation, shown from the State of Religion in the ancient Heathen World, especially with respect to the Knowledge and Worship of the One true God; a Rule of moral Duty, and a State of future Rewards and Punishments: to which is prefixed, a long and preliminary Discourse on Natural and Revealed Religion," 2 vols 4to. This noble and extensive subject, the several parts of which have been slightly and occasionally handled by other writers, Leland has treated at large with the greatest care, accuracy, and candour. And, in his, "View of the Deistical Writers," his cool and dispassionate manner of treating their arguments, and his solid confutation of them, have contributed more to depress the cause of atheism and infidelity, than the angry zeal of warm disputants. But not only his learning and abilities, but also his amiable temper, great modesty, and exemplary life, recommended his memory to general esteem and affection. He died in 1766.

LELEGEIS, the ancient name of Miletus, from the Leleges, the first inhabitants of it.

LELEGES, anciently a people of Asia, of Greek original: the name denoting "a collection of people:" they first occupied the islands; then passing over to the continent, they settled partly in Mysia on the Sinus Adramyttenus, and partly in that part of Ionia next Caria.—There were Leleges also of Laconia. These went to the Trojan war with Altes their king. Achilles plundered their country, and obliged them to retire to the neighbourhood of Halicarnassus, where they fixed their habitation.—The inhabitants of Laconia and of Megara also bore this name for some time, from Lelex one of their kings.

LELEX, an Egyptian who came with a colony to Megara, where he reigned about 200 years before the Trojan war. His subjects were called from him *Leleges*.—Also the name of a Greek who was the first king of Laconia in Peloponnesus. His subjects were also called *Leleges*, and the country where he reigned *Lelegia*.

LELY, SIR PETER, an eminent painter, was born in Westphalia in the year 1617. He was placed as a disciple with Peter Grebber at Haerlem; and in 1641 was induced, by the encouragement Charles I. gave to the fine arts, to come to England. He became state-painter to Charles II. who knighted him; and being as complete a gentleman as a painter, that king took pleasure in conversing with him. He practised portrait painting, and succeeded so well that he was preferred before all his contemporaries. Hence he became perpetually involved in business; so that he was thereby prevented

from going into Italy to finish the course of his studies, which in his younger days he was very desirous of: however, he made himself amends, by getting the best drawings, prints, and paintings, of the most celebrated Italian masters. Among these were the better part of the Arundel Collection, which he had from that family, many whereof were sold after his death at prodigious rates, bearing upon them his usual mark of P. L.—The advantage he reaped from this collection, the best chosen of any one of his time, appears from that admirable style which he acquired by daily conversing with the works of those great masters. In his correct draught and beautiful colouring, but more especially in the graceful airs of his heads, and the pleasing variety of his postures, together with the gentle and loose management of the draperies, he excelled most of his predecessors. Yet the critics remark, that he preserved in almost all his female faces a drowsy sweetness of the eyes peculiar to himself; for which he is reckoned a mannerist. The hands of his portraits are remarkably fine and elegantly turned; and he frequently added landscapes in the back grounds of his pictures, in a style peculiar to himself, and better suited to his subject than most men could do. He excelled likewise in crayon painting. He was familiar with, and much respected by, persons of the greatest eminence in the kingdom. He became enamoured of a beautiful English lady, to whom he was some time after married; and he purchased an estate at Kew in the county of Surrey, to which he often retired in the latter part of his life. He died of an apoplexy in 1680 at London; and was buried at Covent Garden church, where there is a marble monument erected to his memory, with his bust, carved by Mr Gibbons, and a Latin epitaph, written, as is said, by Mr Flatman.

LEMBERG, a town of Poland, capital of Red Russia, seated in the palatinate of Lemburg, on the river Pelteu. It is pretty well fortified, and defended by two citadels, one of which is seated on an eminence without the town. The square, the churches, and the public buildings, are magnificent; and it is a large and rich trading place. It has a Roman Catholic archbishop, and an Armenian as well as a Russian bishop; but the Protestants are not tolerated. The city was reduced to the last extremity by the rebel Cossacs and Tartars, and was forced to redeem itself with a large sum of money. In 1672, it was besieged in vain by the Turks; but in 1704, was taken by storm by Char. XII. of Sweden. E. Long. 24. 46. N. Lat. 49. 51.

LEMERY, NICHOLAS, a celebrated chemist, born at Rouen in Normandy in 1645. After having made the tour of France, he, in 1672, commenced an acquaintance with M. Martyn apothecary to Monsieur the Prince; and performed several courses of chemistry in the laboratory of this chemist at the Hotel de Conde; which brought him to the knowledge and esteem of the prince. He provided himself at length with a laboratory of his own, and might have been made a doctor of physic: but he chose to continue an apothecary, from his attachment to chemistry, in which he opened public lectures; and his confluence of scholars was so great as scarcely to allow him room to perform his operations. The true principles of chemistry in his time were but ill understood; Lemery was the first who abolished the senseless jargon of barbarous terms, reduced

Lely

Lemery.

Leming
||
Lemnos.

reduced the science to clear and simple ideas, and promised nothing that he did not perform. In 1681, he was disturbed on account of his religion; and came to England, where he was well received by Charles II.: but affairs not promising him the same tranquillity, he returned to France, and sought for shelter under a doctor's degree; but the revocation of the edict of Nantz drove him into the Romish communion to avoid persecution. He then became associate chemist and pensionary in the Royal Academy of Sciences, and died in 1715. He wrote, *A course of chemistry*; *An universal pharmacopœia*; *An universal treatise of drugs*; and, a treatise on antimony.

LEMING, in *Zoology*. See MUS, MAMMALIA *Index*.

LEMMA, (of *λαμβάνω*, "I assume,") in *Mathematics*, denotes a previous proposition, laid down in order to clear the way for some following demonstration; and prefixed either to theorems, in order to render their demonstration less perplexed and intricate; or to problems, to make their resolution more easy and short. Thus, to prove a pyramid one third of a prism, or parallelepiped, of the same base and height with it, the demonstration whereof in the ordinary way is difficult and troublesome; this lemma may be premised, which is proved in the rules of progression, that the sum of the series of the squares, in numbers in arithmetical progression, beginning from 0, and going on 1, 4, 9, 16, 25, 36, &c. is always subtriple of the sum of as many terms, each equal to the greatest; or is always one-third of the greatest term multiplied by the number of terms. Thus, to find the inflection of a curve line, this lemma is first premised, that a tangent may be drawn to the given curve in a given point.

So in physics, to the demonstration of most propositions, such lemmata as these are necessary first to be allowed: that there is no penetration of dimensions; that all matter is divisible: and the like. As also in the theory of medicine, that where the blood circulates, there is life, &c.

LEMNA, DUCK-MEAT, a genus of plants belonging to the monœcia class; and in the natural method ranking under the 54th order, *Miscellaneæ*. See BOTANY *Index*.

LEMNIAN EARTH, *Terra Lemnia*, a medicinal, astringent sort of earth, of a fatty consistence and reddish colour; used in the same cases as BOLE. It has its name from the island of Lemnos, whence it is chiefly brought. Many form it into round cakes, and impress a seal upon it; whence it is also called *terra sigillata*. A sort is said to be imported from Senegal, which is not properly an earth, though so called, but composed of the dried pulp of the fruit of the BAOBAB.

LEMNIUS, LEVINUS, a famous physician, born at Ziric Zee in Zealand, in 1505. He practised physic with applause; and after his wife's death being made priest, became canon of Ziric Zee, where he died in 1560. He left several works, the principal of which is entitled *De oculis naturæ miraculis*.

LEMNOS, in *Ancient Geography*, a noble island in the Ægean sea, near Thrace, called also *Dipolis*, from its consisting of two towns. The first inhabitants were the Pelasgi, or rather the Thracians, who were mur-

dered by their wives. After them came the children of the Lemnian widows by the Argonauts, whose descendants were at last expelled by the Pelasgi, about 1100 years before the Christian era. Lemnos is about 112 miles in circumference according to Pliny; who says, that it is often shadowed by Mount Athos, though at the distance of 87 miles. It has been called *Hipsipyle* from Queen Hipsipyle. It is famous for a certain kind of earth or chalk called *terra Lemnia*, or *terra sigillata*, from the seal or impression which it can bear, and which is used for consolidating wounds. As the inhabitants were blacksmiths, the poets have taken occasion to fix the forges of Vulcan in that island, and to consecrate the whole country to his divinity. Lemnos is also celebrated for a labyrinth, which, according to some traditions, surpassed those of Crete and Egypt. Some remains of it were still visible in the age of Pliny. The island of Lemnos was reduced under the power of Athens by Miltiades.

LEMON. See CITRUS, BOTANY *Index*.

LEMON Island, one of the Skelig islands so called; situated off the coast of the county of Kerry, in the province of Munster in Ireland. It is rather a round rock, always above water, and therefore no way dangerous to ships. An incredible number of gannets and other birds breed here; and it is remarkable that the gannet nestles nowhere on the southern coasts of Ireland but on this rock, though many of them are seen on all parts of our coast on the wing. There is another rock on the northern coast of Ireland remarkable for the same circumstance.

LEMONADE, a liquor prepared of water, sugar, and lemon or citron juice, which is very cooling and grateful.

LEMOVICES, a people of Aquitania, situated between the Bituriges Cubi to the north, the Arverni to the east, the Cadurci to the south, and the Pictones to the west. Now the *Limousin* and *La Marche*.

LEMUR, the MAUCAUCO, a genus of quadrupeds belonging to the order of primates. See MAMMALIA *Index*.

LEMURES, in antiquity, spirits or hobgoblins; restless ghosts of departed persons, who return to terrify and torment the living.

These are the same with *larvæ*, which the ancients imagined to wander round the world, to frighten good people, and plague the bad. For which reason at Rome they had *lemuria* or feasts instituted to appease the manes of the defunct. See LARES.

Apuleius explains the ancient notion of manes thus: the souls of men released from the bands of the body, and freed from performing their bodily functions, become a kind of demons or genii, formerly called *lemures*. Of these *lemures*, those that were kind to their families were called *lares familiares*; but those who for their crimes, were condemned to wander continually, without meeting with any place of rest, and terrified good men, and hurt the bad, are vulgarly called *larvæ*.

An ancient commentator on Horace mentions, that the Romans wrote *lemures* for *remures*; which last word was formed from Remus, who was killed by his brother Romulus, and who returned to the earth to torment him.

Lemon
||
Lemures.

But.

Lemuria
Lending-
Houses.

But Apuleius observes, that in the ancient Latin tongue *lemures* signifies the soul of a man separated from the body by death.

LEMURIA, or **LEMURALIA**, a feast solemnized at Rome on the 9th of May, to pacify the manes of the dead, or in honour of the *lemures*.—It was instituted by Romulus, to appease the ghost of his murdered brother Remus, which he thought was continually pursuing him to revenge the horrid crime.—The name *lemuria* is therefore supposed to be a corruption of *Remuria*, i. e. the feast of Remus. Sacrifices continued for three nights, the temples were shut up, and marriages were prohibited during the solemnity. A variety of whimsical ceremonies were performed, magical words made use of, and the ghosts desired to withdraw, without endeavouring to hurt or affright their friends above ground. The chief formalities were ablution, putting black beans into their mouths, and beating kettles and pans, to make the goblins keep their distance.

LENA, a great river of Siberia in Asia, which takes its rise in N. Lat. 50. 30. and E. Long. 124. 30. from Ferro. After traversing a large tract of country, it divides itself into five branches about Lat. 73°. Three of these run westward, and two eastward, by which it discharges itself into the Icy sea. Its three western mouths lie in 143° E. Long. from Ferro, but the eastern ones extend to 153. The current is everywhere slow, and its bed entirely free from rocks. The bottom is sandy, and the banks are in some places rocky and mountainous. Sixteen large rivers fall into the Lena during its course to the northern ocean.

LENÆA, a festival kept by the Greeks in honour of Bacchus, at which there was much feasting and Bacchalian jollity, accompanied with poetical contentions, and the exhibition of tragedies. The poor goat was generally sacrificed on the occasion, and treated with various marks of cruelty and contempt, as being naturally fond of browsing on the vine shoots.

LENCICIA, a strong town of Poland, and capital of a palatinate of the same name, with a fort seated on a rock. The nobility of the province hold their diet here. It stands in a morass on the banks of the river Biura, in E. Long. 19. 25. N. Lat. 52. 12.

LENDING-HOUSES. That it should have once been conceived unlawful to exact interest for the loan of money will not appear surprising, when it is considered, that at an early period the occupations by which a man could support his family were neither so numerous nor productive as in modern times. As money, therefore, was at that time sought to remove immediate necessity, those who advanced it were influenced by benevolence and friendship. But on the extension of trade, arts, and manufactures, money lent produced much more than what was adequate to the borrower's daily support, and therefore the lender might reasonably expect from him some remuneration. To the lending of money upon interest, according to the earliest accounts we have, succeeded the practice of establishing funds for the relief of the needy, on condition that they could deposit any thing equal in value to double the sum borrowed, for which they were to pay no interest.

But as, on the one hand, the idea of exacting interest for the loan of money was odious to the members of the Popish church in general, and as, on the other,

it appeared highly proper and even necessary, to pay interest for money to be employed in commerce, the pontiffs themselves at length allowed the lending-house to take a moderate interest; and in order not to alarm the prejudices of those to whom the measure was obnoxious, it was concealed under the name of being paid *pro indemnitate*,—the expression made use of in the papal bull.

It appears that lending-houses, which gave money on the receipt of pledges, at a certain interest, are by no means of recent date; for many of the houses of this nature, in Italy at least, were established in the 15th century, by Marcus Bononiensis, Michael à Carcano, Cherubinus Spoletanus, Antonius Vercellenis, Bernardinus Tomitano, and others.

The lending-house at Perugia, established by Barnabas Interamnenis, was inspected by Bernardinus in 1485, who augmented its capital, and in the same year established one at Assisi, which was confirmed by Pope Innocent, and visited and improved by its founder in the year 1487. He likewise established one at Mantua after formidable opposition being made to the measure, procuring for it the sanction of the pope, as Wadding informs us. The same person also founded lending-houses at Florence, Parma, Chieti, and Piacenza, in doing which he was sometimes well received, while at others he frequently met with the most formidable opposition. A house of this kind was established at Padua in the year 1491, and another at Ravenna, which were approved of and confirmed by Pope Alexander VI.

Long after the above period, lending-houses were established at Rome and Naples, that of the former city having taken place in 1539, and that of the latter probably in the following year. A lending-house was established at Nuremberg in Germany about 1618, the inhabitants having obtained from Italy the regulations of different houses, in order to select the best. In France, England, and the Netherlands, lending-houses were first known under the denomination of *Lombards*. Similar institutions were formed at Brussels in 1619; at Antwerp in 1620, and at Ghent in 1622.

Although such houses must be allowed to be of considerable utility under certain circumstances, especially when the interest is not allowed to be exorbitant, yet they were always odious in France; but one was established at Paris in 1626, in the reign of Louis XIII. which the managers next year were obliged to abandon. The *mont de pieté* at that city, which has sometimes had in possession 40 casks full of gold watches that were pledged, was established by royal authority in the year 1777, as we learn from the *Tableau de Paris*, published at Hamburg in 1781.—*Beckman's Hist. of Inventions*.

LENFANT, JAMES, a learned French writer, was born in 1661. After studying at Saumur, he went to Heidelberg, where he received imposition of hands for the ministry in 1684. He discharged the functions of this character with great reputation there, as chaplain of the electress dowager Palatine, and pastor in ordinary to the French church. The descent of the French into the Palatinate obliged our author to depart from Heidelberg in 1687. He went to Berlin, where the elector Frederic, afterwards king of Prussia, appointed him one of the ministers. There he continued 39 years, distinguishing himself by his writings. He

Lending-
Houses,
Lenfant.

Length
||
Lengthening.

He was preacher to the queen of Prussia, Charlotta Sophia; and after her death, to the late king of Prussia. In 1707 he took a journey to England and Holland, where he had the honour to preach before Queen Anne; and might have settled in London, with the title of *chaplain to her majesty*. In 1712 he went to Helmsdtadt, in 1715 to Leipzig, and in 1725 to Breslau, to search for rare books and MSS. It is not certain whether it was he that first formed the design of the *Bibliothèque Germanique*, which began in 1720; or whether it was suggested to him by one of the society of learned men, which took the name of *Anonymous*, and who ordinarily met at his house. He died in 1728. His principal works are, 1. The History of the Council of Constance, 2 vols 4to. 2. A History of the Council of Pisa, 2 vols 4to. 3. The New Testament, translated from the Greek into the French, with Notes by Beausobre and Lenfant, 2 vols 4to. 4. The History of Pope Joan, from Spanheim's Latin Dissertation. 5. Several pieces in the *Bibliothèque Choisie, La Republic des Lettres, La Bibliothèque Germanique*, &c.

LENGLET, NICHOLAS DU FRESNOY, L'ABBE', born at Beauvais in France, 1674, was a most fertile and useful French author on a variety of subjects, historical, geographical, political, and philosophical. The following deserve particular notice: 1. A Method of Studying History, with a Catalogue of the Principal Historians of every Age and Country, published in 1713; a work which established his reputation as an historical writer: it was translated into most of the modern languages, particularly our own, with considerable improvements, by Richard Rawlinson, L. L. D. and F. R. S. and published at London in 1730, in 2 vols 8vo. 2. A Copious Abridgement of Universal History and Biography, in chronological order, under the title of *Tablettes Chronologiques*; which made its first appearance at Paris in 1744, in 2 vols small 8vo. and was universally admired by the literati in all parts of Europe. The author attended with great candour, as every writer ought, to well-founded judicious criticisms. In future editions he made several alterations and improvements, and from one of these, we believe, that of 1759, an English translation was made, and published at London in 1762, in 2 vols. large 8vo. Du Fresnoy died in 1755: the Paris edition of 1759 was printed from the author's corrected copy; and the impression being sold off, another edition appeared in 1763, with considerable improvements by an unknown editor: to the biographical part a great number of names of respectable persons are added, not to be found in the former edition; and it has this superior advantage in the historical parts, that the general history is brought down to the year 1762. Du Fresnoy, however, has loaded his work with catalogues of saints, martyrs, councils, synods, heresies, schisms, and other ecclesiastical matters, fit only for the libraries of Popish convents and seminaries.

LENGTH, the extent of any thing material from end to end. In duration, it is applied to any space of time, whether long or short.

LENGTHENING, in ship carpentry, the operation of cutting a ship down across the middle, and adding a certain portion to her length. It is performed by sawing her planks asunder in different places of her

length, on each side of the midship frame, to prevent her from being too much weakened in one place. The two ends are then drawn apart to a limited distance; which must be equal to the proposed addition of length. An intermediate piece of timber is next added to the keel, upon which a sufficient number of timbers are erected, to fill up the vacancy produced by the separation. The two parts of the keelson are afterwards united by an additional piece which is scored down upon the floor timbers, and as many beams as may be necessary are fixed across the ship in the new interval. Finally, The planks of the side are prolonged so as to unite with each other; and those of the ceiling resisted in the same manner; by which the whole process is completed.

LENOX or DUNBARTONSHIRE, a county of Scotland. See DUNBARTONSHIRE. Among the rivers of this county is the Blane, which, though itself an inconceivable stream, has been rendered famous by the birth of George Buchanan, the celebrated Latin poet and historian. The same part of the country gave birth to the great mathematician and naturalist, Baron Napier of Merchiston, inventor of the logarithms. The title of *Lenox*, with the property of great part of the shire, was heretofore vested in a branch of the royal family of Stuart, with which it was reunited in the person of King James VI. whose father, Henry Lord Darnley, was son of the duke of Lenox. This prince conferred the title upon his kinsman Esme Stuart, son of John Lord d'Aubigny in France; but his race failing at the death of Charles duke of Lenox and Richmond, and the estate devolving to the crown, King Charles II. conferred both titles on his own natural son by the duchess of Portsmouth; and they are still enjoyed by his posterity. The people of Lenoxshire are chiefly Lowlanders, though in some parts of it divine service is performed in the Erse language.—The most numerous clans in this district are the Macfarlanes, the Colquhouns, and the Buchanans.

LENS, a piece of glass, or any other transparent substance, the surfaces of which are so formed, that the rays of light, by passing through it, are made to change their direction, either tending to meet in a point beyond the lens, or made to become parallel after converging or diverging; or lastly, proceeding as if they had issued from a point before they fell upon the lens. Some lenses are convex, or thicker in the middle; some concave, or thinner in the middle; some plano-convex, or plano-concave; that is with one side flat, and the other convex or concave; and some are called *meniscuses*, or convex on one side and concave on the other. See DIOPTRICS.

Lenses, are of two kinds, either blown or ground.

Blown LENSES, are only made use of in the single microscope, and the common method of making them has been to draw out a fine thread of the soft white glass called *crystal*, and to convert the end of it into a spherule by melting it at the flame of a candle. Mr Nicholson observes that window glass affords excellent spherules. A thin piece from the edge of a pane of glass one tenth of an inch broad was held perpendicularly, and the flame of a candle was directed against it by means of the blow-pipe, when it became soft, and the lower end descended by its own weight to the distance of about two feet, where it remained suspended

by,

Lenox,
Lens.

Lens,
Lent.

by a thin thread of glass about $\frac{3}{16}$ of an inch in diameter. A part of this thread was applied endwise to the lower blue part of the flame of the candle without the blow-pipe, when the end became instantly white-hot, and formed a globule, which was gradually thrust towards the flame till it became sufficiently large. A number of these were made and examined, by viewing their focal images with a deep magnifier, when they appeared bright, perfect, and round.

Ground LENSES are such as are rubbed into the shape required, and polished. Several shapes have been proposed, but the spherical has been found to be the most practically useful. Yet by various modes of grinding, the artificer can produce no more than an approximation to a figure exactly spherical, and men of letters or others must depend entirely on the care and integrity of workmen for the sphericity of the lenses of their telescopes. Mr Jenkins has described a machine, which being so contrived as to turn a sphere at one and the same time on two axes, cutting each other at right angles, will produce the segment of a true sphere, merely by turning round the wheels, and that without any care or skill in the workmen. See MECHANICS.

LENT, a solemn time of fasting in the Christian church, observed as a time of humiliation before Easter, the great festival of our Saviour's resurrection.

Those of the Romish church, and some of the Protestant communion, maintain, that it was always a fast of 40 days, and, as such, of apostolical institution. Others think it was only of ecclesiastical institution, and that it was variously observed in different churches, and grew by degrees from a fast of 40 hours to a fast of 40 days. This is the sentiment of Morton, Bishop Taylor, Du Moulin, Daillé, and others.

Anciently the manner of observing lent among those who were piously disposed, was to abstain from food till evening: their only refreshment was a supper; and then it was indifferent whether it was flesh or any other food, provided it was used with sobriety and moderation.

Lent was thought the proper time for exercising, more abundantly, every species of charity. Thus what they spared from their own bodies by abridging them of a meal, was usually given to the poor; they employed their vacant hours in visiting the sick and those that were in prison, in entertaining strangers, and reconciling differences. The imperial laws forbade all prosecution of men in criminal actions, that might bring them to corporal punishment and torture, during the whole season. This was a time of more than ordinary strictness and devotion, and therefore in many of the great churches they had religious assemblies for prayer and preaching every day. All public games and stage plays were prohibited at this season; as also the celebration of all festivals, birth days, and marriages, as unsuitable to the present occasion.

The Christians of the Greek church observe four lents: the first commences on the 15th of November; the second is the same with our lent; the third begins the week after Whitfuntide, and continues till the festival of St Peter and St Paul; and the fourth commences on the first of August, and lasts no longer than

till the 15th. These lents are observed with great strictness and austerly; but on Saturdays and Sundays they indulge themselves in drinking wine and using oil, which are prohibited on other days.

LENTIL. See ERVUM, BOTANY Index.

LENTINI. See LEONTINI.

LENTISCUS. See PISTACIA, BOTANY Index.

LEO. See FELIS, MAMMALIA Index.

LEO, in *Astronomy*, the fifth of the 12 signs of the zodiac. The stars in the constellation *Leo*, in Ptolemy's catalogue are 27, besides the unformed, which are 8; in Tycho's 30; in the Britannic catalogue 95.

LEO X. *Pope*, second son of Lorenzo de Medici, was born at Florence in December 1475, and received the baptismal name of *Giovanni*, or John. He received the tonsure at seven years of age, his father having destined him for the church. Being even at that early period declared capable of clerical preferment, he obtained two rich abbacies through the interest of his father with Louis XI of France, and Pope Sixtus IV. At a very early period he held no fewer than 29 church preferments, a strong proof of the most scandalous corruption, as well as of the interest which his family enjoyed. In the time of Innocent VIII. he was promoted to the high rank of cardinal, when no more than 13 years of age, which took place in the year 1488. If the great influence of his father was unquestionably censurable in promoting the rapid and illegal advancement of his son, it is but justice to admit that he employed all his efforts to qualify him for such premature dignity. The learned Angelo Poliziano had the care of his early education, which was greatly accelerated by the uncommon gravity and solidity of his disposition. He was invested with the purple in 1492, going afterwards to reside at Rome as one of the sacred college. Having opposed the election of Alexander VI. to the pontificate, he found it prudent to withdraw to Florence, in which place he acquired much personal esteem; but on the invasion of Italy by Charles VIII. of France, he was involved in the expulsion of his brother Piero, and took refuge at Bologna. In 1499 he made a tour through the states of Venice, Germany, and France, going afterwards to Rome, where he lived safe and respected during the pontificate of Alexander, in consequence of his prudent behaviour.

In 1505, when 30 years of age, he began to take an active part in public affairs, and Julius II. appointed him governor of Perugia. As he adhered with unshaken resolution to the interest of the pope, he acquired the confidence of his holiness, in so eminent a manner, that he was entrusted with the direction of the papal army against France; and if he was not competent to conduct the military operations, he was of singular service in maintaining good order in the camp. He was taken prisoner at the bloody battle of Ravenna in 1512, and conveyed to Milan, where the dignity of his sacred office procured him respect. From this place he found means to escape, and returned to Bologna, assuming the government of the district in the capacity of the pope's legate.

At the election of a new pope in the room of Julius II. he was chosen to the pontificate, being then only 38 years of age. Whatever might be the leading motives

Lentil
||
Leo.

Leo. of the conclave for electing so young a pope, it is agreed on all hands, that it was not effected by those corrupt practices too common on such occasions; and he ascended the throne under the name of Leo X. with greater proofs of affection on the part of both Italians and foreigners than the greater part of his predecessors. He displayed his love of literature by the nomination of Bembo and Sadoleti to the office of papal secretaries.

One of his first attempts was to free Italy from the dominion of foreign powers; and having taken into pay a large body of Swiss, he gained a victory over the French in the reign of Louis XII. at the bloody battle of Novara, by which means they were driven from Italy; and the king of France having incurred ecclesiastical censure, submitted in form, and received absolution. Having thus secured internal tranquillity, he turned his attention to the encouragement of literature and men of genius. He effected the restoration of the Roman university to its former splendour by means of new grants and privileges, and by filling the professorships with distinguished characters from every quarter. A Greek press was established in the city, and all Europe was informed that persons bringing ancient manuscripts to the pope would be liberally rewarded, besides having them printed at the expence of the holy see. He also promoted the study of oriental literature, and he had the honour of founding the first professorship of the Syriac and Chaldaic languages at Bologna.

On the death of Louis XII. of France, and the accession of Francis I. to the throne, it soon became apparent that a new war was inevitable in the north of Italy. Leo endeavoured to remain neuter, but without success, in consequence of which he joined in a league with the emperor, the king of Arragon, the states of Milan and Florence, and the Swiss cantons, against the French king and the state of Venice. But he soon found it expedient to desert his allies, and form a union with Francis, which took place in 1515, at an interview between the two sovereigns.

In 1517, the duke of Urbino, whom he had expelled, in order to make way for his nephew Lorenzo, collected an army, and by rapid movements regained his capital and dominions, which chagrined Leo to such a degree, that he endeavoured to raise all the Christian princes against him. He raised an army under the command of his nephew, and the duke was finally compelled to relinquish his dominions upon honourable terms. In this year the life of Leo was in danger, and all his moments embittered by a conspiracy against him in his own court. Petrucci, the chief author of it, had formed a plan of destroying the pope by poison; but having failed in this attempt, he withdrew from Rome, still, however, carrying on a correspondence with his secretary. Some of his letters being intercepted, he was arrested on his way to Rome, and committed to prison. He was strangled, and his accomplices were put to death with the severest tortures. To shelter himself from danger, whether real or imaginary, Leo created 31 new cardinals in one day, chiefly from among his own relations, and some of them deserving of such dignity by their virtues and talents.

VOL. XI. Part II.

Leo. In the reign of this pontiff began the reformation of religion under the celebrated Martin Luther, who inflicted such a wound on the Romish church as will never be healed. Leo's taste for luxurious magnificence and every object of expence having exhausted his coffers, he took from the church the profits arising from the sale of indulgences for his own private emolument. These wares were extolled in language which shocked the pious and thinking part of mankind, and facilitated the progress of the reformation in the hands of such a man as Luther, whom nothing could intimidate. This great man during his opposition to the extravagance of Leo in the sale of indulgences, was still willing to be reconciled; but as he insisted on making an unqualified appeal to the language of Scripture, and Leo would admit of nothing but an unqualified appeal to the decrees of the church, it is obvious that a reconciliation was impossible. The works of Luther were burnt in different places by Leo's command, and Luther in his turn made a solemn and public conflagration of the papal decrees and constitutions, and even of the bull itself. It was this pontiff who conferred on Henry VIII. of England the title of defender of the faith, to which he appears to have had very little claim.

The private hours of Leo, it is said, were devoted to indolence, or to amusements; and that some of them were unworthy of his clerical dignity. Many enormities are ascribed to him which we shall pass over in silence, as they do not appear to have such incontestable evidence as to warrant the belief of them. He never lost sight of his favourite idea of expelling the French from Italy. The Swiss who had been in the service of France were induced to desert, the allies crossed the Adda, and entered Milan without opposition. They next entered the territories of the duke of Ferrara who had espoused the cause of France. Many of his strong places were taken, and siege was about to be laid to his capital, when it was prevented by the disposition of the pope, which in the space of eight days terminated in his death, on December 1. 1521, in the 46th year of his age, and the 9th of his pontificate. It was supposed by some that he died by poison, but we have seen no sufficient proof for such a conclusion. Without attempting to draw the moral and political character of this celebrated pontiff, about which mankind have been so much divided, it may be fairly asserted that he claims the gratitude of posterity for the ample encouragement which he afforded to men of science and literature, and the eagerness with which he promoted the study of the fine arts, qualities sufficient to veil all the failings or faults which can justly be charged to his account. This character of Leo has been finely celebrated by Pope in the following verses.

But see! each muse, in Leo's golden days,
Starts from her trance; and trims her witer'd bays;
Rome's ancient Genius, o'er its ruins spread,
Shakes off the dust, and rears his rev'rend head.
Then Sculpture and her sister Arts revive:
Stones leap to foam, and rocks begin to live;
With sweeter notes each rising temple rung;
A Raphael painted, and a Vida sung.

LEO, *St.* a small but strong town of Italy, in the territory

Leonard. territory of the church, and duchy of Urbino, with a bishop's see. It is seated on a mountain, near the river Marrechia, in E. Long. 12. 25. N. Lat. 43. 57.

LEOMINSTER, a town of Herefordshire, in England, seated on the river Lug, which waters the north and east sides of the town, and over which there are several bridges. It is a large, handsome, populous borough; and is a great thoroughfare betwixt South Wales and London, from which last it is distant 113 measured miles. In King John's reign it was burnt, but soon rebuilt. It was incorporated by Queen Mary, and is governed by a high steward, bailiff, recorder, &c. The best flax is said to grow here, and it has been equally noted for the best wheat, barley, and the finest bread. The inhabitants have a considerable trade not only in wool, but in gloves, leather, hat-making, &c. and there are several rivers in and about the town on which they have mills and other machines. Near its church are some remains of its priory; and on a neighbouring hill are the ruins of a palace, called to this day Comfort Castle. It sends two members to parliament. W. Long. 2. 45. N. Lat. 52. 20.

LEON, an ancient town of France, in Lower Bretagne, and capital of the Lyonnais, with a bishop's see. It is seated near the sea, in W. Long. 3. 55. N. Lat. 48. 41.

LEON, a province of Spain, with the title of a kingdom; bounded on the north by Asturias; on the west by Galicia and Portugal; and on the south by Estremadura and Castile, which also bounds it on the east. It is about 125 miles in length, and 100 in breadth; and is divided into two almost equal parts by the river Duero, or Douro. It produces all the necessaries of life, and Leon is the capital town.

LEON, an ancient and large episcopal town of Spain, and capital of the kingdom of that name, built by the Romans in the time of Galba. It has the finest cathedral church in all Spain. It was formerly more rich and populous than at present, and had the honour of being the capital of the first Christian kingdom in Spain. It is seated between two sources of the river Esta, in W. Long. 5. 13. N. Lat. 42. 55.

LEON, *Peter Cicca de*, author of the history of Peru. He left Spain, his native country, at 13 years of age in order to go into America, where he resided 17 years; and observed so many remarkable things, that he resolved to commit them to writing. The first part of his history was printed at Seville in 1553. He began it in 1541, and ended it in 1550. He was at Lima, the capital of the kingdom of Peru, when he gave the finishing stroke to it, and was then 32 years of age.

LEON de Nicaragua, a town of North America, in New Spain, and in the province of Nicaragua; the residence of the governor, and a bishop's see. It consists of about 1000 houses, and has several monasteries and nunneries belonging to it. At one end of the town is a lake which ebbs and flows like the sea. The town is seated at the foot of a volcano, which renders it subject to earthquakes. It was taken by the bucaniers in 1685, in sight of a Spanish army who were six to one. W. Long. 86. 10. N. Lat. 12. 25.

LEONARD DE NOBLET, *St*, an ancient town of France, in the province of Guienne and territory of Limosin, with a considerable manufactory of cloth and

paper. It is seated on the river Vienne, in E. Long. 1. 35. N. Lat. 45. 50.

LEONARDO DA VINCI. See VINCI.

LEONCLAVIUS, JOHN, one of the most learned men of the 16th century, was a native of Westphalia. He travelled into Turkey, and collected excellent materials for composing The Ottoman History; and it is to him the public is indebted for the best account we have of that empire. To his knowledge in the learned languages he had added that of the civil law; whereby he was very well qualified to translate the *Basilica*. His other versions were esteemed, though critics pretend to have found many faults in them. He died in 1593, aged 60.

LEONIDAS I. king of Sparta, a renowned warrior, slain in defending the straits of Thermopylæ against Xerxes, 480 B. C. See SPARTA.

LEONINE, in poetry, is applied to a kind of verses which rhyme at every hemistich, the middle always chiming to the end. Of which kind we find several ancient hymns, epigrams, prophecies, &c.—For instance, Muretus speaking of the poetry of Lorenzo Gambara of Bresse, says,

*Brixia, vestratis merdosa volumina vatis,
Non sunt nostrates tergere digna natis.*

The following one is from the school of Salerno:

Ut vites pœnam de potibus incipe cœnam.

The origin of the word is somewhat obscure: Paquier derives it from one Leoninus or Leonius, who excelled in this way; and dedicated several pieces to Pope Alexander III.; others derive it from Pope Leo; and others from the beast called *lion*, by reason it is the loftiest of all verses.

LEONTICA, feasts or sacrifices celebrated among the ancients in honour of the sun.—They were called *Leontica*, and the priest who officiated at them *Leones*, because they represented the sun under the figure of a lion radiant, bearing a tiara, and gripping in his two fore paws the horns of a bull, who struggled with him in vain to disengage himself.

The critics are extremely divided about this feast. Some will have it anniversary, and to have made its return not in a solar but in a lunar year; but others hold its return more frequent, and give instances where the period was not above two hundred and twenty days.

The ceremony was sometimes also called *Mithriaca*, Mithras being the name of the sun among the ancient Persians. There was always a man sacrificed at these feasts, till the time of Hadrian, who prohibited it by a law. Commodus introduced the custom afresh, after whose time it was again exploded.

LEONTICE, LION'S LEAF, a genus of plants belonging to the hexandria class; and in the natural method ranking under the 24th order, *Corydales*. See BOTANY *Index*.

LEONTINI, or LEONTIUM, in *Ancient Geography*, a town of Sicily on the south side of the river Terias, 20 miles north-west of Syracuse. The territory, called *Campi Leontini*, was extremely fertile (Cicero): these were the *Campi Læstrigoni*, anciently so called; the seat of the Læstrigons, according to the commentators on the poets. The name *Leontini* is from *Leo*, the impression.

Leonardo
||
Leontini.

Leontium
||
Leprosy.

pression on their coin being a lion. Now call *Lentini*, a town situated in the Val di Noto, in the south-east of Sicily.

LEONTIUM, one of the twelve towns of Achaia, whether on, or more distant from, the bay of Corinth, is uncertain. *Leontium* of Sicily. See LEONTINI.

LEONTODON, DANDELION, a genus of plants belonging to the syngenesia class, and in the natural method ranking under the 49th order, *Compositæ*. See BOTANY *Index*.

LEONURUS, LION'S-TAIL, a genus of plants belonging to the didynamia class, and in the natural method ranking under the 42d order, *Verticillatæ*. See BOTANY *Index*.

LEOPARD. See FELIS, MAMMALIA *Index*.

LEOPARD'S BANE. See DORONICUM, BOTANY *Index*.

LEPANTO, a strong and very considerable town of Turkey in Europe, and in Livadia, with an archbishop's see and a strong fort. It is built on the top of a mountain, in form of a sugar-loaf; and is divided into four towns, each surrounded by walls, and commanded by a castle on the top of the mountain. The harbour is very small, and may be shut up by a chain, the entrance being but 50 feet wide. It was taken from the Turks by the Venetians in 1678; but was afterwards evacuated, and the castle demolished in 1699, in consequence of the treaty of Carlowitz. It was near this town that Don John of Austria obtained the famous victory over the Turkish fleet in 1571. The produce of the adjacent country is wine, oil, corn, and rice. Turkey leather is also manufactured here. The wine would be exceeding good if they did not pitch their vessels on the inside, but this renders the taste very disagreeable to those who are not accustomed to it. The Turks have six or seven mosques here, and the Greeks two churches. It is seated on a gulf of the same name, in E. Long. 22. 13. N. Lat. 38. 34.

LEPAS, the ACORN, a genus of shell-fish belonging to the order of vermes testacea. See CONCHOLOGY *Index*.

LEPIDIUM, DITTANDER, or *Pepperwort*, a genus of plants belonging to the tetradynamia class, and in the natural method ranking under the 39th order, *Siliquosæ*. See BOTANY *Index*.

LEPIDOPTERA, in *Zoology*, an order of insects, with four wings, which are covered with imbricated scales. See ENTOMOLOGY.

LEPISMA, a genus of insects belonging to the order of *Aptera*. See ENTOMOLOGY *Index*.

LEPROSY, a foul cutaneous disease, appearing in dry, white, thin, scurfy scabs, either on the whole body, or only some parts of it, and usually attended with a violent itching and other pains. See MEDICINE *Index*.

The leprosy is of various kinds, but the Jews were particularly subject to that called *Elephantiasis*. Hence the Jewish law excluded lepers from communion with mankind, banishing them into the country or uninhabited places, without excepting even kings. When a leper was cleansed, he came to the city gate, and was there examined by the priests; after this he took two live birds to the temple, and fastened one of them to a wisp of cedar and hyssop tied together with a scarlet ribbon; the second bird was killed by the leper, and the blood of it received into a vessel of water; with

this water the priest sprinkled the leper, dipping the wisp and the live bird into it: this done, the live bird was let go; and the leper, having undergone this ceremony, was again admitted into society and to the use of things sacred. See Levit. xiii. 46. 47. and Levit. xiv. 1, 2, &c.

LEPTOCEPHALUS, a genus of fishes, belonging to the order of *Apodes*. See ICHTHYOLOGY *Index*.

LEPTOPOLYGLINGLIMI, in *Natural History*, a genus of fossil shells, distinguished by a number of minute teeth at the hinge. Specimens of these are found at Harwich cliff, and in the marl pits of Suffex.

LEPTUM, in antiquity, a small piece of money, which, according to some, was only the eighth part of an obolus; but others will have it to be a silver or brass drachm.

LEPTURA, a genus of insects belonging to the order of coleoptera. See ENTOMOLOGY *Index*.

LEPUS, a genus of quadrupeds belonging to the order of glires. See MAMMALIA *Index*.

LEPUS, the hare, in *Astronomy*, a constellation of the southern hemisphere; whose stars in Ptolemy's catalogue are 12; in that of Tycho's 13; and in the Britannic 19.

LERCHEA, a genus of plants belonging to the monadelphia class. See BOTANY *Index*.

LERIA, or LEIRIA, a strong town of Portugal, in Estremadura, with a castle and bishop's see. It contains about 3500 inhabitants, and was formerly the residence of the kings of Portugal. W. Long. 7. 50. N. Lat. 39. 40.

LERIDA, an ancient, strong, and large town of Spain, in Catalonia, with a bishop's see, an university, and a strong castle. This place declared for King Charles after the reduction of Barcelona in 1705; but it was retaken by the duke of Orleans in 1707, after the battle of Almanza. It is seated on a hill near the river Segra, and in a fertile soil, in E. Long. 0. 35. N. Lat. 41. 31.

LERINA, or PLANASIA, in *Ancient Geography*, one of the two small islands over against Antipolis, called also *Lerinas* and *Lirinus*. Now St Honorat, on the coast of Provence, scarce two leagues to the south of Antibes.

LERINS, the name of two islands in the Mediterranean sea, lying on the coast of Provence in France, five miles from Antibes; that near the coast, called *St Margaret*, is guarded by invalids, state prisoners being sent here. It was taken by the English in 1746, but Marshal Belleisle retook it in 1747. The other is called *St Honorat*; and it is less than the former, but has a Benedictine abbey.

LERMA, a town of Spain, in Old Castile, seated on the river Arlanza, with the title of a *duchy*. W. Long. 3. 5. N. Lat. 42. 2.

LERNA, in *Ancient Geography*, not far from Argos, on the confines of Laconia; supposed to be a town of Laconia, but on the borders of Argolis; the position Pausanias allots to it, near Temenium, on the sea; without adding whether it is a town, river, or lake. According to Strabo, it is a lake, situated between the territories of Argos and Mycene, in contradiction to Pausanias. If there was a town of this name, it

Lerne seems to have stood towards the sea, but the lake to have been more inland. Mela calls it a well known town on the Sinus Argolicus; and Statius by Lerna seems to mean something more than a lake. This, however, is the lake in which, as Strabo says, was the fabled Hydra of Hercules: therefore called *Lerna Anguifera* (Statius). The lake runs in a river or stream to the sea, and perhaps arises from a river (Virgil). From the lake the proverb, *Lerna Malorum*, took its rise; because, according to Strabo, religious purgations were performed in it; or, according to Hesychius, because the Argives threw all their filth into it.

LERNEA, a genus of animals of the class of vermes. See HELMINTHOLOGY Index.

LERNICA, formerly a large city in the island of Cyprus, as appears from its ruins: but is now no more than a large village, seated on the southern coast of that island, where there is a good road, and a small fort for its defence.

LERO, in *Ancient Geography*, one of the two small islands in the Mediterranean, opposite to Antipolis, and half a mile distant from it to the south. Now *St Margarita*, over against Antibes, on the coast of Provence.

LERO, or *Leros*, an island of the Archipelago, and one of the Sporades; remarkable, according to some authors, for the birth of Patroclus. E. Long. 26. 15. N. Lat. 37. 0.

LE ROY LE VEUT, the king's assent to public bills. See the articles BILL, STATUTE, and PARLIAMENT.

LERWICK, a town on the Mainland of Shetland, and the seat of the courts of that stewartry. It is situated on the spacious harbour called *Lerwick* or *Bressay sound*, and derives its only importance from the courts of law, and the vessels employed in the whale-fishery, which make a rendezvous of the bay. It is computed to contain about 1000 inhabitants. The parish extends about six miles along the sea coast, and is in no place more than a mile in breadth. On the north and east it is bounded by the sea, which separates it from Bressay island. The surface of the parish is rocky and mountainous, but there are a number of fine arable fields on the sea coast, the soil of which is light and sandy, but fertile and productive. Near the north end of the town there is a small fortification called *Fort Charlotte*, which commands the north entry to Bressay sound, and is garrisoned by a detachment of invalids. It was completely repaired by order of government in the year 1781. There are several large cannon for commanding the harbour and protecting the town. There is a straw-plaiting manufactory at Lerwick, furnishing upwards of 50 girls with employment, who have one penny per yard for their work; 20 yards of which can be made by some of them in the course of a day. It is carried on by a company in London. There are two chalybeate springs in the vicinity of the town, but neither of them is highly impregnated, although the one is stronger than the other. W. Long. 1. 30. N. Lat. 60. 20.

LESBOS, a large island in the Ægean sea, on the coast of Ætolia, about 168 miles in circumference. It has been severally called *Pelafgia*, from the Pelafgi by whom it was first peopled; *Macaria*, from Macareus who settled in it; and *Lesbos*, from the son-in-law and

successor of Macareus who bore the same name. The chief towns of Lesbos were Methymna and Mitylene. It was originally governed by kings, but they were afterwards subjected to the neighbouring powers. The wine which it produced was greatly esteemed by the ancients, and still is in the same repute among the moderns. The Lesbians were so debauched and dissipated, that the epithet of *Lesbian* was often used to signify debauchery and extravagance. Lesbos has given birth to many illustrious persons, such as Arion, Terpander, Sappho, &c. See MITYLENE.

LESCAILLE, JAMES, a celebrated Dutch poet and printer, was born at Geneva. He and his daughter Catherine Lescaille have excelled all the Dutch poets. That lady, who was surnamed the *Sappho of Holland*, and the *tenth Muse*, died in 1711. A collection of her poems has been printed, in which are the Tragedies of Genferic, Wenceslaus, Herod and Mariamne, Hercules and Dejanaira, Nicomedes, Ariadne, Cassandra, &c. James Lescaille her father deserved the poet's crown, with which the emperor Leopold honoured him in the year 1603: he died about the year 1677, aged 67.

LESCAR, a town of Gascony, in France, and in the territory of Bearn, with a bishop's see; seated on a hill, in W. Long. 0. 30. N. Lat. 43. 23.

LESGUIS, a people of Asia, whose country is indifferently called by the Georgians *Lesguistan* and *Daghestan*. It is bounded to the south and east by Persia and the Caspian; to the south-west and west by Georgia, the Ossi, and Kisti; and to the north by the Kisti and Tartar tribes. It is divided into a variety of districts, generally independent, and governed by chiefs elected by the people. Guldenstaedt has remarked, in the Lesguis language, eight different dialects, and has classed their tribes in conformity to this observation.

The first dialect comprehends 15 tribes, which are as follow: 1. Avar, in Georgia Chunfagh. The chief of this district, commonly called *Avar Khan*, is the most powerful prince of Lesguistan, and resides at Kabuda, on the river Kaseruk. The village of Avar is, in the dialect of Andi, called *Harbul*. 2. Kaseruk, in the high mountains, extending along a branch of the Koifu, called *Karak*. This district is dependant on the khan of the Kas Kumychs. 3. Idatle, on the Koifu, joining on the Andi; subject to the Avar Khan. 4. Mukratle, situated on the Karak, and subject to the Avar Khan. 5. Onsekul, subject to the same, and situated on the Koifu. 6. Karakhle, upon the Karak, below Kaseruk, subject to the same. 7. Ghumbet, on the river Ghumbet, that joins the Koifu, subject to the chief of the Coumyks. 8. Arakan; and, 9. Burtuma, on the Koifu. 10. Antsugh, on the Samura, subject to Georgia. 11. Tebel, on the same river, independent. 12. Tamurgi, or Tumural, on the same river. 13. Akhti; and, 14. Rutal, on the same. 15. Dshar, in a valley that runs from the Alazan to the Samura. It was formerly subject to Georgia, but is now independent. In this district are seen remains of the old wall that begins at Derbent, and probably terminates at the Alazan.—The inhabitants of Derbent believe that their town was built by Alexander, and that this wall formerly extended as far as the Black sea. It is, however,

Lescaille
||
Lesguis.

Lesguis.

ever, probable, from many inscriptions in old Turkish, Persian, Arabic, and Russian characters, that the wall, and the aqueducts with their various subterraneous passages, many of which are now filled up, are of high antiquity. This town suffered greatly during its siege by Sultan Amurath, who entirely destroyed the lower quarter, then inhabited by Greeks. It was again taken by Shah Abbas. (Gaerber.) This town is the old Pylæ Caspiae.

The second dialect is spoken in the two following districts: 1. Dido, or Didouli, about the source of the Samura. This district is rich in mines; a ridge of uninhabited mountains divides it from Caket. 2. Unso, on the small rivulets that join the Samura. These two districts, containing together about 1000 families, were formerly subject to Georgia, but are now independent.

The third dialect is that of Kabutli, which lies on the Samura rivulets, east of Dido, and north of Caket.

The fourth dialect is that of Andi, situated on a rivulet that runs into the Koifu. Some of its villages are subject to the Avar Khan, but the greater part to the khan of Axai. The whole consists of about 800 families.

The fifth dialect is common to four districts, namely, 1. Akusha, on the Koifu, subject to the Usmei, or khan of the Caitaks, and Kara Caitaks, containing about 1000 families. The following custom is attributed by Colonel Gaerber to the subjects of this prince: "Whenever the Usmei has a son, he is carried round from village to village, and alternately suckled by every woman who has a child at her breast until he is weaned. This custom, by establishing a kind of brotherhood between the prince and his subjects, singularly endears them to each other." 2. Balkar. 3. Zudakara, or Zudakh, down the Koifu, subject to the Usmei. 4. Kubelha, near the Koifu. Colonel Gaerber, who wrote an account of these countries in 1728, gives the following description of this very curious place: "Kubelha is a large strong town, situated on a hill between high mountains. Its inhabitants call themselves Franki (Franks, a name common in the east to all Europeans), and relate, that their ancestors were brought hither by some accident, the particulars of which are now forgotten. The common conjecture is, that they were mariners cast away upon the coast; but those who pretend to be better versed in their history, tell the story this way:—The Greeks and Genoese, say they, carried on, during several centuries, a considerable trade, not only on the Black sea, but likewise on the Caspian, and were certainly acquainted with the mines contained in these mountains, from which they drew by their trade with the inhabitants great quantities of silver, copper, and other metals. In order to work these upon the spot, they sent hither a number of workmen to establish manufactures, and instruct the inhabitants. The subsequent invasions of the Arabs, Turks, and Monguls, during which the mines were filled up, and the manufactures abandoned, prevented the strangers from effecting their return, so that they continued here, and erected themselves into a republic. What renders this account the more probable is, that they are still excellent artists, and make very good fire arms, as well rifled as plain; sabres, coats of mail, and several

articles in gold and silver, for exportation. They have likewise, for their own defence, small copper cannons, of three pounds calibre, cast by themselves. They coin Turkish and Persian silver money, and even rubles, which readily pass current, because they are of the full weight and value. In their valleys they have pasture and arable lands, as well as gardens; but they purchase the greater part of their corn, trusting chiefly for support to the sale of their manufactures, which are much admired in Persia, Turkey, and the Crimea. They are generally in good circumstances, are a quiet, inoffensive people, but high spirited, and independent. Their town is considered as a neutral spot, where the neighbouring princes can deposit their treasures with safety. They elect yearly twelve magistrates, to whom they pay the most unlimited obedience; and as all the inhabitants are on a footing of perfect equality, each individual is sure to have in his turn a share in the government. In the year 1725, their magistrates, as well as the Usmei, acknowledged the sovereignty of Russia, but without paying any tribute." 5. Zudakara, or Zadakh, down the Koifu, subject to the Usmei. It contains about 2000 families.

The sixth dialect belongs to the districts on the eastern slope of Caucasus, between Tarku and Derbent, which are, 1. Caitak; and, 2. Tabasseran, or Kara-Caitak, both subject to the Usmei.

The seventh dialect is that of Kasi-Coumyk, on a branch of the Koifu, near Zudakara. This tribe has a khan, whose authority is recognized by some neighbouring districts.

The eighth dialect is that of Kuracle, belonging to the khan of Cuba.

Besides these, there are some other Lesguis tribes, whose dialects Mr Guldenstaedt was unable to procure. From a comparison of those which he has obtained, it appears that the language of the Lesguis has no kind of affinity with any other known language, excepting only the Samoyede, to which it has a remote resemblance.

This people is probably descended from the tribes of mountaineers, known to ancient geographers under the name of *Lesgae*, or *Ligyæ*. The strength of their country, which is a region of mountains whose passes are known only to themselves, has probably at all times secured them from foreign invasion; but as the same cause must have divided them into a number of tribes, independent of each other, and perhaps always distinguished by different dialects, it is not easy to imagine any common cause of union which can ever have assembled the whole nation, and have led them to undertake very remote conquests. Their history, therefore, were it known, would probably be very uninteresting to us. They subsist by raising cattle, and by predatory expeditions into the countries of their more wealthy neighbours. During the troubles in Persia, towards the beginning of this century, they repeatedly sacked the towns of Shamachie and Ardebil, and ravaged the neighbouring districts; and the present wretched state of Georgia and of part of Armenia, is owing to the frequency of their incursions. In their persons and dress, and in their general habits of life, as far as these are known to us, they greatly resemble the Circassians.

LESKARD, a town in Cornwall, seated in a plain,

Lesguis.
Leskard.

Leslie.

is a corporation, and sends two members to parliament. It had formerly a castle, now in ruins. It is one of the largest and best built towns in Cornwall, with the greatest market. It was first incorporated by Edward earl of Cornwall, afterwards by King John's son, Richard king of the Romans, and had privileges from Edward the Black Prince. Queen Elizabeth granted it a charter; by which it was to have a mayor and burgeses, who should have a perpetual succession, purchase lands, &c. Here is a handsome town hall built on stone pillars, with a turret on it, and a noble clock with four dials, a large church, a meeting house, an eminent free school, and a curious conduit; and on the adjacent commons, which feed multitudes of sheep, there have been frequent horse races. Here is a great trade in all manufactures of leather; and some spinning, which is encouraged by the clothiers of Devonshire. On the hills of North Leskard, and in the way from hence to Launceston, are many mines of tin, which is cast at the blowing houses into blocks, that are sent hither to be coined.

LESLIE, JOHN, bishop of Ross in Scotland, the son of Gavin Leslie an eminent lawyer, was born in the year 1526, and educated at the university of Aberdeen; of which diocese he was made official, when but a youth. He was soon after created doctor of civil and canon law; but being peculiarly addicted to the study of divinity, he took orders, and became parson of Uue. When the Reformation began to spread in Scotland, and disputes about religion ran high, Dr Leslie, in 1560, distinguished himself at Edinburgh as a principal advocate for the Romish church, and was afterwards deputed by the chief nobility of that religion to condole with Queen Mary on the death of her husband the king of France, and to invite her to return to her native dominions. Accordingly, after a short residence with her majesty, they embarked together at Calais in 1561, and landed at Leith. She immediately made him one of her privy council, and a senator of the college of justice. In 1564, he was made abbot of Lindores; and on the death of Sinclair was promoted to the bishopric of Ross. These accumulated honours he wished not to enjoy in luxurious indolence. The influence derived from them, he exerted to the prosperity of his country. It is to him that Scotland is indebted for the publication of its laws, commonly called "The black acts of parliament," from the Saxon character in which they were printed. At his most earnest desire, the revision and collection of them were committed to the great officers of the crown. In 1568, Queen Mary having fled to England for refuge, and being there detained a prisoner, Queen Elizabeth appointed certain commissioners at York to examine into the cause of the dispute between Mary and her subjects. These commissioners were met by others from the queen of Scots. The bishop of Ross was of the number, and pleaded the cause of his royal mistress with great energy, though without success; Elizabeth had no intention to release her. Mary, disappointed in her expectations from the conference at York, sent the bishop of Ross ambassador to Elizabeth, who paid little attention to his complaints. He then began to negotiate a marriage between his royal mistress and the duke of Norfolk; which negotiation, it is well known, proved fatal to the duke, and was the cause of Leslie's being sent

to the Tower. In 1573 he was banished the kingdom, and retired to Holland. The two following years he spent in fruitless endeavours to engage the powers of Europe to espouse the cause of his queen. His last application was to the pope; but the power of the heretic Elizabeth had no less weight with his holiness than with the other Roman Catholic princes of Europe. Finding all his personal applications ineffectual, he had recourse to his pen in Queen Mary's vindication; but Elizabeth's *ultima ratio regum* was too potent for all his arguments. Bishop Leslie, during his exile, was made coadjutor to the archbishop of Rouen. He was at Brussels when he received the account of Queen Mary's execution; and immediately retired to the convent of Guirternberg near that city, where he died in the year 1596. It was during the long and unfortunate captivity of Mary, that he amused himself in writing the History of Scotland, and his other works. The elegance and charms of literary occupations served to alluage the violence of his woes. His knowledge and judgement as an historian are equally to be commended. Where he acts as the transcriber of Boece, there may be distinguished, indeed, some of the inaccuracies of that writer. But, when he speaks in his own person, he has a manliness, a candour, and a moderation, which appear not always even in authors of the Protestant persuasion. His works are, 1. *Afflicti animi consolationes*, &c. composed for the consolation of the captive queen. 2. *De origine, moribus, et gestis Scotorum*. 3. *De titulo et jure serenissimæ Mariæ Scotorum reginæ, quo regni Angliæ successionem sibi jussu vindicat*. 4. *Parænesis ad Anglos et Scotos*. 5. *De illust. seminarum in republ. administranda*, &c. 6. *Oratio ad reginam Elizabetham pro libertate impetranda*. 7. *Parænesis ad nobilitatem populumque Scoticum*. 8. An account of his proceedings during his embassy in England from 1568 to 1572; manuscript, Oxon. 9. Apology for the bishop of Ross, concerning the duke of Norfolk; manuscript, Oxon. 10. Several letters, manuscript.

LESLIE, Charles, a learned divine of Ireland, the time and place of whose birth is uncertain. He was educated at Inniskilling; and in 1664, was created fellow of Trinity-college, Dublin, where he continued till he became A. M. At the decease of his father he came over to England, and entered himself in the Temple at London. The study of the law very soon disgusted him, and he turned all his attention to theology, being admitted into holy orders in 1680. In 1687, he was chosen chancellor of the church and diocese of Connor, at which time he made himself extremely unpopular by his determined opposition to the tenets of the church of Rome. He imbibed the absurd and pernicious doctrines of passive obedience and non-resistance, by which his judgement was so much biased, that he refused to take the oath of allegiance to King William and Queen Mary, at the revolution.

He was a strenuous champion for the cause of the nonjurors, in defence of which he published a work in 1692, being an answer to The State of Protestants in Ireland under the late King James's Government, written by Archbishop King. He also wrote a paper called the Rehearsal, originally published once a week, and afterwards twice, in a folio half-sheet, consisting of a dialogue on the affairs of the times. It lasted during

Leslie.

Leslie ||
Leslins.

six or seven years. They were afterwards collected and published by an eminent writer, who observes that he pursues a thread of argument in them all, against the lawfulness of resistance in any case whatever, deriving the source of government wholly from God. He wrote against the Deists, Jews, Papists, and Socinians, all of which he collected together, and published in two volumes folio, with the exception of a very illiberal piece against the learned and pious Dr Tillotson.

The frequent visits which he paid to the courts of St Germain and Bar-le-Duc, made him obnoxious to the British government, which was increased by his "Hereditary Right of the Crown of England Asserted," of which he was the reputed author. He was sent to Bar-le-Duc by some gentlemen of eminence, to attempt to convert the son of James II. to the Protestant religion, who wished to see him settled on the throne. At Bar-le-Duc he was permitted to discharge the duties of the sacerdotal office, according to the forms of the church of England, where he endeavoured, but in vain, to convert the Pretender. It is the opinion of Lord Bolingbroke, that he was ill used by the Pretender, who not only refused to hear him himself, but sheltered the ignorance of his priests behind his authority, and prohibited all discourse concerning religion. At the close of the reign of Queen Anne, when the partizans of the Pretender were anxious to promote his interest in England, Mr Leslie wrote a letter from Bar-le-Duc, in which he dwelt at large on the graceful mien of the Pretender, his magnanimity of spirit, devotion free from bigotry, application to business, ready apprehension, sound judgement, and affability, so that none conversed with him, who were not charmed with his good sense and temper. In 1715, a rash and ill-digested enterprise took place in Scotland and in the northern parts of England, in favour of the Pretender, which ultimately terminated in the dispersion of the rebels; this obliged him to quit France, and retire to Italy, whither Mr Leslie followed him, and remained in that country till the year 1721. He met with so many difficulties and disappointments at this time, that he determined to return and die in his native country. Some of his friends acquainted Lord Sunderland with his resolution, who generously promised to protect him from the interference of government. On the arrival of Mr Leslie in England, a member of the house of commons waited upon his lordship with the news; but we are happy to inform our readers that he had no great reason to boast of his reception. On Mr Leslie's return to Ireland, he died in 1722, in the month of April, at his own house, in the county of Monaghan.

He was undoubtedly a man of great merit and extensive erudition, distinguished by his piety, humility, and integrity, among whose works are some masterly defences of the Christian religion, against Deists and Jews, and of the Protestant faith against that of the church of Rome. His opinions were rather singular respecting church government, but it must be allowed that he defended them with great ability and acuteness.

LESSER TONE, in *Mus.* See TONE.

LESSINES, a town of the Austrian Netherlands, in Hainault, seated on the river Dender, and famous for its linen manufacture. W. Long. 3. 53. N. Lat. 51. 41.

LESSONS, among ecclesiastical writers, portions of the Holy Scripture, read in Christian churches, at the time of divine service.

In the ancient church, reading the Scriptures was one part of the service of the catechumens; at which all persons were allowed to be present, in order to obtain instruction.

The church of England, in the choice of lessons, proceeds as follows: for the first lesson on ordinary days, she directs, to begin at the beginning of the year with Genesis, and so continue on, till the books of the Old Testament are read over; only omitting the Chronicles, which are for the most part the same with the books of Samuel and Kings, and other particular chapters in other books, either because they contain names of persons, places, or other matters less profitable to ordinary readers.

The course of the first lessons for Sundays is regulated after a different manner. From Advent to Septuagesima Sunday, some particular chapters of Isaiah are appointed to be read, because that book contains the clearest prophecies concerning Christ. Upon Septuagesima Sunday Genesis is begun, because that book which treats of the fall of man, and the severe judgement of God inflicted on the world for sin, best suits with a time of repentance and mortification. After Genesis, follow chapters out of the books of the Old Testament, as they lie in order; only on festival Sundays, such as Easter, Whitsunday, &c. the particular history relating to that day is appointed to be read; and on the saints days, the church appoints lessons out of the moral books, such as Proverbs, Ecclesiastes, Ecclesiasticus, &c. as containing excellent instructions for the conduct of life.

As to the second lessons, the church observes the same course both on Sundays and week days: reading the Gospels and Acts of the Apostles in the morning, and the Epistles in the evening, in the order they stand in the New Testament: excepting on saints days and holidays, when such lessons are appointed as either explain the mystery, relate the history, or apply the example to us.

LESTOFF, or LEOSTOFF, a town of Suffolk in England, seated on the sea shore, 117 miles north-east of London. It is concerned in the fisheries of the North sea, cod, herrings, mackerels, and sprats; has a church and a dissenting meeting-house; and for its security, six 18 pounders, which they can move as occasion requires; but it has no battery. The town consists of 500 houses; but the streets, though tolerably paved, are narrow. The coast is there very dangerous for strangers.

L'ESTRANGE, SIR ROGER, a celebrated writer in the 17th century, was descended from an ancient family, seated at Hunstanton-hall in the county of Norfolk, where he was born in 1616, being the youngest son of Sir Hammond L'Estrange, Bart. a zealous royalist. Having in 1644 obtained a commission from King Charles I. for reducing Lynn in Norfolk, then in possession of the parliament, his design was discovered, and his person seized. He was tried by a court-martial at Guildhall in London, and condemned to die as a spy; but was reprieved, and continued in Newgate for some time. He afterwards went beyond sea; and in August 1653 returned to England, where he applied.

L'Étrange
||
Letchlade.

plied himself to the protector Oliver Cromwell, and having once played before him on the bass viol, he was by some nicknamed *Oliver's fiddler*. Being a man of parts, master of an easy humorous style, but withal in narrow circumstances, he set up a newspaper, under the title of *The Public Intelligencer*, in 1663; but which he laid down, upon the publication of the first London gazette in 1665, having been allowed, however, a consideration by government. Some time after the Popish plot, when the Tories began to gain the ascendant over the Whigs, he, in a paper called the *Observer*, became a zealous champion for the former. He was afterwards knighted, and served in the parliament called by King James II. in 1685. But things taking a different turn in that prince's reign, in point of liberty of conscience, from what most people expected, our author's *Observers* were disused as not at all suiting the times. However, he continued licenser of the press till King William's accession, in whose reign he met with some trouble as a disaffected person. However, he went to his grave in peace, after he had in a manner survived his intellectuals. He published a great many political tracts, and translated several works from the Greek, Latin, and Spanish; viz. Josephus's works, Cicero's Offices, Seneca's Morals, Erasmus's Colloquies, Æsop's Fables, and Bonas's Guide to Eternity. The character of his style has been variously represented; his language being observed by some to be easy and humorous, while Mr Gordon says, "that his productions are not fit to be read by any who have taste or good-breeding. They are full of phrases picked up in the streets, and nothing can be more low or nauseous."

LESTWITHEL, a town of Cornwall in England, about 229 miles distant from London. It is a well-built town, where are kept the common gaol, the weights and measures for the whole stannary, and the county courts. It stands on the river Foy, which brought up vessels from Fowey, before it was choked up with sand coming from the tin mines, and therefore its once flourishing trade is decayed; but it holds the bushelage of coals, salt, malt, and corn, in the town of Fowey, as it does the anchorage in its harbour. It was made a corporation by Richard earl of Cornwall when he was king of the Romans, and has had other charters since. It consists of seven capital burghesses (whereof one is a mayor), and 17 assistants or common council. It is part of the duchy of Cornwall, to which it pays 11l. 19s. 10d. a year for its liberties. Its chief trade is the woollen manufactory. It first returned members to parliament in the 33d of Edward I. They are chosen by their burghesses and assistants. It was anciently the shire town, and the knights of the shire are still chosen here.

LETLADE, a town of Gloucestershire, 90 miles from London, on the borders of Oxfordshire and Berks, and the great road to Gloucester; had anciently a nunnery, and a priory of black canons. In this parish is Clay-hill. The market is on Tuesday; and it has two fairs. It is supposed to have been a Roman town; for a plain Roman road runs from hence to Cirencester; and by a digging in a meadow near it some years ago, an old building was discovered, supposed to be a Roman bath, which was 50 feet long, 40 broad, and 4 high, supported with 100 brick pillars, curiously

inlaid with stones of divers colours of tesseraic work. The Leech, the Coln, the Churn, and Isis, which all rise in the Cotswould hills, join here in one full stream, and become one river, called the *Thames*, which begins here to be navigable; and barges take in butter, cheese, and other goods, at its quay, for London.

LETHARGY, in *Medicine* (from *λεθη*, *oblivion*, and *αργια*, *numbness*, *lazinefs*), a disease consisting of a profound drowsiness or sleepiness, from which the patient can scarce be awaked; or, if awaked, he remains stupid, without sense or memory, and presently sinks again into his former sleep. See *MEDICINE Index*.

LETHARGY, in *Farricry*. See *FARRICRY*, N^o 507.

LETHE, (from *λανθανω*, "I hide or conceal"), in the ancient mythology, one of the rivers of hell, signifying oblivion or forgetfulness; its waters having, according to poetic fiction, the peculiar quality of making those who drank them forget every thing that was past.

LETI, GREGORIO, an eminent Italian writer, was descended of a family which once made a considerable figure at Bologna: Jerom, his father, was page to Prince Charles de Medicis; served some time in the troops of the grand duke as captain of foot; and settling at Milan, married there in 1628. He was afterwards governor of Almonte in Calabria, and died at Salerno in 1639. Our author was born at Milan in 1630, studied under the Jesuits at Cosenza, and was afterwards sent by an uncle to Rome, who would have him enter into the church; but he being averse to it, went to Geneva, where he studied the government and the religion there. Thence he went to Lausanne; and contracting an acquaintance with John Anthony Guerin, an eminent physician, lodged at his house, made profession of the Calvinist religion, and married his daughter. He settled at Geneva; where he spent almost twenty years, carrying on a correspondence with learned men, especially those of Italy. Some contests obliged him to leave that city in 1679; upon which he went to France, and then to England, where he was received with great civility by Charles II. who, after his first audience, made him a present of a thousand crowns, with a promise of the place of historiographer. He wrote there the History of England; but that work not pleasing the court on account of his too great liberty in writing, he was ordered to leave the kingdom. He went to Amsterdam in 1682, and was honoured with the place of historiographer to that city. He died suddenly in 1701. He was a man of indefatigable application, as the multiplicity of his works show. The principal of these are, 1. The universal monarchy of Louis XIV. 2. The Life of Pope Sixtus V. 3. The Life of Philip II. King of Spain. 4. The Life of the Emperor Charles V. 5. The Life of Elizabeth, Queen of England. 6. The History of Oliver Cromwell. 7. The History of Great Britain, 5 vols 12mo. 8. The History of Geneva, &c.

LETRIM, a county of Ireland. See *LETRIM*.

LETTER, a character used to express one of the simple sounds of the voice; and as the different simple sounds are expressed by different letters, these, by being differently compounded, become the visible signs or characters of all the modulations and mixtures of sounds used to express our ideas in a regular language. See *LANGUAGE*. Thus, as by the help of speech we render

Letter. render our ideas audible; by the assistance of letters we render them visible, and by their help we can wrap up our thoughts, and send them to the most distant parts of the earth, and read the transactions of different ages. As to the first letters, what they were, who first invented them, and among what people they were first in use, there is still room to doubt: Philo attributes this great and noble invention to Abraham; Josephus, St Irenæus, and others, to Enoch; Bibliander, to Adam; Eusebius, Clemens Alexandrinus, Cornelius Agrippa, and others, to Moses; Pomponius Mela, Herodian, Rufus Festus, Pliny, Lucan, &c. to the Phœnicians; St Cyprian, to Saturn; Tacitus, to the Egyptians; some, to the Ethiopians; and others, to the Chinese: but, with respect to these last, they can never be entitled to this honour, since all their characters are the signs of words, formed without the use of letters; which renders it impossible to read and write their language without a vast expence of time and trouble; and absolutely impossible to print it by the help of types, or any other manner but by engraving, or cutting in wood. See PRINTING.

There have been also various conjectures about the different kinds of letters used in different languages: thus, according to Crinitus, Moses invented the Hebrew letters; Abraham, the Syriac and Chaldee; the Phœnicians, those of Attica, brought into Greece by Cadmus, and from thence into Italy by the Pelasgians; Nicofrata, the Roman; Isis, the Egyptian; and Vulfilas, those of the Goths.

It is probable, that the Egyptian hieroglyphics were the first manner of writing: but whether Cadmus and the Phœnicians learned the use of letters from the Egyptians, or from their neighbours of Judea or Samaria, is a question; for since some of the books of the Old Testament were then written, they are more likely to have given them the hint, than the hieroglyphics of Egypt. But wheresoever the Phœnicians learned this art, it is generally agreed, that Cadmus the son of Agenor first brought letters into Greece; whence, in following ages, they spread over the rest of Europe. See ALPHABET and WRITING.

Letters make the first part or elements of grammar; an assemblage of these compose syllables and words, and these compose sentences. The alphabet of every language consists of a number of letters, which ought each to have a different sound, figure, and use. As the difference of articulate sounds was intended to express the different ideas of the mind, so one letter was originally intended to signify only one sound, and not, as at present, to express sometimes one sound and sometimes another; which practice has brought a great deal of confusion into the languages, and rendered the learning of the modern tongues much more difficult than it would otherwise have been. This consideration, together with the deficiency of all the known alphabets, from their wanting some letters to express certain sounds, has occasioned several attempts towards an universal alphabet, to contain an enumeration of all such single sounds or letters as are used in any language. See ALPHABET.

Grammarians distinguish letters into vowels, consonants, mutes, liquids, diphthongs, and characteristics. They are likewise divided into capital and small letters.

VOL. XI. Part II.

Letter. They are also denominated from the shape and turn of the letters; and in writing are distinguished into different hands, as round text, German text, round hand, Italian, &c. and in printing, into Roman, Italic, and black letter.

The term LETTER, or *Type*, among printers, not only includes the CAPITALS, SMALL CAPITALS, and small letters, but all the points, figures, and other marks cast and used in printing; and also the large ornamental letters, cut in wood or metal, which take place of the illumined letters used in manuscripts. The letters used in printing are cast at the ends of small pieces of metal, about three quarters of an inch in length; and the letter being not indented, but raised, easily gives the impression, when, after being blacked with a glutinous ink, paper is closely pressed upon it. See the articles PRINTING and TYPE. A fount of letters includes small letters, capitals, small capitals, points, figures, spaces, &c.; but besides, they have different kinds of two-line letters, only used for titles, and the beginning of books, chapters, &c. See FOUNT.

LETTER is also a writing addressed and sent to a person. See EPISTLE.

The art of epistolary writing, as the late translator of Pliny's Letters has observed, was esteemed by the Romans in the number of liberal and polite accomplishments; and we find Cicero mentioning with great pleasure, in some of his letters to Atticus, the elegant specimen he had received from his son of his genius in this way. It seems indeed to have formed part of their education; and, in the opinion of Mr Locke, it well deserves to have a share in ours. "The writing of letters (as that judicious author observes) enters so much into all the occasions of life, that no gentleman can avoid showing himself in compositions of this kind. Occurrences will daily force him to make this use of his pen, which lays open his breeding, his sense, and his abilities, to a severer examination than any oral discourse." It is to be wondered we have so few writers in our own language who deserve to be pointed out as models upon such an occasion. After having named Sir William Temple, it would perhaps be difficult to add a second. The elegant writer of Cowley's life mentions him as excelling in this uncommon talent; but as that author declares himself of opinion, "That letters which pass between familiar friends, if they are written as they should be, can scarce ever be fit to see the light," the world is deprived of what no doubt would have been well worth its inspection. A late distinguished genius treats the very attempt as ridiculous, and professes himself "a mortal enemy to what they call a *fine letter*." His aversion, however, was not so strong, but he knew to conquer it when he thought proper; and the letter which closes his correspondence with Bishop Atterbury is, perhaps, the most genteel and manly address that ever was penned to a friend in disgrace. The truth is, a fine letter does not consist in saying fine things, but in expressing ordinary ones in an uncommon manner. It is the *proprie communia dicere*, the art of giving grace and elegance to familiar occurrences, that constitutes the merit of this kind of writing. Mr Gay's letter, concerning the two lovers who were struck dead with the same flash of lightning, is a masterpiece of the sort; and the specimen he has there

Letter.

given of his talents for this species of composition makes it much to be regretted we have not more from the same hand.

Ward's
Oratory.

Of the Style of Epistolary Composition. Purity in the choice of words, and justness of construction, joined with perspicuity, are the chief properties of this style. Accordingly Cicero says: "In writing letters, we make use of common words and expressions." And Seneca more fully, "I would have my letters to be like my discourses, when we either sit or walk together, un-studied and easy." And what prudent man, in his common discourse, aims at bright and strong figures, beautiful turns of language, or laboured periods? Nor is it always requisite to attend to exact order and method. He that is master of what he writes, will naturally enough express his thoughts without perplexity and confusion: and more than this is seldom necessary, especially in familiar letters.

Indeed, as the subjects of epistles are exceedingly various, they will necessarily require some variety in the manner of expression. If the subject be something weighty and momentous, the language should be strong and solemn; in things of a lower nature, more free and easy; and upon lighter matters, jocular and pleasant. In exhortations, it ought to be lively and vigorous; in consolations, kind and compassionate; and in advising, grave and serious. In narratives, it should be clear and distinct; in requests, modest; in commendations, friendly; in prosperity cheerful, and mournful in adversity. In a word, the style ought to be accommodated to the particular nature of the thing about which it is conversant.

Besides, the different character of the person, to whom the letter is written, requires a like difference in the modes of expression. We do not use the same language to private persons, and those in a public station; to superiors, inferiors, and equals. No do we express ourselves alike to old men and young, to the grave and facetious, to courtiers and philosophers, to our friends and strangers. Superiors are to be addressed with respect, inferiors with courtesy, and equals with civility; and every one's character, station, and circumstances in life, with the relation we stand in to him, occasion some variety in this respect. But when friends and acquaintances correspond by letters, it carries them into all the freedom and good-humour of conversation; and the nearer it resembles that, the better, since it is designed to supply the room of it. For when friends cannot enjoy each others company, the next satisfaction is to converse with each other by letters. Indeed, sometimes greater freedom is used in epistles, than the same persons would have taken in discoursing together; because, as Cicero says "A letter does not blush." But still nothing ought to be said in a letter, which, considered in itself, would not have been fit to say in discourse; though modesty perhaps, or some other particular reason, might have prevented it. And thus it frequently happens in requests, reproofs, and other circumstances of life. A man can ask that by writing, which he could not do by words, if present; or blame what he thinks amiss in his friend with greater liberty when absent, than if they were together. From hence it is easy to judge of the fitness of any expression to stand in an epistle, only by considering, whether the

same way of speaking would be proper in talking with the same person. Indeed, this difference may be allowed, that as persons have more time to think, when they write, than when they speak; a greater accuracy of language may sometimes be expected in one, than the other. However, this makes no odds as to the kind of style; for every one would choose to speak as correctly as he writes, if he could. And therefore all such words and expressions as are unbecoming in conversation, should be avoided in letters; and a manly simplicity, free of all affectation, plain, but decent and agreeable, should run through the whole. This is the usual style of Cicero's epistles, in which the plainness and simplicity of his diction is accompanied with something so pleasant and engaging, that he keeps up the attention of his reader, without suffering him to tire. On the other hand, Pliny's style is succinct and witty: but generally so full of turns and quibbles upon the sound of words, as apparently render it more stiff and affected than agrees with conversation, or than a man of sense would choose in discourse, were it in his power. You may in some measure judge of Pliny's manner, by one short letter to his friend, which runs thus: "How fare you? As I do in the country? pleasantly? that is, at leisure? For which reason I do not care to write long letters, but to read them; the one as the effect of niceness, and the other of idleness. For nothing is more idle than your nice folks, or curious than your idle ones. Farewell." Every sentence here consists of an antithesis, and a jingle of words, very different from the style of conversation, and plainly the effect of study. But this was owing to the age in which he lived, at which time the Roman eloquence was sunk into puns, and an affectation of wit; for he was otherwise a man of fine sense and great learning.

LETTER of Attorney, in Law, is a writing by which one person authorizes another to do some lawful act in his stead; as to give seisin of lands, to receive debts, sue a third person, &c.

The nature of this instrument is to transfer to the person to whom it is given, the whole power of the maker, to enable him to accomplish the act intended to be performed. It is either general or special; and sometimes it is made revocable, which is when a bare authority is only given; and sometimes it is irrevocable, as where debts, &c. are assigned from one person to another. It is generally held, that the power granted to the attorney must be strictly pursued; and that where it is made to three persons, two cannot execute it. In most cases, the power given by a letter of attorney determines upon the death of the person who gave it. No letter of attorney made by any seaman, &c. in any ship of war, or having letters of marque, or by their executors, &c. in order to empower any person to receive any share of prizes or bounty-money, shall be valid, unless the same be made revocable, and for the use of such seamen, and be signed and executed before, and attested by, the captain and one other of the signing officers of the ship, or the mayor or chief magistrate of some corporation.

LETTER of Mart or Marque. See MARQUE.

LETTERS Patent or Overt, are writings sealed with the great seal of England, whereby a man is authorized to do, or enjoy any thing, which, of himself,

he

Letter.

Lettuce he could not do. See PATENT.—They are so called by reason of their form; as being open, with the seal affixed ready to be shown for the confirmation of the authority given by them.

LETTUCE. See LACTUCA, BOTANY *Index*; and for the cultivation of the different kinds of lettuce, see GARDENING *Index*.

LEVANT, in *Geography*, signifies any country situated to the east of us, or in the eastern side of any continent or country, or that on which the sun rises.

LEVANT is also a name given to the eastern part of the Mediterranean sea, bounded by Natolia or the Lesser Asia on the north, by Syria and Palestine on the east, by Egypt and Barca on the south, and by the island of Candia and the other part of the Mediterranean on the west.

LEVATOR, in *Anatomy*, a name given to several muscles. See ANATOMY, *Table of the Muscles*.

LEUCA, in antiquity, a geographical measure of length in use among the latter Gauls; which, according to Jornandes, who calls it *leuga*, contained fifteen hundred paces, or one mile and a half. Hence the name of *league*, now reckoned at three miles; in the lower age, called *leuca*.

LEUCADENDRON, a genus of plants belonging to the tetrandria class; and in the natural method ranking under the 48th order, *Aggregate*. See BOTANY *Index*.

LEUCADIA, formerly called *Neritis*, a peninsula of Acarnania, (Homer); but afterwards, by cutting through the peninsula, made an island, as it is at this day, called *St Maura*.

LEUCAS, in *Ancient Geography*, formerly called *Nerios* and *Nerium*, a town of Leucadia or Leucas; near a narrow neck of land, or isthmus, on a hill facing the east and Acarnania; the foot or lower part of the town was a plain lying on the sea by which Leucadia was divided from Acarnania, (Livy); though Thucydides places Leucas more inward in the island, which was joined to the continent by a bridge. It was an illustrious city, the capital of Acarnania, and the place of general assembly.

LEUCATA, or LEUCATE, in *Ancient Geography*, a promontory of Leucadia, according to Strabo, a white rock projecting into the sea towards Cephalenia, on which stood a temple of Apollo surnamed *Leucadius*. At his festival, which was annually celebrated here, the people were accustomed to offer an expiatory sacrifice to the god, and to avert on the head of the victim all the calamities with which they might be threatened. For this purpose, they made choice of a criminal condemned to die; and leading him to the brink of the promontory, precipitated him into the sea amidst the loud shouts of the spectators. The criminal, however, seldom perished in the water: for it was the custom to cover him with feathers, and to fasten birds to his body, which by spreading their wings might serve to break his fall. No sooner did he touch the sea, than a number of boats stationed for the purpose flew to his assistance, and drew him out; and after being thus saved, he was banished for ever from the territory of Leucadia. (Strabo, lib. x. p. 452).

According to ancient authors, a strange opinion concerning this promontory prevailed for some time among the Greeks. They imagined that the leap of

Leucata was a potent remedy against the violence of love. Hence disappointed or despairing lovers, it is said, were often known to have come to Leucadia; and, having ascended the promontory, offered sacrifices in the temple, and engaged by a formal vow to perform the desperate act, to have voluntarily precipitated themselves into the sea. Some are reported to have recovered from the effects of the fall; and among others mention is made* of a citizen of Buthroton, in Epirus, whose passions always taking fire at new objects, he four times had recourse to the same remedy, and always with the same success. As those who made the trial, however, seldom took any precaution to render their fall less rapid, they were generally destroyed: and women often fell victims to this act of desperation. At Leucata was shown the tomb of Artemisia, that celebrated queen of Caria who gave so many proofs of courage at the battle of Salamis †. Inflamed with a violent passion for a young man who inflexibly refused her love, she surprised him in his sleep and put out his eyes. Regret and despair soon brought her to Leucata, where she perished in the waves notwithstanding every effort to save her †. Such likewise was the end of the unhappy Sappho. For- faken by her lover Phaon, she came hither to seek relief from her sufferings, and found her death. (Me- † Herodot. lib. viii. cap. 87. † Ptolem. Hephaest. ibid.

LEUCIPPUS, a celebrated Greek philosopher and mathematician; first author of the famous system of atoms and vacuums, and of the hypothesis of storms; since attributed to the moderns. He flourished about 428 B. C.

LEUCOGÆUS, in *Ancient Geography*, a hill situated between Puteoli and Neapolis in Campania, abounding in sulphur; now *P. Alunera*. Whence there were also springs called *Leucogæi fontes*; the waters of which, according to Pliny, gave a firmness to the teeth, clearness to the eyes, and proved a cure in wounds.

LEUCOJUM, GREAT SNOW-DROP, a genus of plants belonging to the hexandria class; and in the natural method ranking under the ninth order, *Spathaceæ*. See BOTANY *Index*.

LEUCOMA, in antiquity, was a public register amongst the Athenians, in which were inserted the names of all the citizens, as soon as they were of age to enter upon their paternal inheritance.

LEUCOMA, in *Surgery*, a distemper of the eyes, otherwise called *albugo*. See ALBUGO and SURGERY.

LEUCOPETRA, in *Ancient Geography*, so called from its white colour, (Strabo); a promontory of the Bruttii, in the territory of Rhegium, the termination of the Apennines; the utmost extremity of the Bruttii, or the modern *Calabria Ultra*; as the Japygium is of the ancient Calabria, or the modern Calabria Citta.

LEUCOPETRIANS, in ecclesiastical history, the name of a fanatical sect which sprang up in the Greek and eastern churches towards the close of the 12th century: the fanatics of this denomination professed to believe in a double Trinity, rejected wedlock, abstained from flesh, treated with the utmost contempt the sacraments of baptism and the Lord's supper, and all the various branches of external worship; placed the essence of religion in internal prayer alone; and main- tained,

Leucophlegmatia
||
Leuctra.

tained, as it is said, that an evil being, or genius, dwelt in the breast of every mortal, and could be expelled from thence by no other method than by perpetual supplication to the Supreme Being. The founder of this enthusiastical sect is said to have been a person called *Leucopetrus*, and his chief disciple Ty-chicus, who corrupted, by fanatical interpretations, several books of Scripture, and particularly St Matthew's Gospel.

LEUCOPHLEGMATIA, in *Medicine*, a kind of dropsy, otherwise called *anasarca*. See **LEUCOPOTION**, **MEDICINE Index**.

LEUCOTHOE, or **LEUCOTHEA**, in fabulous history, the wife of Athamas, changed into a sea deity; see **INO**. She was called *Matuta* by the Romans. She had a temple at Rome, where all the people, particularly women, offered vows for their brothers children. They did not entreat the deity to protect their own children, because Ino had been unfortunate in hers. No female slaves were permitted to enter the temple; or if their curiosity tempted them to transgress this rule, they were beaten with the greatest severity. To this supplicating for other people's children, Ovid alludes in these lines,

*Non tamen hanc pro stirpe sua pia mater adorat,
Ipsa parum felix visa fuisse parens.* Fast. vi.

LEUCTRA, in *Ancient Geography*, a town of Bœotia, to the west of Thebes, or lying between Plateæ and Thespia, where the Lacedemonians had a great defeat given them by Epaminondas and Pelopidas, the Theban generals. The Theban army consisted at most but of 6000 men, whereas that of the enemy was at least thrice that number: but Epaminondas trusted most in his horse, wherein he had much the advantage, both in their quality and good management; the rest he endeavoured to supply by the disposition of his men, and the vigour of the attack. He even refused to suffer any to serve under him in the engagement, but such as he knew to be fully resolved to conquer or die. He put himself at the head of the left wing, opposite to Cleombrotus king of Sparta, and placed the main stress of the battle there; rightly concluding, that if he could break the body of the Spartans, which was but 12 men deep, whereas his own was 50, the rest would be soon put to flight. He closed his own with the sacred band, which was commanded by Pelopidas; and placed his horse in the front. His right, from which he had drawn so many men, he ordered to fall back, in a slanting line, as if they declined to fight, that they might not be too much exposed to the enemy, and might serve him for a corps of reserve in case of need. This was the wise disposition which the two Theban generals made of these few but resolute forces; and which succeeded in every part, according to their wish. Epaminondas advanced with his left wing, extending it obliquely, in order to draw the enemy's right from the main body; and Pelopidas charged them with such desperate speed and fury, at the head of his battalion, before they could reunite, that their horse, not being able to stand the shock, were forced back upon their infantry, which threw the whole into the greatest confusion: so that though the Spartans were of all the Greeks the most expert in recovering from any surprise, yet their skill on this oc-

caſion either failed them or proved of no effect; for the Thebans, observing the dreadful impression they had made on them with their horse, pushed furiously upon the Spartan king, and opened their way to him with a great slaughter.

Upon the death of Cleombrotus, and several officers of note, the Spartans, according to custom, renewed the fight with double vigour and fury, not so much to revenge his death as to recover his body, which was such an established point of honour as they could not give up without the greatest disgrace. But here the Theban general wisely chose rather to gratify them in that point, than to hazard the success of a second onset; and left them in possession of their king, whilst he marched straight against their other wing, commanded by Archidamus, and consisted chiefly of such auxiliaries and allies as had not heartily engaged in the Spartan interest: these were so discouraged by the death of the king and the defeat of that wing, that they betook themselves to flight, and were presently followed by the rest of the army. The Thebans, however, pursued them so closely, that they made a second dreadful slaughter among them; which completed Epaminondas's victory, who remained master of the field, and erected a trophy in memory of it. This was the conclusion of the famed battle of Leuctra, in which the Lacedemonians lost 4000 men, and the Thebans but 300.

LEVEL is an instrument which enables us to find a line parallel to the horizon, or concentric with the circumference of the earth, and to continue it to any distance:—to form a surface exactly level, having all its points at equal distances from the earth's centre, or to find the difference of ascent between several places for the purpose of making roads, conducting water, draining low grounds, rendering rivers navigable, forming canals, &c. &c.

Among the great variety of instruments which have been invented for these purposes, the following are the most important and useful.

Air-LEVEL, that which shows the line of level by means of a bubble of air enclosed with some liquor in a glass tube of an indeterminate length and thickness, whose two ends are hermetically sealed. When the bubble fixes itself at a certain mark, made exactly in the middle of the tube, the plane or ruler wherein it is fixed is level. When it is not level, the bubble will rise to one end. This glass tube may be set in another of brass, having an aperture in the middle, through which the bubble of air may be observed. The liquor with which the tube is filled is oil of tartar, or aqua secunda; these not being liable to freeze as common water, nor to rarefaction and condensation, as spirit of wine is. This application of a bubble of air was the invention of Dr Hooke.

There is one of these instruments made with sights, which is an improvement upon that last described, and which by a little additional apparatus, becomes more commodious and exact. It consists of an air-level, (fig. 1.) about eight inches long, and seven or eight lines in diameter, set in a brass tube 2, with an aperture in the middle, C. The tubes are supported by straight ruler, a foot long; at whose ends are fixed two sights, 3, 3, exactly perpendicular to the tubes, and of an equal height, having a square hole, formed by two fillets of brass

Plate
CCXCH.
fig. 1.

Level.

brass crossing each other at right angles, in the middle of which is drilled a very small hole, through which a point on a level with the instrument is observed. The brass tube is fastened on the ruler by means of two screws; one of which, marked 4, serves to raise or depress the tube at pleasure, for bringing it towards a level. The top of the ball and socket is rivetted to a little ruler that springs, one end whereof is fastened with a screw to the great ruler, and at the other end has a screw, 5, serving to raise and depress the instrument when nearly level.

The instrument just described, however, is still less commodious than the following one; for though the holes be ever so small, they will take in too great a space to determine the point of level precisely.

The instrument alluded to consists of an air-level, with telescopic sights. This level (fig. 2.) is like the last; with this difference, that, instead of plain sights, it carries a telescope to determine exactly a point of level at a great distance. The telescope is a little brass tube, about 15 inches long, fastened on the same ruler as the level. At the end of the tube of the telescope, marked 1, enters the little tube 1, carrying the eye-glass and a hair placed horizontally in the focus of the object-glass, 2; which little tube may be drawn out, or pushed into the great one, for adjusting the telescope to different sights: at the other end of the telescope is placed the object-glass. The screw 3, is for raising or lowering the little fork, for carrying the hair, and making it agree with the bubble of air when the instrument is level; and the screw 4, is for making the bubble of air, D or E, agree with the telescope: the whole is fitted to a ball and socket. M. Huygens is said to be the first inventor of this level; which has this advantage, that it may be inverted by turning the ruler and telescope half round; and if then the hair cut the same point that it did before, the operation is just.

It may be observed, that one may add a telescope to any kind of level, by applying it upon, or parallel to, the base or ruler, when there is occasion to take the level of remote objects.

² Defagu-
liers's level-
ling instru-
ment.

Dr Defaguliers contrived an instrument, by which the difference of level of two places, which could not be taken in less than four or five days with the best telescopic levels, may be taken in as few hours. The instrument is as follows. To the ball C (fig. 3.) is joined a recurve tube BA, with a very fine bore, and a small bubble at top A, whose under part is open. It is evident from the make of this instrument, that if it be inclined in carrying, no injury will be done to the liquor, which will always be right both in the ball and tube when the instrument is set upright. If the air at C be so expanded with heat, as to drive the liquor to the top of the tube, the cavity A will receive the liquor, which will come down again and settle at D, or near it, according to the level of the place where the instrument is, as soon as the air at C returns to the same temperament as to heat and cold. To preserve the same degree of heat, when the different observations are made, the machine is fixed in a tin vessel EF, filled with water up to *gh*, above the ball, and a very sensible thermometer has also its ball under water, that one may observe the liquor at D, in each

Level.

experiment, when the thermometer stands at the same height as before. The water is poured out when the instrument is carried; which one may do conveniently by means of the wooden frame, which is set upright by the three screws, S, S, S, (fig. 4.) and a line and plummet PP, (fig. 5.) At the back part of the wooden frame, from the piece at top K, hangs the plummet P, over a brass point at N; M m are brackets to make the upright board KN continue at right angles with the horizontal one at N. Fig. 6. represents a front view of the machine, supposing the fore part of the tin vessel transparent; and here the brass socket of the recurve-tube, into which the ball is screwed, has two wings at II, fixed to the bottom, that the ball may not break the tube by its endeavour to emerge when the water is poured in as high as *gh*.

After the doctor had contrived this machine, he considered, that as the tube is of a very small bore, if the liquor should rise into the ball at A (fig. 3.) in carrying the instrument from one place to another, some of it would adhere to the sides or the ball A, and upon its descent in making the experiment, so much might be left behind, that the liquor would not be high enough at D to show the difference of the level: therefore, to prevent that inconveniency, he contrived a blank screw, to shut up the hole at A, as soon as one experiment is made, that, in carrying the machine, the air in A may balance that in C, so that the liquor shall not run up and down the tube, whatever degree of heat and cold may act upon the instrument, in going from one place to another. Now, because one experiment may be made in the morning, the water may be so cold, that when a second experiment is made at noon the water cannot be brought to the same degree of cold it had in the morning; therefore, in making the first experiment, warm water must be mixed with the cold, and when the water has stood some time, before it comes to be as cold as it is likely to be at the warmest part of that day, observe and set down the degree of the thermometer at which the spirit stands, and likewise the degree of the water in the barometer at D; then screw on the cap at A, pour out the water, and carry the instrument to the place whose level you would know; then pour in your water, and when the thermometer is come to the same degree as before, open the screw at top, and observe the liquor in the barometer.

The doctor's scale for the barometer is ten inches long, and divided into tenths; so that such an instrument will serve for any heights not exceeding ten feet, each tenth of an inch answering to a foot in height.

The doctor made no allowance for the decrease of density in the air, because he did not propose this machine for measuring mountains (though, with a proper allowance for the decreasing density of the air, it will do very well), but for heights that want to be known in gardens, plantations, and the conveyance of water, where an experiment that answers two or three feet in a distance of 20 miles, will render this a very useful instrument.

³ Artillery
foot-level.

Artillery Foot-LEVEL is in form of a square, having its two legs or branches of an equal length; at a juncture whereof is a little hole, whence hangs a thread and

Level.

and plummet playing on a perpendicular line in the middle of a quadrant. It is divided into twice 45 degrees from the middle. Fig. 7.

This instrument may be used on other occasions, by placing the ends of its two branches on a plane; for when the thread plays perpendicularly over the middle division of the quadrant, that plane is assuredly level. To use it in gunnery, place the two ends on the piece of artillery, which you may raise to any proposed height, by means of the plummet, whose thread will give the degree above the level.

4
Carpenters
and Pa-
viers level.

Carpenters and Paviers LEVEL, consists of a long ruler, in the middle of which, is fitted, at right angles, another somewhat larger. At the top of this is fastened a thread, which, when it hangs over a fiducial line at right angles with the base, shows that this base is horizontal. Sometimes this level is composed of one board. See fig. 8.

Fig. 8.

5
Gunners
level.

Gunners LEVEL, for levelling cannons and mortars, consists of a triangular brass plate, about four inches high, (fig. 9.) at the bottom of which is a portion of a circle, divided only into 45 degrees; as this number is sufficient for the highest elevation of cannons and mortars, and for giving shot the greatest range. On the centre of this segment of a circle is screwed a piece of brass, by means of which it may be fixed or screwed at pleasure. The end of this piece of brass is made so as to serve for a plummet and index, in order to show the different degrees of elevation of pieces of artillery. This instrument has also a brass foot, to set upon cannons or mortars, so that when those pieces are horizontal, the instrument will be perpendicular. The foot of this level is to be placed on the piece to be elevated, in such a manner, as that the point of the plummet may fall on the proper degree; this is what they call *levelling the piece*.

6
Masons le-
vel.

Masons LEVEL, is composed of three rules, so joined as to form an isosceles triangle somewhat like a Roman A. At the vertex of this triangle is fastened a thread, from which hangs a plummet, that passes over a fiducial line, marked in the middle of the base, when the thing to which the level is applied is horizontal; but declines from the mark, when the thing is lower on the one side than on the other.

7
Plumb or
pendulum
level.

Plumb or Pendulum LEVEL, that which shows the horizontal lines by means of another line perpendicular to that described by a plummet or pendulum. This instrument, (fig. 10.) consists of two legs or branches, joined together at right angles. The branch which carries the thread and plummet is about a foot and a half long; and the thread is hung towards the top of the branch, at the point 2. The middle of the branch where the thread passes is hollow, so that it may hang free everywhere: but towards the bottom, where there is a little blade of silver, on which is drawn a line perpendicular to the telescope, the said cavity is covered by two pieces of brass, making as it were a kind of case, lest the wind should agitate the thread. For this reason the silver blade is covered with a glass G, in order that it may be seen when the thread and plummet play upon the perpendicular. The telescope is fastened to the other branch of the instrument, and is about two feet long; having an hair placed horizontally across the focus of the object-glass, which determines the point of the level. The telescope must be fitted

at right angles to the perpendicular. It has a ball and socket, by which it is fixed to the foot, and was invented by M. Picard.

Level.

Reflecting LEVEL, that made by means of a pretty long surface of water representing the same object inverted which we see erected by the eye; so that the point where these two objects appear to meet is a level with the place where the surface of the water is found. This is the invention of M. Mariotte.

8
Mariotte's
reflecting
level.

There is another reflecting level consisting of a mirror of steel, or the like, well polished, and placed a little before the object-glass of a telescope, suspended perpendicularly. This mirror must make an angle of 45 with the telescope; in which case the perpendicular line of the telescope is converted into a horizontal line, which is the same with the line of level. This is the invention of M. Cassini.

9
Cassini's.

Water LEVEL, that which shows the horizontal line by means of a surface of water or other liquor; founded on this principle that water always places itself level.

10
Water le-
vel, or cho-
robates of
the an-
cients.

The most simple water level is made of a long wooden trough or canal, whose sides are parallel to the base; so that being equally filled with water, its surface shows the line of level. This is the chorobates of the ancients. See CHOROBATA.

It is also made with two cups fitted to the two ends of a pipe, three or four feet long, about an inch in diameter, by means of which the water communicates from the one to the other cup; and this pipe being moveable on its stand by means of a ball and socket, when the two cups become equally full of water, their two surfaces mark the line of level.

This instrument, instead of cups, may also be made with two short cylinders of glass three or four inches long, fastened to each extreme of the pipe with wax or mastic. Into the pipe is poured some common or coloured water, which shows itself through the cylinders, by means of which the line of level is determined; the height of the water, with respect to the centre of the earth, being always the same in both cylinders. This level, though very simple, is yet very commodious for levelling at small distances.

De la Hire's level consists of two vessels filled with water, and communicating with each other by means of one or more tubes. A small cylindrical box made of thin copper or planished tin, and terminating below in an obtuse cone, floats in each of these boxes, which are kept in a vertical position by introducing into the cones a ball of lead or a quantity of mercury. One of the boxes carries the object-glass; and the eye-glass along with the cross wires are fastened into the other, but in such a manner as to be elevated or depressed by sliding in two grooves, in order that the axes of the lenses may be exactly level, which is effected by measuring a base. See *Traite du Nivellement* par M. Picard.

11
De la
Hire's le-
vel.

The inconveniences attending this instrument arise from the difficulty of bringing the floating eye-glass into the same line with the axis of the object-glass, and of making the boxes settle in such a position that distinct vision may be procured through the telescope; for if the wires in the focus of the eye-glass be out of the axis, or at the smallest distance from the focus of the object-glass, the image will be both indistinct and deformed. In order that De la Hire's level may

12
Defects in
De la
Hire's le-
vel.

Level. may be perfect, it is necessary that the boxes should be of the same weight and magnitude, that the boxes which contain the water should be put nearly on a level by means of a plummet, that the same quantity of water should be introduced, and that the object-glass should be kept at the same height with the eye-glass. These conditions, which are requisite to the perfection of the level, are too numerous and too difficult to be attained, to render this instrument of any use where accurate results are required.

13
Couplet's improvement on De la Hire's level.

These defects in De la Hire's level were partly remedied by M. Couplet, by inserting the object-glass and eye-glass into the same tube, and by placing this telescope loosely on two boxes which formerly floated at random on the fluid. He equalized the weight of these boxes by means of a quantity of small shot, and verified the instrument by putting one of the boxes beneath the object-glass, and the other beneath the eye-glass of the telescope. It is evident, however, that the accuracy of Couplet's level depends upon the equal distribution of the small shot contained in the boxes; for if it is distributed unequally, the box will be more depressed on one side than another, and consequently the intersection of the cross wires in the focus of the eye-glass, will either recede from, or approach to the surface of the water, according as the small shot is unequally distributed in the box which supports the eye-glass, or in that which carries the object-glass. Besides this source of error, considerable inconvenience must arise in practice from the want of connexion between the telescope and the two boxes upon which it floats.

14
Deparcieux's level.

Plate CCXCIII.
fig. 1.

Fig. 2.

The level of Deparcieux is properly an improvement upon that of Couplet. It consists of two parts, a box ABCD of light wood, in which are placed two vessels of tin EFG, EFG filled with water. These vessels are each 10 inches long, 7 inches wide, and $4\frac{1}{2}$ deep, and communicate by one or more tubes GE. The other part is composed of three tubes M, M, M, and of two boxes L, L, enclosed on all sides, having $8\frac{1}{2}$ inches of length, 6 of breadth, and 4 of depth, and above these are soldered the three tubes. (Fig. 1. is a vertical section, and fig. 2. a horizontal section of the instrument). The two outermost tubes are telescopes from 18 to 36 inches long, pointed in opposite directions to prevent the necessity of turning the level, and are necessary for its adjustment and verification.—A piece of lead weighing about two pounds is soldered to the bottom of each box L, L, and a weight P of half a pound is made to move towards Q or R by the screw RQ, in order to adjust the level by making one of the floating boxes sink deeper in the water than the other. This weight should be fixed to a small tin tube which can move easily within the greater one, and the screw is turned by means of a handle similar to that which is used for winding up a clock. The whole instrument is thus covered with a case *ab* to prevent the wind from agitating the water.

15
Method of adjusting it.

In order to adjust the level, place the box ABCD upon a table, and elevate one end or another by means of wedges till the intersection of the two cross wires in the focus of the eye-glass of one of the telescopes seems to fall upon a very remote object, each of these wires being moveable by screws so that their point of intersection can be varied. Then take the level out of the box ABCD, and invert its position, so that one of the tin

boxes EF may occupy the position which the other had before, and look through the other telescope. If the intersection of the wires falls upon the same object, their position is correct, and the axes of the telescopes are parallel; but if it falls at a distance from the object, the point of intersection must be shifted one-half of that distance towards the object, and the same operation repeated till the intersection of the hairs of one of the telescopes covers the same point of the object that is hid by the intersection of the hairs of the other telescope. When this happens, the axes of the telescopes will be exactly parallel.

The level is then placed upon its stand, which is fixed to the box at K, and a very remote object is examined with one of the telescopes, so as to find the point of it which is hid by the intersection of the wires. The level is then inverted, and the object examined with the other telescope. If the intersection of the wires covers the same point of the object as before, the level is adjusted, and the object is in the line of apparent level passing through the intersection of the wires. But if this is not the case, the weight P towards Q or towards R, according as the point of the object first examined is above or below the intersection of the wires, in order to make the image of the object rise or fall one-half of the distance between the points that are covered by the intersection of the wires in each observation. The operation is then repeated, till the intersection of the wires in both telescopes falls upon the same point of the object, in which case the axes of the telescopes will be exactly level, and the instrument properly adjusted. It is obvious that by moving the weight P from the position which it has when the level is adjusted, the axes of the telescopes will be *inclined* to the line of the level either above or below it according as the weight is moved to one side or another: Hence, by measuring a base with a vertical object at its remote extremity, it may be easily found how many minutes or seconds correspond with a given variation in the position of the weight, merely by measuring the tangents on the vertical object; so that a scale may be engraven on the tube TT which will exhibit the angles of inclination to the line of apparent level, formed by the axes of the telescopes when the weight P has different positions.

The mercurial level lately invented by the ingenious Alexander Keith Esq. of Ravelston, is founded on the same principle as the levels of De la Hire, Couplet, and Deparcieux, with this difference, that mercury is employed instead of water. A section of the mercurial level is represented in fig. 3. where A, A are two oblong square cavities communicating by means of the channel MN. BB are two grooves hollowed out of the wood which contain the sights D, D', fig. 4. when the instrument is not in use. The sight D has a small hole in it, and the other is furnished with a cross hair. They are fixed into two pieces of ivory or hard wood, which are nearly of the same form as the cavities A, A, but a little smaller, so that they may go into these cavities without touching the sides. A quantity of mercury is then introduced into the communicating vessels A, A till they are about half full. The two sights are then placed in the cavities, and float on the horizontal surface of the mercury; consequently (HYDRODYNAMICS, art. 34, 37) if the sights be of the same dimension and weight, a line joining the cross hair in D' and the

Level.

16
Keith's mercurial level.

Plate CCXCIII.

Fig. 3.

Fig. 4.

small

Level.
Fig. 5.

small hole in D will be level or parallel with the horizontal surface of the mercury. The instrument completely fitted up is represented in fig. 5. where D, D' are the sights, D being the sight to which the eye is applied. When there is a strong wind the level is covered with a case, in which two holes are left opposite to the sights.—The preceding level might be improved by making the cross hair move up and down with a screw, and by engraving a scale on the side of the square aperture at D', whose divisions being subdivided by a scale on the circumference of the nut that moves the screw, would indicate to great accuracy the angle of inclination.

Level.

cross wires in one of the eye-pieces must be varied, as in the adjustment of Deparcieux's level, till it covers the same point of the object that was covered at the first observation. When this happens, the instrument is duly adjusted, and may be used by placing the base CD upon a stand, and adjusting the index MN; for when this is done, the axis of the telescope will be in a line accurately horizontal.

19
Huygens's level.
Plate CCXCII.

LEVEL of Mr Huygens's invention, consists of a telescope *a*, (fig. 11.) in form of a cylinder, going through a ferril, in which it is fastened by the middle. This ferril has two flat branches *bb*, one above, and the other below: at the ends whereof are fastened little moving pieces, which carry two rings, by one of which the telescope is suspended to an hook at the end of the screw 3, and by the other a pretty heavy weight is suspended, in order to keep the telescope in *aequilibrio*. This weight hangs in the box 5, which is almost filled with linseed oil, oil of walnuts, or other matter that will not easily coagulate, for more aptly settling the balance of the weight and telescope. The instrument carries two telescopes close and parallel to each other; the eye-glasses of the one being against the object-glass of the other, that one may see each way without turning the level. In the focus of the object-glass of each telescope must a little hair be strained horizontally, to be raised and lowered as occasion requires by a little screw. If the tube of the telescope be not found level when suspended, a ferril or ring, 4, is put on it, and is to be slid along till it fixes to a level. The hook on which the instrument is hung is fixed to a flat wooden cross; at the ends of each arm whereof there is a hook serving to keep the telescope from too much agitation in using or carriage. To the said flat cross is applied another hollow one, that serves as a case for the instrument; but the two ends are left open, that the telescope may be secured from the weather and always in a condition to be used. The foot of this instrument is a round brass plate, to which are fastened three brass ferrils, moveable by means of joints whereon are put staves, and on this foot is placed the box.

17
Description of a level upon a new principle.
Plate CCXCIV.
Fig. 1.

The following mode of constructing a level upon a new principle has occurred to the writer of this article. Let AB be a reflecting surface either of glass or water, and let MN be a straight ruler held above this surface; thus it follows from optical principles that the line MN will be perpendicular to the plane AB when the object MN and its image NM' appear in the same straight line to an eye placed at M. Hence, by the bye, we may ascertain the error of a square, by placing one of its sides upon the surface of a looking glass, and applying the eye to its extremity M; for if it is inaccurate, the image of the side MN will form an angle with MN, thus if *mN* be the side of the square, its image will be *Nm'*. —Now let VV be a vessel containing either water or mercury, and let VV be the surface of the fluid. This vessel must be firmly connected with the base CD and also with the vertical plane EF (perpendicular to CD) by means of the cross bars *ab, cd*. The telescope AB is fastened to MN, another plane which rises perpendicular to the plane EF, and the plane MN is so connected with EF by means of screws, that its side MN may be made to vary its angle with the horizon, in any direction. The vessel VV, therefore, and the planes EF, CD remain fixed, while the telescope AB and the plane MN can vary their position relative to the other parts of the level. The telescope AB should be so constructed as to answer the purpose of two telescopes. It has an object-glass both at A and B, and also an eye-glass with cross wires at A and B; and these are so fitted into the tube that when the eye is applied to the end B, the object glass at B, and the eye-glass at A with its cross hairs, may be turned to one side so as to have distinct vision with the remaining eye-glass at B and the object-glass at A. When the eye is applied to A, the eye-glass at B and the object-glass at A are moved out of the axis of the telescope for the same reason. This contrivance is for the purpose of avoiding the necessity of having two telescopes. The cross hair in the focus of each eye-glass must be made capable of varying their position, so that the point of intersection may be shifted for the purposes of adjustment.

18
Method of adjusting it.

In order to adjust the instrument, place its base CD, upon a table, and move the telescope of the index MN till the image NM' is in the same straight line with MN. Then look through the extremity B at a distant object, and mark the point of it which is covered by the intersection of the wires. Invert the whole instrument so that the end A may be at B, adjust the index MN as before, and look through the telescope at the same object. If the intersection of the wires falls upon the same point of the object as formerly, the instrument is properly adjusted. But if not, the intersection of the

Fig. 12. marked I, is a balance-level; which being suspended by the ring, the two sights, when in *aequilibrio*, will be horizontal, or in a level.

20
Spirit-LEVEL. The most accurate levelling instrument, and that possessed of the greatest essential advantages in use, is the spirit-level; which was first constructed by Mr Sisson, and to which some small additions and improvements have been since made. The following is a description of one of the best of these levels, as made by the principal mathematical instrument makers.

Sisson's spirit-level.

Fig. 13. is a representation of the instrument mounted on its complete staves. The telescope, ABC, is made from 15 inches to two feet in length, as may be required. It is achromatic, of the best kind, and shows the objects erect. In the focus of the eye-glasses are exceedingly fine cross wires, the intersection of which is evidently shown to be perfectly in the axis of the tube; for by turning it round on its two supporters DE, and looking through the telescope, the intersection of the wires will constantly cut the same part of the object viewed. By turning the screw *a* at the side of the telescope, the object glass at *g* is moved; and thus the telescope is exact-

Adams's Graphical Essays.

ly adapted to the eye. If these cross wires are at any time out of their adjustment, which is discovered by their intersection not cutting the same part of the object during the revolution of the telescope on its axis, they are easily adjusted by means of the four screws *bbb*, placed on the telescope about an inch from the end for the eye. These screws act in perpendicular directions to one another, by unscrewing one and tightening the other opposite to the wire, so that if connected with it, it may be moved either way at pleasure; and in this manner the other wire perpendicular to it may be moved, and thus the intersection of the wires brought exactly in the axis of the tube.

To the telescope is fixed, by two small screws *cc*, the level tube containing the spirits, with a small bubble of air: This bubble of air, when the instrument is well adjusted, will settle exactly in the same place, in or near the middle of its tube, whether the telescope be reversed or not on the supporters, which in this case are kept unmoved.

It is evident, that the axis of the telescope, or the intersection of the wires, as before shown, must in this case be truly level. In this easy mode of adjustment consists the improvement of the instrument; and it is hereby capable of being adjusted by only one station and one object, which will at the same time determine it to be in a true level. If by change of weather, accident, or any other cause, the instrument should have lost its level or adjustment, it may thus be readily restored and readjusted at the first station; which is an advantage possessed by none of the instruments formerly made. The two supporters *DE*, on which the level rests and turns, are shaped like the letter *Y*. The telescope rests within the upper part of them; and the inner sides of each of these *Y*'s are tangents to the cylindric tube of the telescope, which is turned to a true cylinder, and each touches it only at one place.

The lower ends of these supporters are inserted into a strong brass plate *FE*, so as to stand perpendicularly on it. One of these is kept fast by a tightening screw *G*, and to the other is applied a fine threaded screw *H*, to adjust the tube, when on its supporters, to a true level. To the supporter *D* is sometimes applied a line of tangents as far as 12 degrees, in order to take an angle of depression or elevation to that extent. Between the supporters is also sometimes fixed a compass-box *I*, divided into 360 degrees, and again into four 90°; having a centre pin and needle, and trigger, at *d*, to throw off the needle from the centre when not used; so as to constitute a perfect circumferentor, connected with all the foregoing improvements. This plate is fixed on a conical brass ferrule *K*, which is adapted to the bell-metal frustum of a cone at top of the brass head of the staves, having a ball and socket, with three bell-metal joints, two strong brass parallel plates *LL*, four screws *eee* for adjusting the horizontal motion, a regulating screw *M* to this motion, and a fastening screw *N* to tighten it on the cone when necessary. The fastening screw *N*, and the regulating screw *M*, by which the whole instrument is moved with accuracy through a small space in a horizontal direction, was an addition of Mr Ramsden's.

The manner of adjusting the spirit-level at the first station.—The whole level being now placed steadily on its staves, it must be rendered parallel to the axis of the

telescope before you adjust the horizontal motion. For this purpose the telescope must be placed in a line with two of the screws *ee*, and then levelled by these till the bubble of air in the spirit-tube keeps its position in the middle, while turned about to three points, making nearly right angles at the centre to one another.

The horizontal motion being thus adjusted, the rims *ff* of the *Y*'s are to be opened, the telescope taken off and laid the contrary way upon the supporters. If the bubble of air then rests exactly the same, the level and telescope are adjusted rightly to one another; but if the bubble does not remain the same, the end to which the air bubble goes must be noticed, and the distance of it from the telescope altered; correcting one half the error by the screws *cc*, and the other half by the screws *ee*.

Now the intersection of the wires being directed to any distant object, it may be one of the vanes of the staves hereafter described: if they continue to be against it precisely while the telescope is turned round on its *Y*'s, it proves, as before mentioned, that the axis of the telescope coincides with the intersection of the wires, and that the instrument will give the true level direction.

The operation of levelling being of a very accurate and important nature, and the best instrument when out of its adjustment being of little use, it is quite necessary that every person using such an instrument should have it readily in his power to correct it; and the one above described appears to be the best adapted for that purpose of any hitherto contrived.

Theory of the Spirit Level.

Let *ABC*, fig. 3. be a vessel of glass hermetically sealed, its upper surface *ABC* being the arch of a circle whose centre is *O*. This vessel contains a quantity of spirit of wine or alcohol, whose level or surface is *NEN*. The line *VOT* intersecting the arch *Nn* in *B*, and extending to *T*, which is supposed to be the centre of the earth. Therefore, (HYDRODYNAMICS, art. 36.) the surface *NE n* is the arch of a circle whose centre is *T*. *XYZ* is a right line fixed with respect to the radius *B*, and consequently with regard to the vessel *ABCD*. Now let the radius $O n = r$ $T n = R$, and the arch *Bb* = *m*.

In the present situation of the vessel the vertical line *VT* coincides with the radius *BO*; but if the position of the vessel is altered till *BO* takes the situation *b o*, it will then make with *VT* an angle *O o' T*, which we shall suppose 1", and which may be supposed equal to the angle *O b T*, as *BT* may be considered as parallel to *b T*. The angle *XVT* will now become *X'V'T*, and will vary by a quantity equal to *O b T*. Then by taking *NN'*, and *nn'* equal to *Bb*, the points *N'* and *n'* will be determined, which in the new position of the vessel become the points in which the superior surface of the fluid meet the arch *ABC*.

Now, calling the angle *BT* $b = \phi$, we have (Euclid, book i. prop. 32.) $BO b = \phi + 1''$, and $\phi + 1'' : \phi = b T : b O = R : r$, consequently $r = \frac{R \phi}{\phi + 1''}$, and substituting instead of 1" and ϕ arcs of the same value, having unity for radius, the product $R \phi$ will be equal to the arc *E o*, for which we may take *Bb* or *m*; and

Level. since (see *Tables de Berlin*, tom. iii. p. 270.) $1'' = 0.000004848137$, we shall have

$r = \frac{m}{0.000004848137 + \phi} = \frac{m}{0.000004848137}$, for BO will be very small compared with ET, and therefore the angle ETe may be neglected in relation to the angle OeT .

Let us suppose for the sake of example that Bb or its equals NN' , nn' , is one-tenth of an inch or 0.00833333 of a foot, thus we shall have the length of the radius BO or $r = \frac{0.00833333}{0.000004848137} = 1736$ feet

nearly; thus a derangement of the vessel ABC which makes the radius BO, or the line XZ, vary a minute of a degree, will make each of the points N, n describe a space of 60 tenths or 6 inches, along the arc ABC, that is the same space which the extremity of a plumb line 1736 feet long, would describe when it moved through one minute of a degree. Hence we are able to render extremely sensible the smallest changes of position in the line XZ. The vessel ABC is nothing more than a spirit level, the line XZ representing the axis of the telescope which is attached to that instrument, as shewn in fig. 13. where cc is the level, and CA the telescope. The glass vessel, which is ground in the inside so as to be a portion of a circle of considerable radius, is almost entirely hid by the cylinder of brass which contains it, excepting a small part which appears in the centre of the cylinder; and the instrument must be so adjusted that when the bubble of air is in the middle of the glass tube, the axis of the telescope, the line XZ, is truly horizontal.

Plate CCXCII.

Plate CCXCIV.

From these remarks, it would seem that a spirit level will measure small angles with the same accuracy as a sector whose radius is equal to BO, fig. 3. the radius of the curvature of the glass tube or of a plumb line of the same length; but there are some causes which diminish its accuracy. When the bubble of air has been brought to the centre of the glass tube, and when the tube, after being deranged, is brought to the very same position, we cannot be sure that the bubble of air will return to the very centre of the tube. This irregularity is produced by the friction of the included fluid against the sides of the tube, and depends on the magnitude of the bubble and the quantity of fluid. In a good level, where the bubble moves about five lines for a minute of inclination, this uncertainty does not exceed half a line, which may be ascertained by pointing the telescope to any object. The coincidence of a plumb line with a particular mark will, on account of the insensible oscillation of the thread, leave an uncertainty of about $\frac{1}{30}$ of a line, that is, about double the uncertainty which is left by the index of a sector, which may be estimated at about 100th of a line. But the radius of a tube, whose bubble moves five lines for a minute of inclination, will be found by a preceding formula to be about 358 feet; and therefore to know the length of a plumb line which will give the same precision, we have $\frac{1}{2} : \frac{1}{30} = 358 : 14.32$ feet, the length required.

On the Construction of Levels.

Level.

Levels are commonly made of glass tubes in the state they are obtained at the glass-house. Of these the straightest and most regular are selected and examined, by filling them nearly with spirit of wine, and ascertaining by trial that side at which the bubble moves most regularly, by equal inclinations of the instrument upon a stage, called the bubble trier, which is provided with a micrometer screw, for that purpose. The most regular side is chosen for the upper part of the instrument, the others being of little consequence to its perfection. Spirit of wine is used, because it does not freeze, and is more fluid than water. Ether is better, because still more fluid (A). The tube and the bubble must be of considerable length. The longer the bubble, the more sensible it is to the smallest inclination. A very small bubble is scarcely sensible, appears as if attached to the glass, and moves but slowly.

In the use of a level of this kind, constructed by *Sieur Langlois*, it was remarked, that when it was properly set, in the cool of the morning, it was no longer so in the middle of the day, when the weather became hot; and that when it was again rectified for the middle of the day it became false in the evening, after the heat had diminished. The bubble was much longer in cold than in hot weather, and when longer it was too much so, and could not be kept in the middle of the tube, but stood a little on the one or the other side, though the inclination was precisely the same. These defects were small, and such as claim the notice of careful observers only; but they appeared of too much consequence not to produce a wish to remedy them. It was observed, that they arose from irregularities in the interior surface of the tube; and by examining a great number of tubes, selected for levels of the same kind, there was reason to conclude that all these levels would have more or less of the same defects, because there was not one tube of a regular figure within. They were at best no otherwise cylindrical than plates of glass from the glass-house can be said to be plane before they are ground. The irregularities were easily discernable.

It was therefore concluded, that it would be advisable to grind the inner surfaces of the tubes, and give them a regular cylindrical or rather spindle form, of which the two opposite sides should correspond with portions of circles of very long radius. To accomplish this, a rod of iron was taken, of twice the length of the glass tube, and on the middle of this rod was fixed a stout tube of copper (*cuivre*) of the same length as the tube of glass, and nearly equal in diameter to the bore. The rod was fixed between the centres of a lathe, and the glass gently rubbed on the copper cylinder, with fine emery and water, causing it to move through its whole length. The glass was held by the middle, in order that it might be equally ground, and was from time to time shifted on its axis, as was also the copper cylinder, in order that the wear might be everywhere alike. The operation had scarcely commenced, before

(A) If the ether be not well rectified, it is subject to two great inconveniences in this use. If the tube be very slightly agitated, the ether divides itself into several bubbles, which employ a considerable time before they unite. In the second place, as this ether is decomposed in the course of time, it deposits very small drops of oil, which adhere to the tube, stop the motion of the bubble, and render the level very faulty. The ether is besides more fluid when rectified and freed from a saponaceous matter which causes its bad effects.

Level.

Levellings

before the tube broke; and several others experienced the same misfortune, though they had been well annealed. It was supposed that the emery which became fixed in the copper might contribute to split the glass, each grain continuing its impression with the same point, in the same right line, which in some instances might be as well disposed to cut the glass as diamond. A cylinder of glass was substituted instead of the copper, and the emery rolling itself on the surface of the last, instead of fixing itself, had better success; so that every part of the circumference of the tube and the cylinder touched each other through their whole length. The same operation was continued, using finer and finer emery to smooth the tube, and prepare it for polishing; after which the tube and cylinder having been well washed, thin paper was pasted round the cylinder, and the paper was very equally covered with a small quantity of Venice tripoli. The tube was then replaced and rubbed as before, till it had acquired a polish.

A level thus ground, may be either of the proper sensibility, or be too much or too little sensible. It will be too sluggish, if before grinding, exclusive of the irregularities of the tube, its diameter should much exceed in the middle of the length the diameter of the extremities; or it will be too sensible if this diameter should not sufficiently exceed the other; or lastly, if the middle diameter be smaller than that of the extremes, the bubble will be incapable of continuing in the middle, but will, in every case, either run to one or the other end, or be divided into two parts.

To correct these defects, and to give the instrument the required degree of perfection, it is proper to examine its figure before the grinding is entirely finished. For this purpose, after cleaning it well, a sufficient quantity of spirit of wine must be put into it; and secured by a cork at each end. The tube must then be placed on the forks or Y's of a bubble trier, and its sensibility, or the magnitude and regularity of the space run over by the bubble by equal changes of the micrometer screw, must be ascertained. If the run or spaces passed over be too great, they may be rendered smaller by grinding the tube on a shorter cylinder; but if they be too short, they may, on the contrary, be enlarged, by grinding on a longer cylinder. It is necessary, therefore, to be provided with a number of these cylinders of the same diameter, but of different lengths, which it is advisable to bring to a first figure, by grinding them in a hollow half cylinder of brass. By means of these it will be easy to regulate the tube of the level to any required degree of sensibility, after which the tube may be very quickly smoothed and polished.

The level which was thus ground is one foot in length; and the cylinder on which it was first worked is of the same length. When it was finished it was found to be too sensible. It was therefore worked on another cylinder of between nine and ten inches long, which diminished its sensibility so far, that the bubble, which is nine inches and four lines long, at the temperature of 16° of Reaumur above freezing, is carried from the middle of the tube exactly one line for every second of a degree of inclination. This degree of sensibility was thought sufficient; but any greater degree which may be required may be obtained by the process here described.

It may be remarked that a glass tube is very subject to be split by grinding its inner surface; the same tube

will not be endangered by grinding its external surface even with coarse emery; and when once the polish of the inside is ground off, the danger is over, and coarser emery may be used without fear. Thick glass is more subject to this misfortune than thinner. The coarsest emery made use of in grinding the tube here spoken of was sufficiently fine to employ one minute in descending through the height of three inches in water.

LEVELLING may be defined, the art which instructs us in finding how much higher or lower any given point on the surface of the earth is than another; or, in other words, the difference in their distance from the centre of the earth.

The practice of levelling therefore consists, 1. In finding and marking two or more points that shall be in the circumference of a circle whose centre is that of the earth. 2. In comparing the points thus found with other points, to ascertain the difference in their distances from the earth's centre.

With regard to the theory of levelling, we must observe that a plumb line, hanging freely in the air, points directly towards the centre of the earth; and a line drawn at right angles, crossing the direction of the plumb line, and touching the earth's surface, is a true level only in that particular spot; but if this line which crosses the plumb be continued for any considerable length, it will rise above the earth's surface, and the apparent level will be above the true one, because the earth is globular; and this rising will be as the square of the distance to which the said right line is produced; that is to say, however much it is raised above the earth's surface at one mile's distance, it will rise four times as much at the distance of two miles, nine times at the distance of three, &c. This is owing to the globular figure of the earth; and this rising is the difference betwixt the true and apparent levels; the real curve of the earth being the true level, and the tangent to it the apparent level. Hence it appears, that the less distance we take betwixt any two stations, the truer will be our operations in levelling; and so soon does the difference betwixt the true and apparent levels become perceptible, that it is necessary to make an allowance for it if the distance betwixt the two stations exceeds two chains in length.

Let BD, fig. 4. be a small portion of the earth whose centre is A, then (HYDRODYNAMICS, art. 36.) all the points of this arch will be on a level. But a horizontal line BC meeting the vertical line AD in C, will be the apparent level at the point B; and therefore DC is the difference between the apparent and true level at the point B. The distance CD, therefore, must always be deducted from the observed heights, before we can have the true differences of level, or the difference between the distances of two points from the surface of the earth, or from the centre of curvature A.

In order to find an expression of DC, we have (Euclid, book i. prop. 47.) $AC^2 = AB^2 + CB^2$, and calling $AB=R$, $BC=m$, and $CD=x$, and considering that $AC=R+x$, we have the equation $R^2 + 2Rx + x^2 = m^2 + R^2$. But as the value of the arc DB is always sufficiently small, that CD may be regarded as sufficiently small when compared with AD or AB, we may safely consider x^2 as nothing in the preceding

equation, which in that case becomes $x = \frac{m^2}{2R}$. The

Difference between the apparent and true level, Plate CCXCIV.

Levelling. mean value of R may be considered as 19630764 feet, and therefore the value of x may be deduced from the equation $x = \frac{m^2}{2 \times 19630764} = \frac{m^2}{39261528}$, m being expressed in feet. Hence it is obvious, that the depress of the true level is as the square of the distance; and if this distance be 6000 feet, we shall have $x = 0.91698$ of a foot = 11 inches.

The preceding formula supposes the visual ray CB to be a straight line; whereas, on account of the unequal densities of the air at different distances from the earth, the rays of light are incurvated by refraction. This effect has been considered in the following table, which contains the difference between the apparent and true level, both when the refraction of the atmosphere is omitted, and taken into account.

TABLE shewing the Difference between the True and Apparent Levels, whether taking the Terrestrial Refraction into account or not, and marking the Errors that arise when this Refraction is omitted.

Distance in feet.	Elevation of the apparent level above the true level expressed in feet.		Difference between the two elevations.	Distance in feet.	Elevation of the apparent level above the true level expressed in feet.		Difference between the two elevations.
	No allowance made for terrestrial refraction.	Allowance made for terrestrial refraction.			No allowance made for terrestrial refraction.	Allowance made for terrestrial refraction.	
300	0.0023	0.0020	0.0003	6300	1.0000	0.8571	0.1429
360	0.0035	0.0030	0.0005	6600	1.1088	0.9504	0.1584
420	0.0046	0.0040	0.0006	6900	1.2141	1.0407	0.1734
480	0.0058	0.0050	0.0008	7200	1.3200	1.1314	0.1886
540	0.0075	0.0064	0.0011	7500	1.4323	1.2277	0.2046
600	0.0092	0.0081	0.0011	7800	1.5492	1.3279	0.2213
720	0.0133	0.0114	0.0019	8400	1.7963	1.5397	0.2566
840	0.0179	0.0154	0.0025	9000	2.0625	1.7678	0.2947
900	0.0208	0.0178	0.0030	9600	2.3466	2.0257	0.3209
960	0.0237	0.0205	0.0032	10200	2.6487	2.2989	0.3498
1080	0.0295	0.0253	0.0042	10800	2.9699	2.5456	0.4243
1200	0.0370	0.0317	0.0053	11400	3.3090	2.9363	0.4727
1320	0.0445	0.0482	0.0063	12000	3.6667	3.1431	0.5236
1440	0.0527	0.0451	0.0076	12600	4.0422	3.4648	0.5774
1500	0.0579	0.0496	0.0083	13200	4.4363	3.8029	0.6334
1560	0.0625	0.0536	0.0089	13800	4.8489	4.1562	0.6927
1680	0.0723	0.0620	0.0103	14400	5.2800	4.5258	0.7542
1800	0.0827	0.0709	0.0118	15000	5.7292	4.9107	0.8185
1920	0.0937	0.0803	0.0134	15600	6.1967	5.3115	0.8852
2040	0.1059	0.0908	0.0151	16200	6.6823	5.7277	0.9546
2100	0.1128	0.0967	0.0161	16800	7.1865	6.1597	1.0266
2160	0.1180	0.1012	0.0168	17400	7.7085	6.6076	1.1013
2280	0.1325	0.1136	0.0189	18000	8.2500	7.0714	1.1786
2400	0.1470	0.1260	0.0210	18600	8.8090	7.5506	1.2584
2520	0.1620	0.1403	0.0217	19200	9.3866	8.0456	1.3410
2640	0.1777	0.1523	0.0254	19800	9.9826	8.5565	1.4261
2700	0.1875	0.1607	0.0268	20400	10.6105	9.0947	1.5158
2760	0.1944	0.1667	0.0277	21000	11.2292	9.6250	1.6042
2880	0.2112	0.1810	0.0302	21600	11.8796	10.1825	1.6971
3000	0.2292	0.1964	0.0328	22200	12.5491	10.7564	1.7927
3120	0.2483	0.2128	0.0355	22800	13.2367	11.3457	1.8910
3240	0.2674	0.2306	0.0367	23400	13.9421	11.9504	1.9917
3300	0.2772	0.2376	0.0396	24000	14.6667	12.5714	2.0953
3360	0.2876	0.2465	0.0411	24600	15.4091	13.2078	2.2013
3480	0.3084	0.2644	0.0440	25200	16.1701	13.8601	2.3100
3600	0.3299	0.2827	0.0472	25800	16.9490	14.5278	2.4212
3900	0.3871	0.3318	0.0553	26400	17.7465	15.2113	2.5352
4200	0.4490	0.3849	0.0641	27000	18.5625	16.9107	2.6518
4500	0.5156	0.4420	0.0736	27600	19.3964	16.6255	2.7709
4800	0.5868	0.5030	0.0838	28200	20.2494	17.4566	2.8928
5100	0.6620	0.5675	0.0945	28800	21.1198	18.1027	3.0171
5400	0.7425	0.6364	0.1061	29400	22.0092	18.8651	3.1441
5700	0.7847	0.6726	0.1121	30000	22.9167	19.6431	3.2736
6000	0.9167	0.7857	0.1310	36000	33.0000	28.2857	4.7143

Levelling. The following is a simple rule for determining the depression of the true level in the practice of levelling.

“Multiply the number of Gunter’s decimal statute chains that are contained in length between any two stations where the levels are to be taken by itself, and the product arising therefrom again by 124, which is a common multiplier for all manner of distances for this purpose on account of the earth’s curvature: then divide the second product arising therefrom by 100,000; or, which is also the same, with the dash of the pen cut off five figures on the right hand side of the product, and what remains on the left side is inches, and the five figures cut off decimal parts of an inch.”

The following is *A Table of Curvature of the Earth*, and shows the quantity below the apparent level at the end of every number of chains to 100.

Chains.	Inches.	Chains.	Inches.	Chains.	Inches.	Chains.	Inches.
1	0.00125	14	0.24	27	0.91	40	2.00
2	0.005	15	0.28	28	0.98	45	2.28
3	0.01125	16	0.32	29	1.05	50	3.12
4	0.02	17	0.36	30	1.12	55	3.78
5	0.03	18	0.40	31	1.19	60	4.50
6	0.04	19	0.45	32	1.27	65	5.31
7	0.06	20	0.50	33	1.35	70	6.12
8	0.08	21	0.55	34	1.44	75	7.03
9	0.10	22	0.60	35	1.53	80	8.00
10	0.12	23	0.67	36	1.62	85	9.03
11	0.15	24	0.72	37	1.71	90	10.12
12	0.18	25	0.78	38	1.80	95	11.28
13	0.21	26	0.84	39	1.91	100	12.50

Levelling is either simple or compound. The former is when the level points are determined from one station, whether the level be fixed at one of the points or between them. Compound levelling is nothing more than a repetition of many simple operations.

An example of simple levelling is given Plate CCXCV. fig. 1. where AB are the station points of the level; CD the two points ascertained. Let the height

	Feet.	Inches.
From A to C be	-	6 0 0
From B to D be	-	9 0 0
The difference	-	3 0 0

shows that B is three feet lower than A.

If the station-points of the level are above the line of sight, as in fig. 2. and the distance from A to C be six feet, and from B to D nine feet, the difference will still be three feet which B is higher than A.

As an example of compound levelling, suppose it were required to know the difference of height between the point A on the river *Zome*, and N on the river *Belann*, fig. 3. (As our author could find no satisfactory examples in any English author, he copied this and the following ones from M. le Febure). In this

operation stakes should be driven down at A and N, exactly level with the surface of the water; and these stakes should be so fixed, that they may not be changed until the whole operation be finished: a plan of the ground between the two rivers should then be made, by which it will be discovered, that the shortest way between the rivers is by the dotted line AC, CH, HN; from whence also the number of stations necessary to be taken will be determined. The operator will also be enabled to distribute them properly according to the nature and situation of the ground. In the figure, 12 stations are marked. Stakes ought then to be driven in at the limits of each station, as A, B, C, D, &c. They ought to be about two or three inches above the ground, and driven 18 inches into it. Stakes should also be driven in at each station of the instrument, as 1, 2, 3, 4, &c.

The operation may be begun in the following manner. Let the first station be at 1, equally distant from the two points A and B, which themselves are distant 166 yards. Write down then in one column the first limit A; in another, the number of feet, inches, and tenths; with the points of sight indicated on the station-staff at A, viz. 7. 6. 0. In the third column, the second limit B; in the fourth, the height indicated at the station-staff B, viz. 6. 0. 0. Lastly, in the fifth column, the distance from one station-staff to the other; which in this case is 166 yards. Remove now the level to the point marked 2, which is in the middle between B and C, the two places where the station-staves are to be held; observing that B which was the second limit in the former operation, is the first in this. Then write down the observed heights as before; in the first column B; in the second 4. 6. 0.; in the third C; in the fourth 5. 6. 2.; in the fifth 560, the distance between B and C.

It being impossible, on account of the inequality of the ground at the third station, to place the instrument in the middle between the two station-staves, find the most convenient point as at 3; then measure exactly how far this is from each station-staff, and you will find that from 3 to C is 160 yards; from 3 to D, 80 yards; and the remainder of the operation will be as in the preceding station.

In the fourth operation, we must endeavour to compensate for any error which might have happened in the last. Mark out, therefore, 80 yards from the station-staff D to the point 4; and 160 yards from 4 to E; and this must be carefully attended to, as by such compensations the work may be much facilitated. Proceed in the same manner with the eight remaining stations, observing to enter every thing in its proper column: and when the whole is finished, add the sums of each column together, and then subtract the lesser from the greater; the difference, which in the present case is 5. 4. 8. shows the ground at N to be thus much lower than the ground at A.

To obtain a section of this level, draw the dotted line *oo*, fig. 4. either above or below the plan; which may be taken for the level or horizontal line. Let fall then perpendiculars upon this line from all the station-points and places where the station-staves were fixed. Beginning now at A, set off 7 feet 6 inches upon the line from A to *a*: for the height of the level-point determined on the staff at this place, draw a line through

Levelling. *a* parallel to the dotted line *o o*, which will cut the third perpendicular at *b*, the second station-staff. Set off from this point downwards six feet to *B*, which shows the second limit of the first operation; and that the ground at *B* is one foot six inches higher than at *A*: place your instrument between these two lines at the height of the level line, and trace the ground according to its different heights. Now set off, on the second station-staff *B*, four feet six inches to *C*, the height determined by the level at the second station: and from *C* draw a line parallel to *o o*, which will cut the fifth perpendicular at *d*, the third station-staff. From this point set off 5 feet 6 inches $\frac{7}{10}$ downwards to *C*, which will be our second limit with respect to the preceding one, and the third with respect to the first. Then draw your instrument in the middle between *B* and *C*, and delineate the ground with its inequalities. Proceed in the same manner from station to station, till you arrive at the last *N*, and you will have the profile of the ground over which the level was taken.

This method answers very well where only a general profile of the different stations is required; but where it is necessary to have an exact detail of the ground between the limits, we must then go to work more particularly. Suppose, therefore, the level to have been taken from *A* to *N* by another route, but on more uniform ground, in order to form a canal marked *O, P, Q, R, S, T, U, X, Y*. Draw at pleasure a line *Z, Y*, fig. 5. to represent the level, and regulate the rest; then let fall on this line perpendiculars to represent the staves at the limits of each station, taking care that they be fixed accurately at their respective distances from each other. The difference between the extreme limits, in this case, ought to be the same as in the former, viz. 5 feet 4 inches $\frac{6}{10}$. Set off this measure upon the perpendicular *o* the first limit; and from *o*, prolonging the perpendicular, mark off at *a* the height determined at the first station-staff; then do the same with the second and third, and so on with the following, till this part of the work is finished; there remains then only to delineate in detail the ground between the station-staves, the distances in this example being assumed larger on account of the detail.

To obtain the section of the ground between *O* and *P*, place your instrument at one of the limits, as *P*, fixing it so that the cross hairs may answer to the point *C*; then look towards the first limit *o*, raising or depressing the vane till it coincides with the intersection of the cross hairs; and the line of sight from one point to the other will mark the level or horizontal line.

To set off the height of the brink of the river above the first limit, drive a stake down close to the ground at *a*; and place your station-staff upon it, observing where the hairs intersect the vane, which will be at 4 feet 10 inches; then laying off upon the line *o a* the distance from the first to the last stake, let fall from thence a perpendicular, and set off thereon 4. 10. 0. to *a*, which gives the height at the first stake; or, which is the same, the height from the edge of the river above the surface of the water, as is evident from the section. Drive a second stake at *6*, in a line between the limits; place the station-staff upon this stake, and observe the height 4. 6. intersected by the cross hairs, the instrument still remaining in the same situation. Set off on the level line the distance from the first stake *a*

to the second *b*: and then let fall a perpendicular, and mark upon it 4. 6 to *b*, which gives the height of the ground at this place. Levelling.

The small hollow *c* is marked out by driving down a third stake even with the ground, in the middle of it at *c*; but the exact distance of the second stake *b* from the third *c*, must be marked upon the level line: then let fall a perpendicular from *c*, and set off upon it 6. 8. 0., pointed out by the cross hairs on the staff, which determines the depth of the hollow, as appears from the figure. As the distances between the stakes are now very short, they can easily be marked by the operator, who can settle any little inequalities by a comparison with those already ascertained. Proceed thus with the other stations till you arrive at the last, and you will always obtain an accurate section of your work; by which it is easy to form a just estimation of the land to be dug away, in order to form the canal, by adding the depth to be given to it.

Fig. 6. gives an example of compound levelling, where the situation is so steep and mountainous, that the staves cannot be placed at equal distances from the instrument, or where it is even impossible to make a reciprocal levelling from one station to the other.— Thus suppose the point *K* to be the bottom of a basin where it is required to make a fountain, the reservoir being at *A*; so that, in order to know the height to which the jet d'eau will rise, it is necessary to know how high the point *A* is above *K*.

In great heights such as this, it will be necessary to proceed by small descents, as from *A* to *D*. The instrument must be adjusted with all possible care; and it will even be proper, in some part of the work, to use a smaller instrument. The following is a table of the different operations used in making this level, it having been taken from M. le Febure's practice.

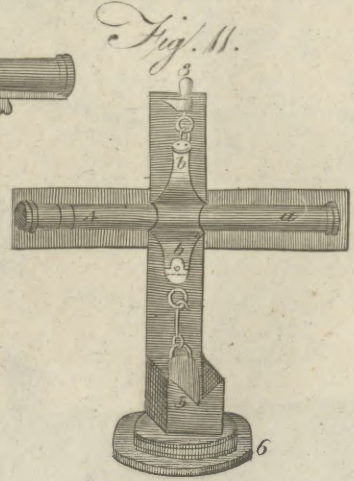
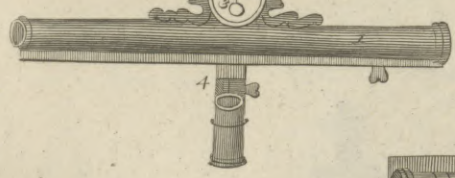
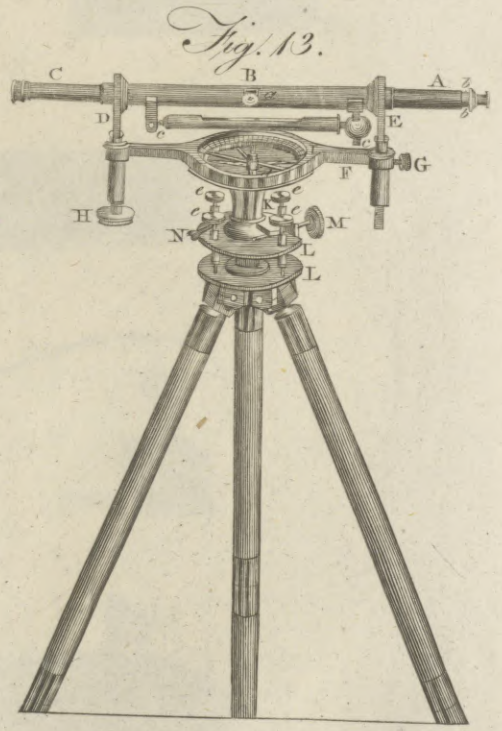
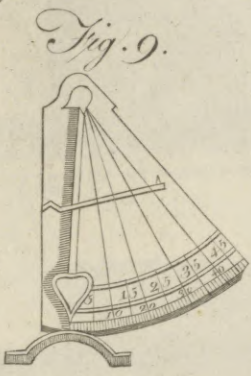
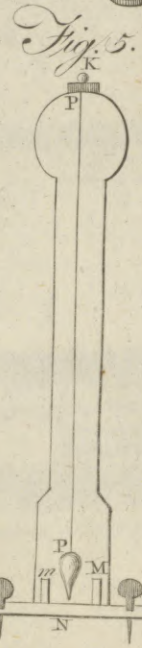
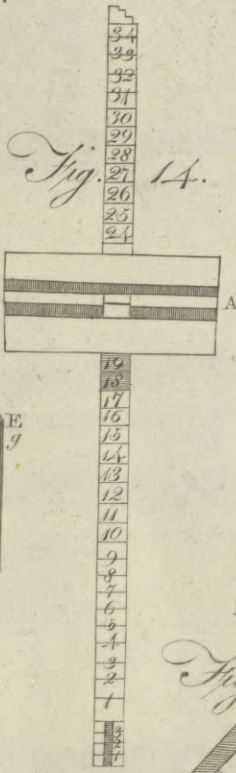
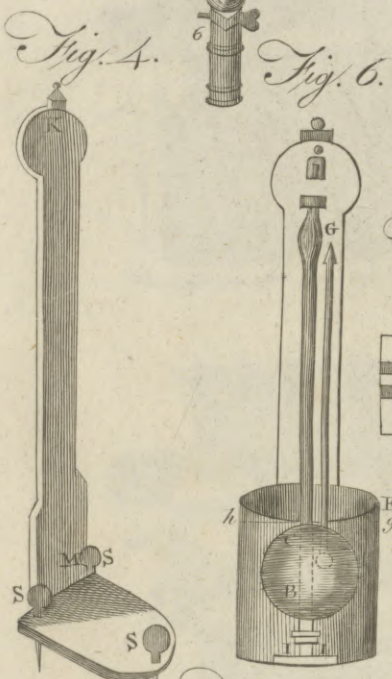
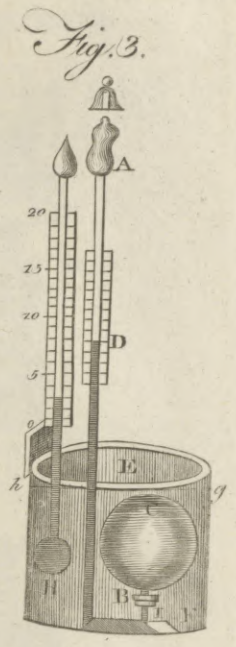
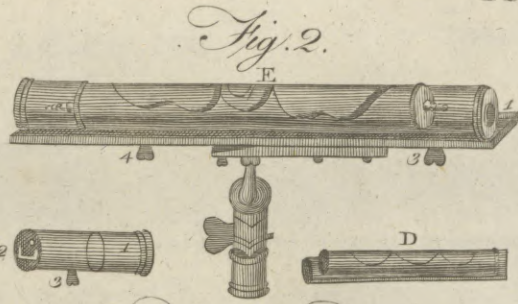
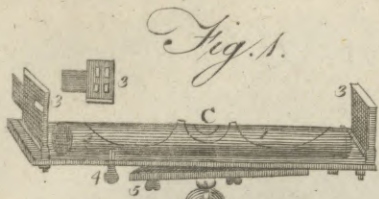
	Feet. In.		Feet. In.	Yards.
A	21 6	C	0 9	90
C	4 3	D	0 3	40
D	3 9	E	16 3	350
E	5 0	F	17 9	250
F	10 6	G	5 0	375
G	5 0	H	19 0	300
H	5 0	K	47 3	1000
	55 0		106 3	2405

In this case only two levellings are made between *A* and *D*, though more would have been necessary; but they are omitted to avoid confusion. In the fourth station the height found was 16 feet 8 inches; but on account of the great length, it was requisite to reduce the apparent level to the true one, which is always necessary where the length is considerable. At the last limit we get the height from *N* to *o*; then from *o* to *I*; from *I* to *K*, fig. 7. &c.; all which added together, and then corrected for the curvature, gives 47 feet 3 inches. Now, by adding each column together, and subtracting one from the other, we have 51 feet 9 inches for the height which the point *A* is above the bottom of the basin, and which will cause the jet d'eau to rise about 45 feet. The general section of this operation is shown at fig. 7. 8.

but

LEVELS.

Plate CCXCII.



Abell Pin. Wal. Sculptor fecit.

Fig. 1.

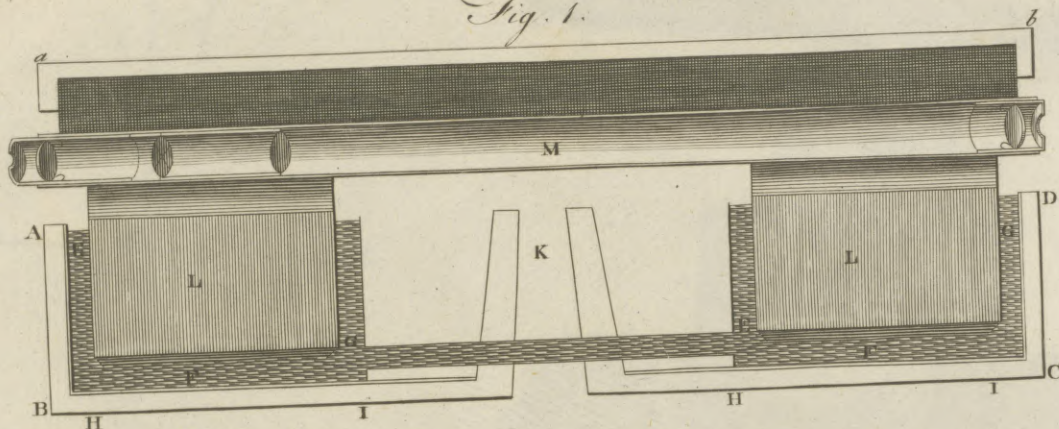


Fig. 2.

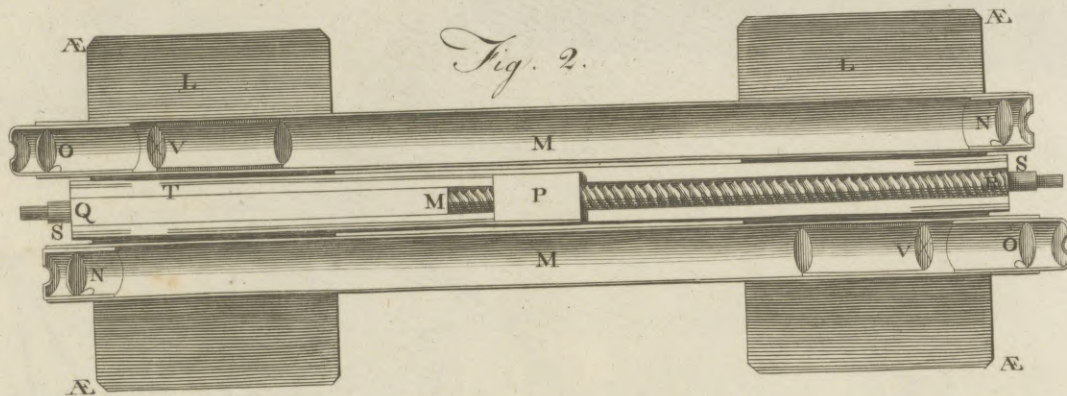


Fig. 3.

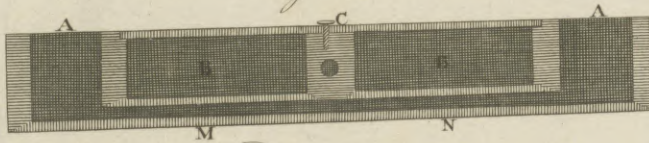


Fig. 4.



Fig. 5.



Fig. 1.

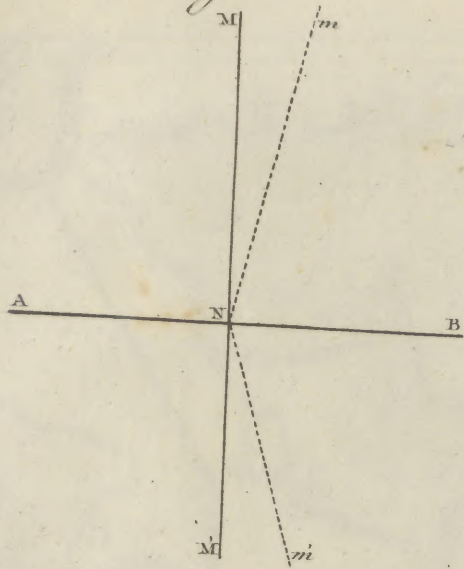


Fig. 2.

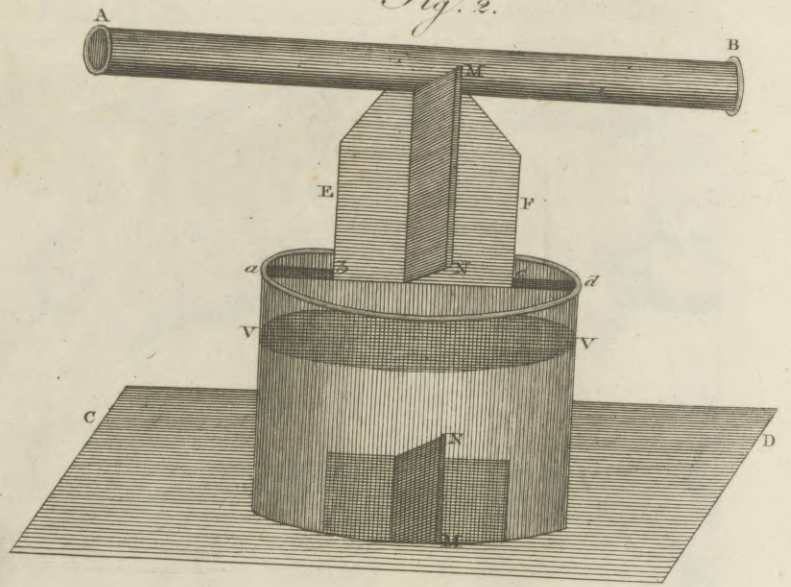


Fig. 3.

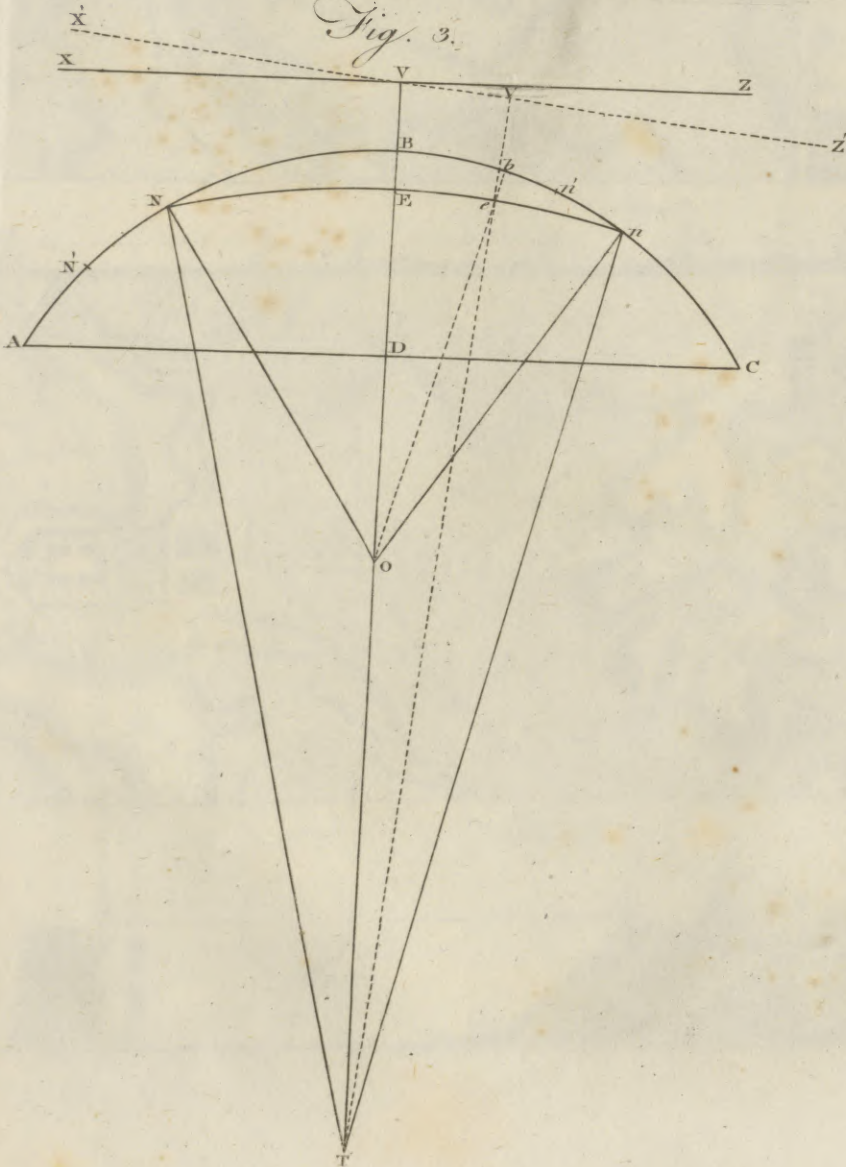
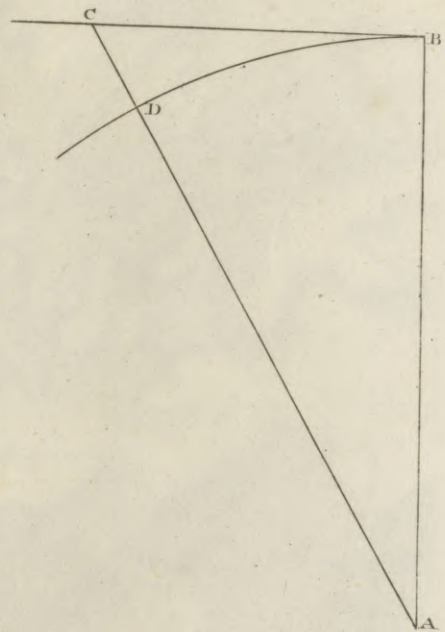
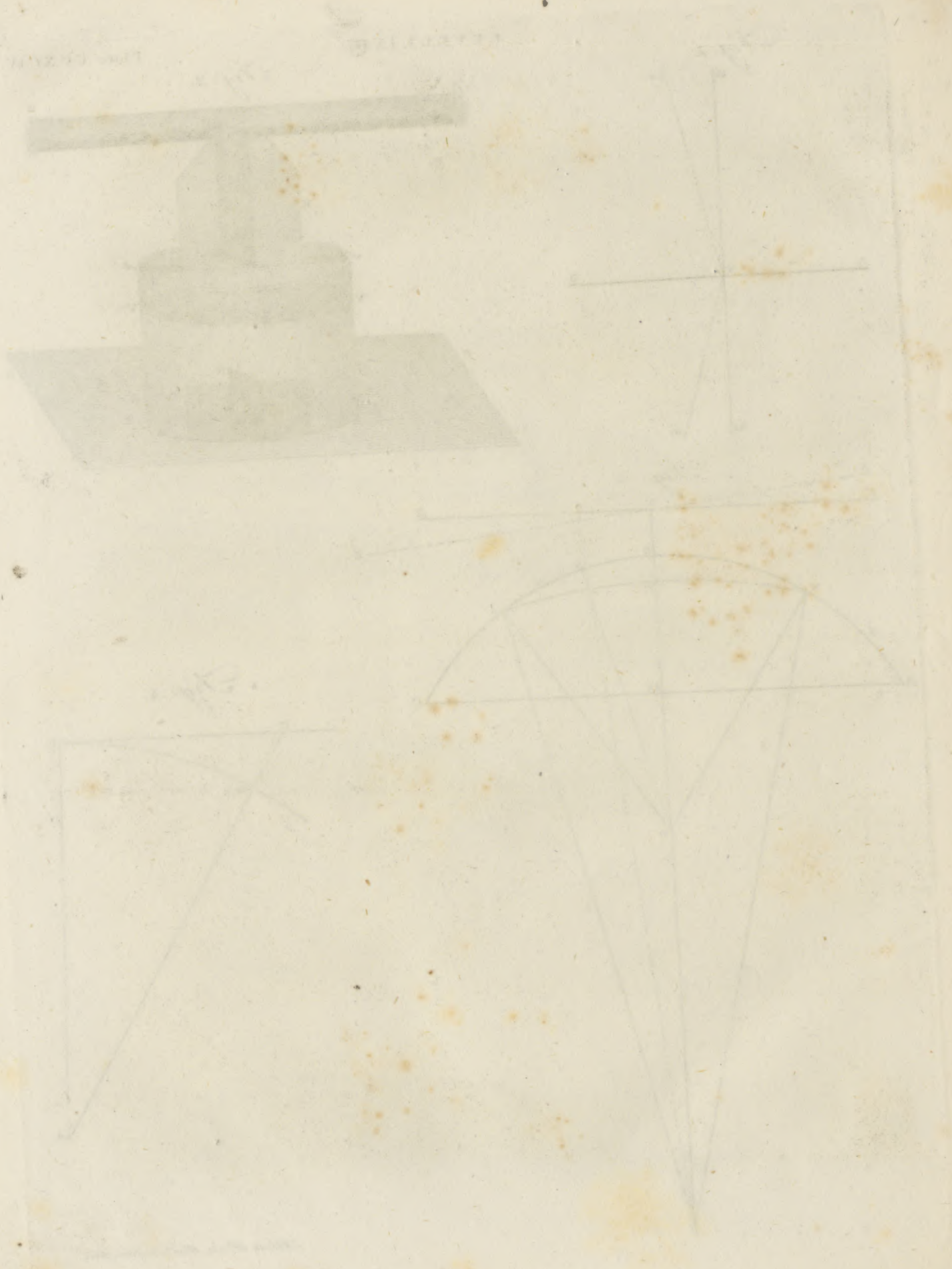
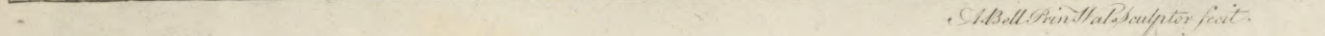
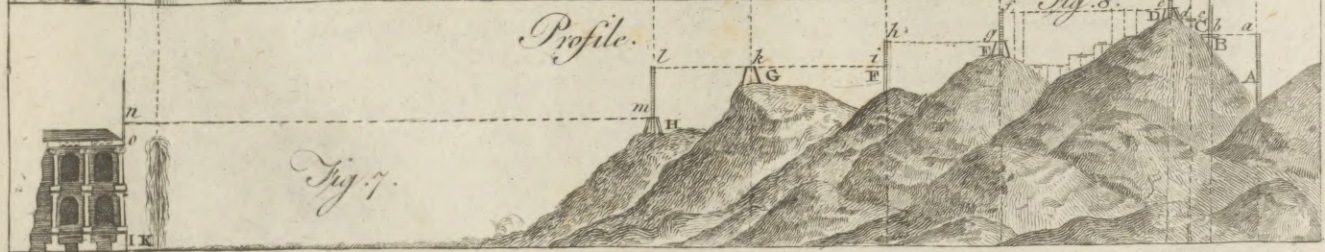
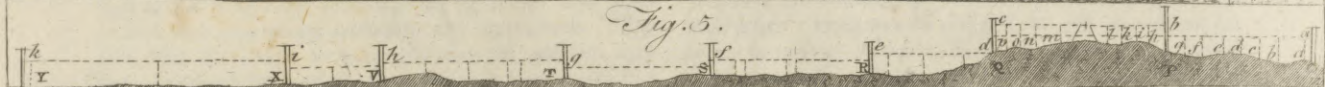
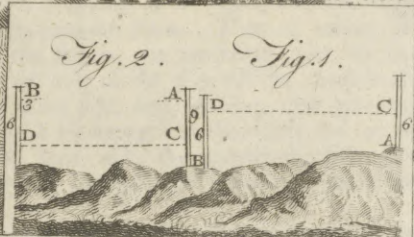


Fig. 4.







A. Bell Pinx. H. de Witt sculp. fecit.

Levelling, but an exact profile of the mountain is more difficult, as requiring many operations; though some of these might be obtained by measuring from the level line without moving the instrument.

The last example given by our author is likewise from M. le Febure, and includes a length of near five German miles (25 of ours) in a straight line, and 9 or 10 (45 or 50 English) including the turnings and windings. In this the declivity of the river *Haynox* was measured from Lignebruk to Villebourg. The first operation was to drive stakes at several parts of the river even with the water's edge; the first of which a little above the mills of Lignebruk showed the upper water-mark, and another showed the lower water-mark at the same mills. Two stakes above and below the mills of Maxurance, somewhat more than half way between Lignebruk and Villebourg, pointed out the difference between high and low water there, and formed likewise the third and fourth limits of the operation; while the stakes above and below the mills of Villebourg pointed out the difference between high and low water, and likewise formed the last limits of the operation.

These marks were all made at the edge of the water, exactly even with its surface, and all made at the different parts of the river nearly at the same instant of time. "The principal limits of the levelling (says Mr Adams) being now determined and fixed, it only remains to find the level between the limits, according to the methods already pointed out, using every advantage that may contribute to the success of the work, and at the same time avoiding all obstacles and difficulties that may retard or injure the operations. The first rule is always to take the shortest possible way from one limit to another, though this rule ought not to be followed if there are considerable obstacles in the way, as hills, woods, marshy ground, or if, by going aside, any advantage can be obtained." In the present case it was found necessary to deviate very considerably from the general rule, in order to take in several ponds, the surfaces of which might all be taken for a perfect level; and thus levels were frequently taken across the country for a considerable way. The difference of height between the mills of Lignebruk and Villebourg was at last found to be about 19 feet, indicating a descent of not quite a foot in a mile.

LEVELLING-Staves, instruments used in levelling, serving to carry the marks to be observed, and at the same time to measure the heights of those marks from the ground. They usually consist of two mahogany staves ten feet long, in two parts, that slide upon one another to about $5\frac{1}{5}$ feet, for the more portable carriage. They are divided into 1000 equal parts, and numbered at every tenth division by 10, 20, 30, &c. to 1000; and on one side the feet and inches are also sometimes marked.

A vane A slides up and down upon each set of these staves, which by brass springs will stand at any part. These vanes are about 10 inches long and 4 inches broad; the breadth is first divided into three equal parts, the two extremes painted white, the middle space divided again into three equal parts, which are less; the middle one of them is also painted white, and the two other parts black; and thus they are suited to all the common distances. These vanes have each

a brass wire across a small square hole in the centre, which serves to point out the height correctly, by coinciding with the horizontal wire of the telescope of the level.

Leven
||
Levite.

LEVEN, a river of Lenox or Dunbartonshire in Scotland. See LENOX.

LEVER, in *Mechanics*, is a bar of iron or wood, one part of which being supported by a prop, all other parts turn upon that prop as their centre of motion. This instrument is of two kinds. First, the common sort, where the weight we desire to raise rests at one end of it, our strength is applied at the other end, and the prop is between both. When we stir up the fire with a poker, we make use of this lever; the poker is the lever, it rests upon one of the bars of the grate as a prop, the incumbent fire is the weight to be overcome, and the other end held in the hand is the strength or power. In this, as in all the rest, we have only to increase the distance between the strength and prop to give the man that works the instrument greater power.

The lever of the second kind has the prop at one end, the strength is applied to the other, and the weight to be raised rests between them. Thus in raising the water-plug in the streets, the workman puts his iron lever through the hole of the plug till he reaches the ground on the other side, and, making that his prop, lifts the plug with his strength at the other end of the lever. In this lever also, the greater the distance of the prop from the strength, the greater is the workman's power.

These instruments, as we see, assist the strength; but sometimes a workman is obliged to act at a disadvantage, in raising either a piece of timber or a ladder upon one end. We cannot, with grammatical propriety, call this a *lever*, since such a piece of timber in fact in no way contributes to raise the weight. In this case, the man who is the strength or power, is in the middle, the part of the beam already raised is the weight, the part yet at the ground is the prop on which the beam turns or rests. Here the man's strength will be diminished in proportion to the weight it sustains. The weight will be greater the farther it is from the prop, therefore the man will bear the greater weight the nearer he is to the prop. See MECHANICS.

LEVERET, among sportsmen, denotes a hare in the first year of her age.

LEVIGATION, in *Pharmacy* and *Chemistry*, the reducing hard and ponderous bodies to an impalpable powder, by grinding them on a porphyry, or in a mill.

LEVITE, in a general sense, means all the descendants of Levi, among whom were the Jewish priests themselves, who, being descended from Aaron, were likewise of the race of Levi. In a more particular sense, *Levite* is used for an order of officers in that church, who were employed in performing the manual service of the temple. They were obedient to the priests in their ministrations, and brought them wood, water, and other necessaries for the sacrifice.—They sung and played upon instruments in the temple and in other places. They applied themselves to the study of the law, and were the ordinary judges of the country, but always subordinate to the priests. Their subsistence was the tithes of corn, fruit, and cattle, throughout

Leviticus
||
Leuwen-
hoek.

throughout Israel: but the priests were entitled to a tenth of their tithes, by way of first fruits to the Lord. Eight and forty cities were assigned for the residence of the Levites, of which the priests claimed thirteen, six whereof were chosen for cities of refuge. They were consecrated, before they entered upon their ministry, by shaving their flesh, washing their clothes, and sprinkling with the water of expiation. Imposition of hands was used in consecration, and two bullocks were offered at the door of the tabernacle. They waited weekly, and by turns, in the temple, beginning their attendance on one sabbath and ending the next: During this time they were maintained out of the offerings, &c. In the time of Solomon, the number of Levites, from the age of 20, and capable of serving, was 30,000.

LEVITICUS, a canonical book of the Old Testament, so called from its containing the laws and regulations relating to the priests, Levites, and sacrifices.

LEVITY, in physiology, the privation or want of weight in any body when compared with another that is heavier than it; in which sense it stands opposed to gravity.

LEUK, a town of Switzerland, almost in the middle of the Valais; remarkable for its natural strength, for the assembly of the states that often meet there, and for its baths, whose water is so hot that it will boil eggs.

LEUSDEN, JOHN, a celebrated philologer, born in 1624. He studied the learned languages and mathematics at Utrecht; and then went to Amsterdam, to converse with the rabbis, and perfect himself in the Hebrew tongue. After which he was professor of Hebrew at Utrecht, where he acquired a great reputation, and died in 1699. He wrote many valuable works; the principal of which are, 1. *Onomasticum Sacrum*, 8vo. 2. *Clavis Hebraica et Philologica Veteris Testamenti*, 4to. 3. *Novi Testamenti Clavis Græca, cum Annotationibus Philologicis*, 8vo. 4. *Compendium Bibliæ Veteris Testamenti*, 8vo. 5. *Compendium Græcum Novi Testamenti*; the best edition of which is that of London, in 1668, 12mo. 6. *Philologus Hebræus*, 4to. 7. *Philologus Hebræo mixtus*, 4to. 8. *Philologus Hebræo-Græcus*, 4to. 9. Notes on Jonas, Joel, Hosea, &c. He also gave correct editions of several learned works.

LEUTKIRK, a free and imperial town of Germany in Suabia, and in Algow, seated on a rivulet that falls into the Illar, in E. Long. 10. 10. N. Lat. 47. 53.

LEUTMERITZ, a town of Bohemia, capital of a circle of the same name, with a bishop's see, seated on the river Elbe, in E. Long. 14. 25. N. Lat. 50. 34.

LEUWENHOEK, ANTONY, a celebrated Dutch philosopher, was born at Delft in 1632, and acquired an extensive reputation all over Europe, by means of his discoveries and experiments in natural history, which were made by him with the microscope. He particularly excelled in making glasses for microscopes and spectacles; and he was a member of most of the literary societies of Europe, to which he sent a number of valuable memoirs. Those in the Philosophical Transactions and in the Paris Memoirs, extend through many volumes; the former were extracted and published at

Leyden, in 1722. He died in 1723, at 91 years of age.

LEVY, in Law, signifies to gather or collect; as to levy money, and to levy a fine of lands in the passing a fine.

LEWARDEN, a handsome, rich, and strong town of the United Provinces, capital of Oostergow, Westergow, Sevenwolden, and West Friesland. It was the usual place of residence of the Stadtholder; and in buildings, as well public as private, is very magnificent. It has several canals running through the streets, which are of great service to their trade, especially as they are continued to the sea and to the most considerable towns of the province. E. Long. 5. 42. N. Lat. 53. 12.

LEWDNESS. See FORNICATION.—Lewdness is punishable by our law by fine, imprisonment, &c. And Mich. 15 Car. II. a person was indicted for open lewdness, in showing his naked body in a balcony, and other misdemeanors; and was fined 2000 merks, imprisoned for a week, and bound to his good behaviour for three years. 1 Sid. 168. In times past, when any man granted a lease of his house, it was usual to insert an express covenant, that the tenant should not entertain any lewd women, &c.

LEWENTZ, a town of Upper Hungary, in the county of Gran, and on the river of the same name, where the Turks were defeated in 1644. E. Long. 18. 19. N. Lat. 48. 15.

LEWES, a large well built town of Suffex, in England, seated on an eminence on the banks of the Ouse, 50 miles from London. It is famous for a bloody battle fought near it, wherein King Henry III. was defeated and taken prisoner by the barons; and is so ancient, that we read the Saxon king Athelstan appointed two mint-houses here, and that in the reign of Edward the Confessor it had 127 burghesses. It is a borough by prescription, by the style of constables and inhabitants. The constables are chosen yearly. It has handsome streets and two suburbs, with six parish churches. It carries on a great trade; and the river Ouse runs through it, which brings goods in boats and barges from a port 8 miles off. On this river are several iron-works, where cannon are cast for merchant ships, besides other useful works. A charity-school was opened here in 1711, where 20 boys are taught, clothed, and maintained, at the expence of a private gentleman, by whom they were also furnished with books; and 8 boys more are taught here at the expence of other gentlemen. Here are horse-races almost every summer for the king's plate of 100l. The roads here are deep and dirty; but then it is the richest soil in this part of England. The market here is on Saturday; and the fairs May 6. Whitfun-Tuesday, and October 2. The timber of this part of the county is prodigiously large. The trees are sometimes drawn to Maidstone and other places on the Medway, on a sort of carriage called a *tug*, drawn by 22 oxen a little way, and then left there for other tugs to carry it on; so that a tree is sometimes two or three years drawing to Chatham; because, after the rain is once set in, it stirs no more that year, and sometimes a whole summer is not dry enough to make the roads passable. It is cheap living here; and the

Levy
||
Lewes.

town

Lewis. town not being under the direction of a corporation, but governed by gentlemen, it is reckoned an excellent retreat for half-pay officers, who cannot so well confine themselves to the rules of a corporation. It sends two members to parliament.

LEWIS, one of the largest of the Hebrides or Western islands of Scotland, extending about 60 miles in length from north to south, and from 13 to 14 in breadth, consisting of a great number of isles and rocks, and parted by the sea into two divisions, called *Lewis* and *Harris*, the former lying to the westward of the other. Lewis belongs to the shire of Ross; is divided by several channels, distinguished by several names, and portioned out among different proprietors; but the *Lewis*, strictly so called, stretches about 36 miles in length, from the north point of Bowling-head to the southern extremity of Hushness in Harris. The air is temperately cold, moist, and healthy; great part of the low ground is flooded with lakes; the rest is arable in many places, and has been counted fruitful in oats, barley, rye, flax, and hemp. The soil in these parts is a light sand, which the inhabitants manure with soot and sea-ware; but great part of the island is covered with heath. The labouring people dig the land with spades, and break the clods with small harrows, the foremost teeth of which are made of wood, and the remainder of rough heath, which smooths what the others have broken; and this harrow is drawn by one man, having a strong trace of horse-hair across his breast. Of their corn they not only make malt for ale, but likewise a strong spirit called *trestareg*, which is the whisky, or usquebaugh, three times distilled. Lewis abounds with convenient bays and harbours, in which are caught, in great plenty, cod, ling, and herring: here are likewise whales of different sizes, which the natives drive into the bays, and kill with harpoons. These bays afford great plenty of shell-fish, such as clams, oysters, cockles, muscles, limpets, welks, and such a prodigious quantity of spout-fish is sometimes cast up from the sand off Lochtua, that they infect the air, and render it unhealthy to the neighbouring inhabitants, who are not able to consume them, either by eating, or using them as manure for the ground. Some of these lochs and bays likewise produce small coral and coralline. The fresh-water lakes are well stored with trout and eels, and the rivers yield plenty of salmon. Along the coast are found a great number of caves, which serve as shelter for the seals and otters, which are also eaten as dainties by the inhabitants; and vast numbers of sea-fowl build upon the rocks and promontories.

The land animals reared in this island, are cows, horses, sheep, goats, hogs, and deer; all these are of a diminutive size. The beef, mutton, and pork, are juicy and delicious; the horses are active and hardy; the deer, which are of the red kind, confine themselves to the chase of Oservaul, about 15 miles in compass, which affords tolerable pasturage; but in the winter, when the ground is covered with frost and snow, these animals are forced to feed on sea-ware, and endure all the rigour of the season, without any shelter from wood or copse, for there is not a tree to be seen; nevertheless, the roots of very large trees, which have been cut by the axe, are found in different places.

VOL. XI. Part II.

There is likewise a small grove of birch and hazel on the south-west side of Loch Stornaway. Lewis.

The inhabitants of Lewis are well-proportioned, tall, fair, sanguine, strong, and healthy. They are in general sober, circumspect, and hospitable; dexterous in shooting, swimming, and leaping; bold and skilful mariners; and so temperate, that they will tug at the oar all day, without any other provision than bread and water, with a snuff of tobacco.

Along this coast we see several natural mounts, or forts, called *Duns*; such as Dun-rowly, Dun-coradel, and Dun-eisten. There are also the remains of some old castles, and other monuments of antiquity. At Stornaway village we see the ruins of a fortress destroyed by the English garrison sent thither by Oliver Cromwell. To the northward of Brago there is a round tower built of large stones, three stories high, tapering towards the top, with a double wall, and a circular staircase between, by which one may go quite round the building. On the heaths and summits of hills there are several cairns or heaps of stones, which served either for graves or beacons. In the parish of Barvas we see a single stone called the *thrusbel*, standing upright, above 20 feet high, and almost as much in breadth. Three stones, about 12 feet high each, are seen standing on the north side of Loch Carlvay; and many others standing single at great distances, and in remote parts of the island. But the most remarkable monument of this kind appears by the village of Classernis. Here we find 39 pyramidal stones standing upright, about six or seven feet high from the surface, each about two feet in breadth. They are placed in form of an avenue, eight feet wide; the distance between every stone amounting to six feet, and a single piece stands at the entrance. This avenue leads to a circle of 12 stones of the same dimensions, with one in the centre 13 feet in length, and shaped like a rudder: on the east, south, and west sides of this circle, are four stones, such as those that compose this round and avenue, forming three lines, or as it were rays from the body of the circle. This is supposed to have been a Druid temple; and tradition reports, that the chief Druid stood by the large stone in the centre, and harangued the audience. At the distance of a quarter of a mile there is another circle of the same nature; but without the range and avenue. In all probability, these, as well as the monuments we have described in our account of the Orkneys, and Stonehenge on Salisbury plain, were places of worship erected by the Druids in time of Pagan superstition. The chief town in Lewis is STORNAWAY.

There is a considerable number of inferior adjacent isles and rocks, some of which hardly deserve to be mentioned: such as the small island Garve at the mouth of Loch Carlvay, Berinsay, Fladda, Bernera Minor and Bernera Major, Kialisay, Cavay, Carvay, Grenim, Pabay, Shirem, Vexay, Wuya, the Larger and Lesser, and the Flannan islands, which the seamen denominate the *northern hunters*. These are visited every summer by the inhabitants of the Lewis, who go thither in quest of fowls, eggs, down, quills, and feathers, as well as to shear or kill the sheep that are kept here for pasture. As these islands are very steep and rocky, the visitors, after having landed and

5 G

climbed

Lewis

climbed up the rock by a ladder, uncover their heads, and, making a turn sun-ways, thank God for having escaped the danger they have undergone. In the largest island are the ruins of a chapel dedicated to St Flannan, from whom the isles derive their name. Thither the fowlers repairing, strip themselves of their upper garments, which being laid upon a stone, they advance towards the altar, and repeat three prayers; an exercise which is performed every morning and evening. They observe many other superstitious customs during their residence on these rocks; and when they have landed their boat with their purchase, return to the larger islands. Among the islands belonging to the Lewis, we may likewise take notice of the small isle of Pigmies, so called, because, it is said, bones resembling those of human creatures, but of very small dimensions, have been dug out of the ground.

The island of Lewis is divided into the two parishes of Barvas and Eye, and in each of these one minister is settled; but there is a great number of churches and chapels dedicated to different saints, in the different isles which compose this cluster. All these were sanctuaries before the Reformation, but now they are divested of that privilege. The people of these islands are Presbyterians, with a few Protestants of the English communion, and a still smaller number of Roman Catholics. The Protestants observe the festivals of Christmas, Good Friday, Easter, and Michaelmas; on the last of which the individuals of both sexes perform an anniversary cavalcade.

LEWIS, or *Louis*, the name of several kings of France. See FRANCE.

LEWIS VII. anno 1137, was the first who had the courage to oppose the encroachments of the popes on the regal authority: Pope Innocent II. excommunicated him for appointing an archbishop of Bourges; but Lewis defended his prerogatives, and put the priests to death who had been the authors of the quarrel. In 1147, he put himself at the head of an army of 80,000 men, and marched against the Saracens, in the second crusade, but was defeated; and returning into France by sea, was taken by the Greeks, but rescued by Roger king of Sicily. His queen Eleonora accompanied him in this expedition; and being suspected of infidelity with Saladin, a young Turk, Lewis divorced her, and she was married six weeks after to Henry duke of Normandy, (Henry II. king of England). Lewis died in 1180, aged 60.

LEWIS IX. anno 1226 (canonized), was one of the greatest monarchs of France, equally memorable for his valour and his virtues; but, unfortunately misled by the superstition of the times, he sacrificed his own repose, and the welfare of his kingdom, to the folly of crusading. In 1248, leaving France to the care of his mother, he embarked for Egypt, attended by his queen, his three brothers, and the flower of the French nobility. At first his victories were rapid; he took Damietta in 1249; but the following year he was defeated and taken prisoner by the Turks, with all the nobility in his train, and the greatest part of his army. The sultan sent to him in prison, to demand an exorbitant sum for his ransom; and his answer being truly noble, deserves to be recorded; "Tell the sultan, that a king of France is not to be ransomed with money; I will give the sum required for

my people, and Damietta for myself." These terms were accepted, and a peace of ten years ensued. Upon his return to France, he diminished the taxes, revoked those which the cupidity of the financiers had introduced; issued several salutary edicts; founded several churches and hospitals; and effectually overturned the ecclesiastical jurisdiction of the court of Rome, by his pragmatic sanction in 1269, which established the independency of the Gallican church. Thirteen years residence in his capital indemnified his subjects for his absence; but his pious zeal prevented the enjoyment of this happiness: he embarked for the sixth crusade in 1270; and died the same year, at the siege of Tunis, aged 55.

LEWIS XI. anno 1461. His oppressions obliged his subjects to enter into a league against him, styled "*Ligue de bien public*," in which his brother the duke of Berri and some of the principal nobility were concerned: they solicited succours from John duke of Calabria, who joined them with 500 Swiss (the first introduction of Swiss soldiers into the French armies.) His reign was almost one continued scene of civil war; and it is computed, that 4000 of his subjects were executed in public and privately, either for being in arms against him, or suspected by him. In his last illness, he drank the warm blood of children, in the vain hope of restoring his decayed strength. He died in 1483, aged 60. The posts for letters were established in his reign, owing to his eagerness for news; the first institution of this nature in Europe.

LEWIS XII. anno 1492, styled *the Just*, and *the Father of his people*; memorable for his valour in the field, and his wisdom in the cabinet. A great general; but unfortunate towards the end of his reign, when he did not command his troops in person: his orders transmitted from home were misunderstood, or wilfully disobeyed; and he had the mortification, before he died, to see the total expulsion of the French from the possessions he had acquired for them by his personal bravery. At 53 years of age, he married the princess Mary of England, sister of Henry VIII. and being of a delicate constitution, fell a victim (according to the French historians) to amorous dalliance; for he died in about two months after his nuptials, in 1515.

LEWIS XIII. anno 1610, increased the military reputation of his country, and made considerable additions to its domains. The beginning of his reign was occupied in civil wars with his mother and his Protestant subjects; in which he was excited to continue by his famous minister Cardinal Richelieu, who attended him to the siege of Rochelle, the bulwark of the Huguenot party. This place was reduced by famine to surrender, in 1628, after a siege of more than a year. Upon this and other occasions, the king gave proofs of great personal bravery. His attachment to his ally the duke de Nevers, who succeeded to the duchy of Mantua, but was refused the investiture by Charles VI. emperor of Germany, involved him in a war with that prince, the Spaniards, and the duke of Savoy; in which Lewis was victorious; and obtained a treaty of peace, by which the duke of Mantua was guaranteed in the possession of his dominions. In 1635, a new war broke out between France and Spain, and the emperor took part with the latter: it lasted, 13 years against the emperor, and 25 against Spain, with various

Lewis

Lewis,
Lex.

various success; and the different armies kept on foot in the Low Countries, on the frontiers of France, and in Italy, in the first years of this war, paved the way for the signal successes of Lewis XIV. the campaigns of these armies being a military school of discipline and experience for the French officers, besides giving them a knowledge of the countries which became the seat of war in the next reign. Lewis XIII. died 1643, aged 41.

LEWIS XIV. *le Grand* (king at five years of age), anno 1643. He was at first styled *Dieu-donne*, because the French considered him as the gift of heaven, granted to their prayers after the queen had been barren 22 years. This princess (Anne of Austria) was declared regent by Lewis XIII. and saw herself under a necessity to continue the war against Philip IV. king of Spain, her brother. The duke d'Enghien was made general of the French armies; and so signal was the success of this renowned warrior (afterwards prince of Condé, and known by the style of *the Great Condé*), that his victories brought on the advantageous treaties of Munster in 1648, between France, the emperor Ferdinand III. and Christina queen of Sweden: See BRITAIN, *United PROVINCES*, &c. Lewis XIV. died in 1715, aged 77.

LEWIS XV. (his great-grandson) succeeded in 1715. He was styled, in the course of his reign, *the well-beloved*, which he lost some years before he died; and was detested and despised by his subjects for his shameful attachment to a *mistress*, who, through her patron the duke d'Aiguillon, governed the kingdom, and invaded the ancient rights and privileges of the people. He died in 1774, in the 64th year of his age and 59th of his reign.

LEWIS XVI. the most unfortunate of his race, and perhaps the most enlightened and virtuous of all the sovereigns of France. He was guillotined 21st January 1793. For an account of his life and character, see the article FRANCE.

LEX, LAW. See LAW.—The Roman laws were of three kinds: 1st, Such as were made by their kings. 2d, The laws of the twelve tables brought by the *Decemviri* from Athens, &c. And, 3d, Such as were proposed by the superior magistrates in the times of the republic. The laws of this last class were enacted in the following manner.

No law could be proposed but by some of the following magistrates, viz. the *prætor*, the *consuls*, the *dictator*, the *interrex*, the *decemviri*, the *military tribunes*, *triumviri*, and *tribunes* of the people. If any of these proposed a law, it was first committed to writing, and privately examined as to its utility and probable consequences, by some persons well qualified for the task; sometimes it was referred to the whole senate for their sentiments. It was then hung up publicly for three market days, that all the people might have time to examine it, and consider its tendency: This was called *legis promulgatio, quasi promulgatio*. If the person who framed the bill did not see cause in the mean time to drop it, the people were convened in *comitia*, and he addressed them in an oration, being also seconded by his friends, setting forth the expediency and probable utility of such a law: This was called *rogatio legis*, because the address was always prefaced with this petitionary form of words, *Velitis jubeatissime, Quirites?* "Will you, O Romans, consent and order

this law to pass?" This being done, those that disliked the motion delivered their sentiments in opposition to it. An urn was then brought to certain priests who attended upon the occasion, into which were cast the names of the tribes, centuries, or *curiæ*, as the *comitia* happened to be *tributa, centuriata, or curiata*. The names were shaken together; and the first-drawn tribe or century was called *prærogativa*, because their suffrages were first taken. The *curia* that was first drawn was called *principium* for the same reason. The other tribes, centuries, &c. were called *tribus jure vocatæ, centuræ jure vocatæ, &c.*

Matters being in this situation, the *veto* or negative voice of the tribunes of the people might put an entire end to the proceedings, and dissolve the assembly. The tribune's interference was called *intercessio*. The consul also had it in his power to stop further proceedings, by commanding any of the holidays called *feriæ imperativæ* to be observed. The *comitia* would of course be dissolved also by any of the persons present being seized with the falling sickness, or upon the appearance of any unlucky omen. But supposing the business to meet with no interruption of this sort, the people were each of them presented with two tablets, on one of which was written in large characters A. on the other U. R. Their disapprobation of the bill was expressed by throwing into an urn the tablet inscribed A. signifying "I forbid it;" *antiquo*, "I prefer the old." Their assent was signified by throwing in the tablet marked U. R. i. e. *uti rogas*, "be it as you desire." According to the majority of these tablets the law passed or not. If it passed, it was written upon record, and carried into the treasury; this was called *legem ferre*. Afterwards it was engraved upon plates of brass, and hung up in the most public and conspicuous places: this was termed *legem figere*, and a future repeal of this law was *legem resigere*.

If a law passed in the *comitia curiata*, it was called *lex curiata*; if in the *comitia centuriata*, it had the name of *lex centuriata*; but if it passed in the *comitia tributa*, it was termed *plebiscitum*. The laws, too, generally bore the names of the proposers, as *lex Ælia, lex Fusia, &c.*

Romulus used to make laws by his own single authority, but succeeding kings sought the approbation of the people.

LEXIARCHI, at Athens, six officers assisted by 30 inferior ones, whose business it was to lay fines upon such as came not to the public assemblies, and also to make scrutiny among such as were present.

The *lexiarchi* kept a register of the age, manners, and abilities of all the citizens, who were always enrolled at the age of 20.

LEXICON, the same with dictionary. The word is chiefly used in speaking of Greek dictionaries: it is derived from the Greek *λεξις*, *word, diction*; of *λεγω* I speak.

LEXINGTON, a town of North America, and formerly considered as the capital of Kentucky. It stands on the head-waters of Elkhorn river. Here the courts are held, and business regularly conducted. In 1796 it contained about 2000 inhabitants, and several stores, with a good assortment of dry goods. It must have increased since.

LEYDEN, in Latin *Lugdunum Batavorum*, one of the largest and finest cities in Holland, abounds with

Lex
||
Leyden.

Leyden
||
Lhuyd.

canals, along which are rows of lofty trees that afford very pleasant walks. An arm or small branch of the Rhine runs through it. Over the canals are 145 bridges, most of them of stone or brick. The university here is the oldest in the United Provinces: it has large privileges; a library well furnished, and particularly rich in manuscripts; a physic-garden well stocked with all sorts of plants, many of which have been brought from the Cape of Good Hope and the East Indies; an anatomy-hall, well provided with skeletons; and an observatory. The professors, who are generally very eminent, read public lectures four times a-week, for which they take no money, but about three guineas are paid for a course of private lectures, which lasts a whole year. The students have no distinct habit, but all wear swords, though they generally go to the public and private lectures in their night-gowns and slippers. The salaries of the professors are from 100*l.* to 200*l.* a-year: they wear gowns only when they preside at public disputations, read public lectures, or meet in the senate; and their lectures are always in Latin. The students do not lodge in the university, but where they please in the town. The cloth manufacture here is much decayed, which formerly flourished to such a degree, that 100,000 pieces, it is said, have sometimes been made in a year. The city is famous for the long and severe siege it maintained in 1573 against the Spaniards. We cannot help mentioning the reply of that illustrious magistrate, Adrian de Verf, when the citizens represented to him the havoc made by the famine during the siege, and insisted upon his surrendering: "Friends (said he), here is my body, divide it among you to satisfy your hunger, but banish all thoughts of surrendering to the cruel and perfidious Spaniards." They took his advice, in regard to their not surrendering, and never would listen to any overtures; but told the Spaniards, they would hold out as long as they had one arm to eat and another to fight. There are some fine churches here, and many long, broad, handsome, streets; but the Papists, as at Haerlem, are more numerous than the Protestants.

LEYDEN Phial, a phial coated on the inside and outside with tinfoil, or other proper conducting substance, and furnished with a brass wire and knob, for giving the electrical shock. See *ELECTRICITY Index*.

LUCAS Van LEYDEN. See *LUCAS*.

LEYSERA, a genus of plants belonging to the syn-genesia class; and in the natural method ranking under the 49th order, *Compositæ*. See *BOTANY Index*.

LEYTE, one of the Philippine islands in the East Indies, situated in E. Long. 118. 0. N. Lat. 11. 0. Its greatest length is about 40 leagues, and its circumference about 90 or 100. Its soil on the east side is very fruitful; but there are very high mountains which cut it almost through the middle, and occasion so great an alteration in the air, that when it is winter on the north side, it is summer on the southern part of the island. Thus when the inhabitants of one half of the island reap, the others sow; and they have two plentiful harvests in a year, to which the rivers running down from the above-mentioned mountains contribute not a little. The island contains about 9000 inhabitants, who pay tribute to the Spaniards in rice, wax, and quilts.

LHUYD, or *LHOYD*, *Humphrey*, a learned anti-

quarian of the 16th century, born at Denbigh, who applied himself to the study of physic; and living mostly within the walls of Denbigh castle, practised there as a physician; and died in 1570, with the character of a well-bred gentleman. He wrote and translated several pieces relative to history and antiquities; in particular, *The history of Cambria, now called Wales, from Caradoc of Langearvan, &c.* but died before it was finished: however, Sir Henry Sidney, lord president of Wales, employed Dr David Powel to finish it, who published it in 1584. A new and improved edition of this work was published in 1774.

LHUYD, Edward, keeper of the museum at Oxford, was a native of South Wales, the son of Charles Lhuyd, Esq. of Lhanvorde. He was educated at Jesus College, Oxford, where he was created M. A. July 21. 1701. He was bred under Dr Plot, whom he succeeded as keeper of the Ashmolean museum, and had the use of all Vaughan's collection. With incessant labour and great exactness he employed a considerable part of his life in searching into the Welsh antiquities; had perused or collected a great deal of ancient and valuable matter from their MSS.; transcribed all the old charters of the monasteries that he could meet with; travelled several times over Wales, Cornwall, Scotland, Ireland, Armoric Bretagne, countries inhabited by the same people; compared their antiquities, and made observations on the whole; but died in July 1709, before he had digested them into the form of a discourse, as he intended, on the ancient inhabitants of this island. The untimely death of this excellent antiquary prevented the completing of many admirable designs. For want of proper encouragement, he did very little towards understanding the British bards, having seen but one of those of the sixth century, and not being able to procure access to two of the principal libraries in the country. He communicated many observations to Bishop Gibson, whose edition of the *Britannia* he revised; and published "*Archæologia Britannica*, giving some account additional to what has been hitherto published of the languages, histories, and customs, of the original inhabitants of Great Britain, from collection and observations in travels through Wales, Cornwall, Bas Bretagne, Ireland, and Scotland, vol. i. Glossography, Oxford 1707," fol. He left in MS. a Scottish or Irish-English Dictionary, proposed to be published in 1732 by subscription, by Mr David Malcolme, a minister of the church of Scotland, with additions; as also the Elements of the said language; with necessary and useful informations for propagating more effectually the English language, and for promoting the knowledge of the ancient Scottish or Irish, and very many branches of useful and curious learning. Lhuyd, at the end of his preface to the *Archæologia*, promises a historical dictionary of British persons and places mentioned in ancient records. It seems to have been ready for press, though he could not set the time of publication. His collections for a second volume, which was to give an account of the antiquities, monuments, &c. in the principality of Wales, were numerous and well chosen; but, on account of a quarrel between him and Dr Wynne, then fellow, afterwards principal of the college, and bishop of St Asaph, he refused to buy them, and they were purchased by Sir Thomas Seabright, of Beachwood in Hertfordshire, in whose library the greatest

Lhuyd.

Libanius
||
Libation.

greatest part still remain, but so indigested, and written with so many abbreviations, that nobody can undertake to publish them. They consist of about 40 volumes in folio, 10 in quarto, and above 100 smaller, and all relate to Irish or Welsh antiquities, and chiefly in those languages. Carte made extracts from them about or before 1736; but these were chiefly historical. Sir John Seabright has given Mr Pennant 23 of Lhuyd's MSS. Latin and English. Many of his letters to Lifter, and other learned contemporaries, were given by Dr Fothergill to the university of Oxford, and are now in the Ashmolean museum. Lhuyd undertook more for illustrating this part of the kingdom than any one man besides ever did, or than any one man can be equal to.

LIBANIUS, a famous Greek rhetorician and sophist in the 4th century, was born at Antioch, and had a great share in the friendship of Julian the Apostate. That prince offered him the dignity of *praefectus pretorio*; but Libanius refused it, thinking the name of *sophist*, or *professor of eloquence*, much more honourable. There are still extant several of his letters and Greek orations, by which he acquired great reputation: but his style is somewhat affected and obscure. He was a Pagan. Basil and Chrysostom were his disciples about the year 360. His letters were published at Amsterdam in 1738; his orations at Venice, 1755.

LIBANOMANTIA, in antiquity, a species of divination performed with frankincense; which, if it presently caught fire, and sent forth a grateful odour, was esteemed a happy omen, and *vice versa*.

LIBANUS, the name of a chain of mountains of Turkey in Asia, which lie between Proper Syria and Palestine, extending, from west to east, from the Mediterranean sea as far as Arabia. The summits of these mountains are so high, that they are always covered with snow; but below are very pleasant and fruitful valleys. They were formerly famous for the great number of cedar trees growing thereon; but now there are very few remaining. Geographers distinguish this chain into Libanus and Antilibanus; the latter of which lies on the south side of the valley, rising near the ruins of Sidon, and terminates at others in Arabia, in N. Lat. 34. They are separated from each other at an equal distance throughout, and form a basin, or country, called by the ancients *Caesaria Syria*.

LIBATION, amongst the Greeks and Romans, was an essential part of solemn sacrifices. It was also performed alone, as a drink-offering, by way of procuring the protection and favour of the gods, in the ordinary affairs of life. Libations, according to the different natures of the gods in honour of whom they were made, consisted of different liquids, but wine was the most usual. The wine offered to the gods was always unmixed with water. We meet with libations of water, libations of honey, libations of milk, and libations of oil; these are called *νηφάλια ἕρρα*. The libation was made with a serious deportment and solemn prayer. At sacrifices, the libation, after it had been tasted by the priest, and handed to the bystanders, was poured upon the victim. At entertainments, a little wine was generally poured out of the cup, before the

liquor began to circulate, to show their gratitude to the gods for the blessings they enjoyed.

Libations were also in use among the Hebrews, who poured a kind of wine on the victim after it was killed, and the several pieces of the sacrifice were laid on the altar, ready to be consumed in the flames.

LIBAW, a sea-port town of Courland, lying on the Baltic sea, consisting entirely of wooden houses. It belongs to the duke of Courland, and is situated in E. Long. 21. 27. N. Lat. 56. 27.

LIBEL, (*libellus famosus*), taken in its largest and most extensive sense, signifies any writing, picture, or the like, of an immoral or illegal tendency; but, in a peculiar sense, is used to denote a malicious defamation of any person, and especially a magistrate, made public by either printing, writing, signs or pictures, in order to provoke him to wrath, or expose him to public hatred, contempt, and ridicule. The direct tendency of these libels is the breach of the public peace, by stirring up the objects of them to revenge, and perhaps to bloodshed. The communication of a libel to any one person is a publication in the eye of the law: and therefore the sending an abusive private letter to a man is as much a libel as if it were openly printed, for it equally tends to a breach of the peace.

With regard to libels in general, there are, as in many other cases, two remedies; one by indictment, and another by action. The former for the *public* offence; for every libel has a tendency to break the peace, or provoke others to break it: which offence is the same whether the matter contained be true or false; and therefore the defendant, on an indictment for publishing a libel, is not allowed to allege the truth of it by way of justification. But in the remedy by action on the case, which is to repair the party in damages for the injury done him, the defendant may, as for words spoken, justify the truth of the facts, and show that the plaintiff has received no injury at all. What was said with regard to words spoken, will also hold in every particular with regard to libels by writing or printing, and the civil actions consequent thereupon: but as to signs or pictures, it seems necessary always to show, by proper inuendos and averments of the defendant's meaning, the import and application of the scandal, and that some special damage has followed; otherwise it cannot appear, that such libel by picture was understood to be levelled at the plaintiff, or that it was attended with any actionable consequences.

In a civil action, then, a libel must appear to be false, as well as scandalous; for, if the charge be true, the plaintiff has received no private injury, and has no ground to demand a compensation for himself, whatever offence it may be against the public peace: and therefore, upon a civil action, the truth of the accusation may be pleaded in bar of the suit. But, in a criminal prosecution, the tendency which all libels have to create animosities, and to disturb the public peace, is the sole consideration of the law. And therefore, in such prosecutions, the only points to be considered are, first, the making or publishing of the book or writing; and, secondly, whether the matter be criminal: and, if both these points are against the defendant, the offence against the public is complete.

Libaw,
Libel.

Libella
||
Libel.

complete. The punishment of such libellers, for either making, repeating, printing, or publishing the libel, is a fine, and such corporal punishment as the court in its discretion shall inflict; regarding the quantity of the offence, and the quality of the offender. By the law of the twelve tables at Rome, libels, which affected the reputation of another, were made a capital offence: but, before the reign of Augustus, the punishment became corporal only. Under the emperor Valentinian it was again made capital, not only to write, but to publish, or even to omit destroying them. Our law, in this and many other respects, corresponds rather with the middle age of Roman jurisprudence, when liberty, learning, and humanity, were in their full vigour, than with the cruel edicts that were established in the dark and tyrannical ages of the ancient decemviri, or the latter emperors.

In this, and other instances, where blasphemous, immoral, treasonable, schismatical, seditious, or scandalous libels are punished by the English law, some with a greater, others with a less degree of severity, the *liberty of the press*, properly understood, is by no means infringed or violated. See *LIBERTY of the Press*.

LIBELLA, a piece of money amongst the Romans, being the tenth part of the denarius, and equal in value to the as. It was called *libella*, as being a little pound, because equal to a pound of brass.—Its value in our money is 1 ob. 1 qu. or a halfpenny farthing. See *MONEY*.

LIBELLA, or *Libellula*, a genus of four-winged flies, called in English *dragon-flies* or *adder-flies*. See *ENTOMOLOGY Index*.

LIBELLI, was the name given to the bills which were put up amongst the Romans, giving notice of the time when a show of gladiators would be exhibited, with the number of combatants, and other circumstances. This was called *munus pronunciarum* or *proponere*.—These bills were sometimes termed *edicta*. These public notices were given by the person who designed to oblige the people with the show, and were frequently attended with pictures representing the engagement of some celebrated gladiators. This custom is alluded to by Horace, lib. ii. sat. vii. 96. &c.

There was also the *famosus libellus*, a defamatory libel. Seneca calls them *contumeliosi libelli*, infamous rhymes, which by a Roman ordinance were punishable with death. Libellus also in the civil law signifies the declaration, or state of the prosecutor's charge against the defendant; and it has the like signification in our spiritual courts.

LIBER, in vegetables, the bark or rind, principally of trees. This is to be conceived as consisting of a number of cylindric and concentric surfaces whose texture is reticular, and in some trees plainly extrusible every way, by reason that the fibres are soft and flexible. While in this condition, they are either hollow regular canals, or, if not so, they have interstitial spaces which serve the office of canals. The nutritious juice which they are continually receiving, remains in part in them, makes them grow in length and thickness, and strengthens and brings them closer together; and by this means the texture which was before reticular becomes an assemblage of straight fibres ranged vertically and parallel to each other; that is, as they are thus al-

tered behind one another, they by degrees become a new substance, more woody, called *blea*.

LIBERA, in *Mythology*, the name of a goddess, which Cicero, in his book *Of the Gods*, represents as the daughter of Jupiter and Ceres. Ovid in his *Fasts* says that the name was given by Bacchus to Ariadne.

Libera is exhibited on medals as a kind of female Bacchus, crowned with vine leaves.

LIBERAL ARTS, are such as depend more on the labour of the mind than on that of the hands; or, that consist more in speculation than operation; and have a greater regard to amusement and curiosity than to necessity.

The word comes from the Latin *liberalis*, which among the Romans signified a person who was not a slave; and whose will, of consequence, was not checked by the command of any master.

Such are grammar, rhetoric, painting, sculpture, architecture, music, &c. The liberal arts used formerly to be summed up in the following Latin verse:

Lingua, Tropus, Ratio, Numerus, Tonus, Angulus, Astra.

And the mechanical arts, which, however, are innumerable, under this:

Rus, Nemus, Arma, Faber, Vulnera, Lana, Rates.

See *ARTS*.

LIBERALIA, feasts celebrated by the ancient Romans, in honour of Liber or Bacchus, the same with those which the Greeks called *DIONYSIA*, and *Dionysiaca*.

They took their name from *liber*, i. e. *free*, a title conferred on Bacchus in memory of the liberty or freedom which he granted to the people of Bœotia; or, perhaps, because wine, whereof he was the reputed deity, delivers men from care, and sets their mind at ease and freedom. Varro derives the name of this feast from *liber*, considered as a noun adjective, and signifying *free*; because the priests were free from their function, and eased of all care, during the time of the liberalia: as the old women officiated in the ceremonies and sacrifices of these feasts.

LIBERIA, in Roman antiquity, a festival observed on the 16th of the kalends of April, at which time the youth laid aside their juvenile habit for the toga virilis, or habit peculiar to grown men. See the article *TOGA*.

LIBERTINES, **LIBERTINI**, in ecclesiastical history, a religious sect, which arose in the year 1525, whose principal tenets were, that the Deity was the sole operating cause in the mind of man, and the immediate author of all human actions; that, consequently, the distinctions of good and evil, which had been established with regard to those actions, were false and groundless, and that men could not, properly speaking, commit sin; that religion consisted in the union of the spirit or rational soul with the Supreme Being; that all those who had attained this happy union, by sublime contemplation and elevation of mind, were then allowed to indulge, without exception or restraint, their appetites or passions; that all their actions and pursuits were then perfectly innocent; and that, after the death of the body, they were to be united to the Deity. They likewise said that Jesus Christ was nothing but a mere *je ne sçai quoi*, composed of the spirit of God, and of the opinion of men.

These maxims occasioned their being called *Libertines*;

Libera
||
Libertines.

Libertines *ines*; and the word has been used in an ill sense ever since.

The *Libertini* spread principally in Holland and Brabant. Their leaders were one Quintin, a Picard, Pockefius, Ruffus, and another called Chopin, who joined with Quintin, and became his disciple.

This sect obtained a certain footing in France through the favour and protection of Margaret, queen of Navarre, and sister to Francis I. and found patrons in several of the reformed churches. This sect was probably a remnant of the more ancient Beguards or Brethren of the Free Spirit.

LIBERTINES of Geneva, were a cabal of rakes rather than of fanatics; for they made no pretences to any religious system, but pleaded only for the liberty of leading voluptuous and immoral lives. This cabal was composed of a certain number of licentious citizens, who could not bear the severe discipline of Calvin, who punished with rigour not only dissolute manners, but also whatever bore the aspect of irreligion and impiety. In this turbulent cabal there were several persons who were not only notorious for their dissolute and scandalous manner of living, but also for their atheistical impiety, and contempt of all religion. To this odious class belonged one Gruet, who denied the divinity of the Christian religion, the immortality of the soul, the difference between moral good and evil, and rejected with disdain the doctrines that are held most sacred among Christians; for which impieties he was at last brought before the civil tribunal, in the year 1550, and condemned to death. The Genevan spirit of reformation, improperly directed by the violence and zeal of Calvin, did at this time operate to a degree which has marked the character of this great reformer with reproach. For in 1544, Sebastian Castalio, master of the public school at Geneva, who was a man of probity, and distinguished by his learning and taste, was, nevertheless, deposed from his office and banished the city, because he disapproved some of the measures that were pursued and some of the opinions entertained by Calvin and his colleagues, and particularly that of absolute and unconditional predestination. Jerome Bolsec also, a man of genius and learning, who became a convert to the Protestant religion and fled to Geneva for protection, was cast into prison, and soon after sent into banishment, because, in 1551, he imprudently and indecently declaimed, in full congregation and at the close of public worship, against the doctrine of absolute decrees.

LIBERTUS, or *LIBERTINUS*, among the Romans, a freedman, or a person set free from a legal servitude.

These still retained some mark of their ancient state: he who made a slave free having a right of patronage over the *libertus*: so that if the latter failed of showing due respect to his patron, he was restored to his servitude; and if the *libertus* died without children, his patron was his heir. See *SLAVE*.

In the beginning of the republic, *libertinus* denoted the son of a *libertus* or freedman; but afterwards, before the time of Cicero, and under the emperors, the terms *libertus* and *libertinus*, as Suetonius has remarked, were used as synonymous.

LIBERTY, denotes a state of freedom, in contra-

distinction to *slavery* or *restraint*; and may be considered as either *natural* or *civil*.

The absolute rights of man, considered as a free agent, endowed with discernment to know good from evil, and with power of choosing those measures which appear to him to be most desirable, are usually summed up in one general appellation, and denominated the *natural liberty of mankind*. This natural liberty consists properly in a power of acting as one thinks fit, without any restraint or controul, unless by the law of nature; being a right inherent in us by birth, and one of the gifts of God to man at his creation, when he endued him with the faculty of free-will. But every man, when he enters into society, gives up a part of his natural liberty, as the price of so valuable a purchase; and, in consideration of receiving the advantages of mutual commerce, obliges himself to conform to those laws which the community has thought proper to establish. And this species of legal obedience and conformity is infinitely more desirable than that wild and savage liberty which is sacrificed to obtain it. For no man, that considers a moment, would wish to retain the absolute and uncontrouled power of doing whatever he pleases: the consequence of which is, that every other man would also have the same power; and then there would be no security to individuals in any of the enjoyments of life.

Political, therefore, or *civil* liberty, which is that of a member of society, is no other than natural liberty, so far restrained by human laws (and no farther) as is necessary and expedient for the general advantage of the public. Hence we may collect, that the law, which restrains a man from doing mischief to his fellow-citizens, though it diminishes the natural, increases the civil liberty of mankind: but every wanton and causeless restraint of the will of the subject, whether practised by a monarch, a nobility, or a popular assembly, is a degree of tyranny. Nay, that even laws themselves, whether made with or without our consent, if they regulate and constrain our conduct in matters of mere indifference, without any good end in view, are laws destructive of liberty: whereas, if any public advantage can arise from observing such precepts, the controul of our private inclinations, in one or two particular points, will conduce to preserve our general freedom in others of more importance, by supporting that state of society which alone can secure our independence. Thus the statute of King Edward IV. which forbade the fine gentlemen of those times (under the degree of a lord) to wear pikes upon their shoes or boots of more than two inches in length, was a law that favoured of oppression; because, however ridiculous the fashion then in use might appear, the restraining it by pecuniary penalties could serve no purpose of common utility. But the statute of King Charles II. which prescribes a thing seemingly as indifferent, viz. a dress for the dead, who were all ordered to be buried in woollen, is a law consistent with public liberty; for it encourages the staple trade, on which in great measure depends the universal good of the nation. So that laws, when prudently framed, are by no means subversive, but rather introductive, of liberty; for (as Mr Locke has well observed) where there is no law there

Liberty.

Liberty.

there is no freedom. But then, on the other hand, that constitution or frame of government, that system of laws, is alone calculated to maintain civil liberty, which leaves the subject entire master of his own conduct, except in those points wherein the public good requires some direction or restraint.

The idea and practice of this political or civil liberty, flourish in their highest vigour in these kingdoms, where it falls little short of perfection, and can only be lost or destroyed by the folly or demerits of its owner; the legislature, and of course the laws of Britain, being peculiarly adapted to the preservation of this inestimable blessing even in the meanest subject. Very different from the modern constitutions of other states on the continent of Europe, and from the genius of the imperial law; which in general are calculated to vest an arbitrary and despotic power, of controuling the actions of the subject, in the prince, or in a few grandees. And this spirit of liberty is so deeply implanted in our constitution, and rooted even in our very soil, that a slave or a negro, the moment he lands in Britain, falls under the protection of the laws, and so far becomes a freeman; though the master's right to his service may possibly still continue.

The absolute rights of every Briton (which, taken in a political and extensive sense, are usually called their *liberties*), as they are founded on nature and reason, so they are coeval with our form of government; though subject at times to fluctuate and change, their establishment (excellent as it is) being still human. At some times we have seen them depressed by overbearing and tyrannical princes; at others, so luxuriant as even to tend to anarchy, a worse state than tyranny itself, as any government is better than none at all. But the vigour of our free constitution has always delivered the nation from these embarrassments: and, as soon as the convulsions consequent on the struggle have been over, the balance of our rights and liberties has settled to its proper level; and their fundamental articles have been from time to time asserted in parliament, as often as they were thought to be in danger:

Blackst.
Comment.

First, By the great charter of liberties, which was obtained, sword in hand, from King John, and afterwards, with some alterations, confirmed in parliament by King Henry III. his son. Which charter contained very few new grants; but, as Sir Edward Coke observes, was for the most part declaratory of the principal grounds of the fundamental laws of England. Afterwards, by the statute called *confirmatio cartarum*, whereby the great charter is directed to be allowed as the common law; all judgements contrary to it are declared void; copies of it are ordered to be sent to all cathedral churches, and read twice a-year to the people; and sentence of excommunication is directed to be as constantly denounced against all those that by word, deed, or counsel, act contrary thereto, or in any degree infringe it. Next, By a multitude of subsequent corroborating statutes (Sir Edward Coke reckons 32), from the first Edward to Henry IV. Then, after a long interval, by the *petition of right*; which was a parliamentary declaration of the liberties of the people, assented to by King Charles I. in the beginning of his reign. Which was closely followed by the still more ample concessions made by that unhappy prince to his

parliament, before the fatal rupture between them; and by the many salutary laws, particularly the *habeas corpus* act, passed under Charles II. To these succeeded the *bill of rights*, or declaration delivered by the lords and commons to the prince and princess of Orange, 13th February 1688; and afterwards enacted in parliament, when they became king and queen: which declaration concludes in these remarkable words; "and they do claim, demand, and insist upon, all and singular the premises, as their undoubted rights and liberties." And the act of parliament itself recognises "all and singular the rights and liberties asserted and claimed in the said declaration to be the true, ancient, and indubitable rights of the people of this kingdom." Lastly, These liberties were again asserted at the commencement of the present century, in the *act of settlement*, whereby the crown was limited to his present majesty's illustrious house: and some new provisions were added, at the same fortunate era, for better securing our religion, laws, and liberties; which the statute declares to be "the birthright of the people of England," according to the ancient doctrine of the common law.

Thus much for the *declaration* of our rights and liberties. The rights themselves, thus defined by these several statutes, consist in a number of private immunities; which will appear, from what has been premised, to be indeed no other, than either that *residuum* of natural liberty, which is not required by the laws of society to be sacrificed to public convenience; or else those civil privileges, which society hath engaged to provide, in lieu of the natural liberties so given up by individuals. These therefore were formerly, either by inheritance or purchase, the rights of all mankind; but, in most other countries of the world, being now more or less debased and destroyed, they at present may be said to remain, in a peculiar and emphatical manner, the rights of the people of Britain. And these may be reduced to three principal or primary articles; the right of personal security, the right of personal liberty, and the right of private property: because, as there is no other known method of compulsion, or of abridging man's natural free-will, but by an infringement or diminution of one or other of these important rights, the preservation of these inviolate may justly be said to include the preservation of our civil immunities in their largest and most extensive sense. See the article RIGHTS.

In vain, however, would these rights be declared, ascertained, and protected by the dead letter of the laws, if the constitution had provided no other method to secure their actual enjoyment. It has therefore established certain other auxiliary subordinate rights of the subject, which serve principally as barriers to protect and maintain inviolate the three great and primary rights, of personal security, personal liberty, and private property. These are,

1. The constitution, powers, and privileges of parliament; for which see PARLIAMENT.

2. The limitation of the king's prerogative, by bounds so certain and notorious, that it is impossible he should exceed them without the consent of the people; as to which, see PREROGATIVE. The former of these keeps the legislative power in due health and vigour, so as to make it improbable that laws should

Liberty. be enacted destructive of general liberty: the latter is a guard upon the executive power, by restraining it from acting either beyond or in contradiction to the laws that are framed and established by the other.

3. A third subordinate right of every Briton is that of applying to the courts of justice for redress of injuries. Since the law is, in this realm, the supreme arbiter of every man's life, liberty, and property, courts of justice must at all times be open to the subject, and the law be duly administered therein. The emphatical words of *magna charta*, spoken in the person of the king, who in judgement of law (says Sir Edward Coke) is ever present and repeating them in all his courts, are these: *Nulli vendemus, nulli negabimus, aut differemus rectum vel justitiam*; "and therefore every subject (continues the same learned author), for injury done to him *in bonis, in terris, vel persona*, by any other subject, be he ecclesiastical or temporal, without any exception, may take his remedy by the course of the law, and have justice and right for the injury done to him, freely without sale, fully without any denial, and speedily without delay. It were endless to enumerate all the *affirmative* acts of parliament, wherein justice is directed to be done according to the law of the land: and what that law is, every subject knows, or may know if he pleases: for it depends not upon the arbitrary will of any judge; but is permanent, fixed, and unchangeable, unless by authority of parliament. We shall however just mention a few *negative* statutes, whereby abuses, perversions, or delays of justice, especially by the prerogative, are restrained. It is ordained by *magna charta*, that no freeman shall be outlawed, that is, put out of the protection and benefit of the laws, but according to the law of the land. By 2 Edw. III. c. 8. and 11 Ric. II. c. 10. it is enacted, that no commands or letters shall be sent under the great seal, or the little seal, the signet or privy seal, in disturbance of the law; or to disturb or delay common right: and, though such commandments should come, the judges shall not cease to do right: which is also made a part of their oath by statute 18 Edw. III. stat. 4. And by 1 W. and M. st. 2. c. 2. it is declared, that the pretended power of suspending or dispensing with laws, or the execution of laws, by regal authority without consent of parliament, is illegal.

Not only the substantial part, or judicial decisions, of the law, but also the formal part, or method of proceeding, cannot be altered but by parliament: for, if once those outworks were demolished, there would be an inlet to all manner of innovation in the body of the law itself. The king, it is true, may erect new courts of justice; but then they must proceed according to the old established forms of the common law. For which reason it is declared in the statute 16 Car. I. c. 10. upon the dissolution of the court of star-chamber, that neither his majesty, nor his privy-council, have any jurisdiction, power, or authority, by English bill, petition, articles, libel, (which were the course of proceeding in the star-chamber, borrowed from the civil law), or by any other arbitrary way whatsoever, to examine, or draw into question, determine, or dispose of the lands or goods of any subjects of this kingdom; but that the same ought to be tried and deter-

VOL. XI. Part II.

mined in the ordinary courts of justice, and by *course of* Liberty. law.

4. If there should happen any uncommon injury, or infringement of the rights before mentioned, which the ordinary course of law is too defective to reach, there still remains a fourth subordinate right, appertaining to every individual, namely, the right of petitioning the king, or either house of parliament, for the redress of grievances. In Russia we are told that the czar Peter established a law, that no subject might petition the throne till he had first petitioned two different ministers of state. In case he obtained justice from neither, he might then present a third petition to the prince; but upon pain of death, if found to be in the wrong. The consequence of which was, that no one dared to offer such third petition; and grievances seldom falling under the notice of the sovereign, he had little opportunity to redress them. The restrictions, for some there are, which are laid upon petitioning in Britain, are of a nature extremely different; and while they promote the spirit of peace, they are no check upon that of liberty. Care only must be taken, lest, under the pretence of petitioning, the subject be guilty of any riot or tumult; as happened in the opening of the memorable parliament in 1640; and, to prevent this, it is provided by the statute 13 Car. II. st. 1. c. 5. that no petition to the king, or either house of parliament, for any alteration in church or state, shall be signed by above 20 persons, unless the matter thereof be approved by three justices of the peace, or the major part of the grand jury, in the country; and in London, by the lord mayor, aldermen, and common-council: nor shall any petition be presented by more than 10 persons at a time. But, under these regulations, it is declared by the statute 1 W. and M. st. 2. c. 2. that the subject hath a right to petition; and that all commitments and prosecutions for such petitioning are illegal.

5. The fifth and last auxiliary right of the subject, that we shall at present mention, is that of having arms for their defence, suitable to their condition and degree, and such as are allowed by law. Which is also declared by the same statute 1 W. and M. st. 2. c. 2. and is indeed a public allowance, under due restrictions, of the natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression.

In these several articles consist the rights, or, as they are frequently termed, *the liberties of Britons*: liberties more generally talked of than thoroughly understood; and yet highly necessary to be perfectly known and considered by every man of rank or property, lest his ignorance of the points whereon they are founded should hurry him into faction and licentiousness on the one hand, or a pusillanimous indifference and criminal submission on the other. And we have seen that these rights consist, primarily, in the free enjoyment of personal security, of personal liberty, and of private property. So long as these remain inviolate, the subject is perfectly free; for every species of compulsive tyranny and oppression must act in opposition to one or other of these rights, having no other object upon which it can possibly be employed.

5 H

Te

Liberty.

To preserve these from violation, it is necessary that the constitution of parliaments be supported in its full vigour; and limits, certainly known, be set to the royal prerogative. And, lastly, To vindicate these rights, when actually violated or attacked, the subjects of Britain are entitled, in the first place, to the regular administration and free course of justice in the courts of law; next, to the right of petitioning the king and parliament for redress of grievances; and, lastly, to the right of having and using arms for self-preservation and defence. And all these rights and liberties it is our birthright to enjoy entire; unless where the laws of our country have laid them under necessary restraints. Restraints in themselves so gentle and moderate, as will appear upon farther inquiry, that no man of sense or probity would wish to see them slackened. For all of us have it in our choice to do every thing that a good man would desire to do; and are restrained from nothing, but what would be pernicious either to ourselves or our fellow-citizens. So that this review of our situation may fully justify the observation of a learned French author, who indeed generally both thought and wrote in the spirit of genuine freedom; and who hath not scrupled to profess, even in the very bosom of his native country, that the British is the only nation in the world where political or civil liberty is the direct end of its constitution. Recommending, therefore, to the student in our laws a farther and more accurate search into this extensive and important title, we shall close our remarks upon it with the expiring wish of the famous Father Paul to his country, "ESTO PERPETUA!"

LIBERTY and Necessity. See METAPHYSICS.

LIBERTY of the Press. The art of printing, soon after its introduction, was looked upon in England, as well as in other countries, as merely a matter of state, and subject to the coercion of the crown. It was therefore regulated with us by the king's proclamations, prohibitions, charters of privilege and license, and finally by the decrees of the court of star-chamber, which limited the number of printers, and of presses which each should employ, and prohibited new publications unless previously approved by proper licensers. On the demolition of this odious jurisdiction in 1641, the long parliament of Charles I. after their rupture with that prince, assumed the same powers as the star-chamber had exercised with respect to the licensing of books: and in 1643, 1647, 1649, and 1652 (Scobell. i. 44, 134. ii. 88, 230.) issued their ordinances for that purpose, founded principally on the star-chamber decree of 1637. In 1662 was passed the statute 13 and 14 Car. II. c. 33. which, with some few alterations, was copied from the parliamentary ordinances. This act expired in 1679; but was revived by statute 1 Jac. II. c. 17. and continued till 1692. It was then continued for two years longer by statute 4 W. and M. c. 24. but though frequent attempts were made by the government to revive it in the subsequent part of that reign, (Com. Journ. 11 Feb. 1694, 26 Nov. 1695, 22 Oct. 1696, 9 Feb. 1697, 31 Jan. 1698), yet the parliament resisted it so strongly, that it finally expired, and the press became properly free in 1694, and has continued so ever since.

The liberty of the press, however, so essential to

the nature of a free state, consists not in freedom from censure for any criminal matter that may be published, but in laying no previous restraints upon publications. Every freeman has undoubtedly a right to lay what sentiments he pleases before the public; to forbid this, is to destroy the freedom of the press: but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity*. To subject the press to the restrictive power of a licenser in the manner above mentioned, is to subject all freedom of sentiment to the prejudices of one man, and make him the arbitrary and infallible judge of all controverted points in learning, religion, and government. But to punish (as the law does at present) any dangerous or offensive writings which, when published, shall, on a fair and impartial trial, be adjudged of a pernicious tendency, is necessary for the preservation of peace and good order, of government and religion, the only solid foundations of civil liberty. Thus the will of individuals is still left free; the abuse only of that free will is the object of legal punishment. Neither is any restraint hereby laid upon freedom of thought or inquiry; liberty of private sentiment is still left; the disseminating or making public of bad sentiments, destructive of the ends of society, is the crime which society corrects. A man (says a fine writer on this subject) may be allowed to keep poisons in his closet, but not publicly to vend them as cordials. And to this we may add, that the only plausible argument heretofore used for restraining the just freedom of the press, "that it was necessary to prevent the daily abuse of it," will entirely lose its force, when it is shown (by a seasonable exertion of the laws) that the press cannot be abused to any bad purpose without incurring a suitable punishment: whereas it can never be used to any good one when under the controul of an inspector. So true will it be found, that to censure the licentiousness, is to maintain the liberty of the press.

LIBERTY, in *Mythology*, was a goddess both among the Greeks and Romans. Among the former she was invoked under the title *Eleutheria*; and by the latter she was called *Libertas*, and held in singular veneration. Temples, altars, and statues, were erected in honour of this deity. A very magnificent temple was consecrated to her on Mount Aventine, by Tiberius Gracchus, before which was a spacious court, called *atrium libertatis*. The Romans also erected a new temple in honour of Liberty, when Julius Cæsar established his empire over them, as if their liberty had been secured by an event which proved fatal to it. In a medal of Brutus, Liberty is exhibited under the figure of a woman, holding in one hand a cap, the symbol of liberty, and two poniards in the other, with the inscription *IDIBVS MARTIIS*.

LIBETHRA, in *Ancient Geography*, the fountain of song, was situated in Magnesia, a district of Macedonia annexed to Thessaly; distinct from the town of Libethra, which stood on Mount Olympus, where it verges towards Macedonia: hence the muses are called *Libethrides*, (Virgil). Strabo places on Helicon, not only Hippocrene, and the temple of the Muses, but also the cave of the nymphs Libethrides.

LIBETHRIUS MONS, in *Ancient Geography*, a mountain of Bœotia, distant from Coronea 40 stadia; where

Liberty
↓
Libethrius.* See *Libel*.

Libitina
||
Libra.

where stood the statues of the Muses, and of the nymphs surnamed *Libethrides*: a mountain probably conjoined with, or at least very near to, Helicon.

LIBITINA, in the Roman mythology, a goddess which presided over funerals. This goddess was the same with the *Venus infera* or *Epithymia* of the Greeks. She had a temple at Rome, where was lodged a certain piece of money for every person who died, whose name was recorded in a register called *Libitinæ ratio*. This practice was established by Servius Tullius, in order to obtain an account of the number of annual deaths in the city of Rome, and consequently the rate of increase or decrease of its inhabitants.

LIBITINARI, were undertakers whose office it was to take care of funerals, prepare all things necessary upon this solemn occasion, and furnish every article required.—They got their livelihood by this gloomy business, and kept a number of servants to perform the working part of the profession, such as the *polliniflores*, *vespillones*, &c. The name *Libitinarii* is derived from *Libitina*, the goddess of funerals, in whose temple were sold all things relating to funerals. See **FUNERAL**.

LIBNA, in *Ancient Geography*, a sacerdotal city in the tribe of Judah, a place of strength, as appears from Sennacherib's laying siege to it, 2 Kings xix. Isaiah xxxvii. In Jerome's time, a village, called *Lobna*, in the territory of Eleutheropolis.

LIBOURNE, a town of France, in Guienne, and in Bourdelois. It is a populous trading town, and is seated on the river Dordogne. W. Long. o. 10. N. Lat. 44. 45.

LIBRA, or **BALANCE**, one of the mechanical powers. See **BALANCE**.

LIBRA, in *Astronomy*, one of the 12 signs of the zodiac, and exactly opposite to Aries; so called because when the sun is in this sign at the autumnal equinox, the days and nights are equal as if weighed in a balance.—The stars in this constellation according to Ptolemy are 17, Tycho 10, Hevelius 20, and Flamsteed 51.

LIBRA also denotes the ancient Roman pound, borrowed from the Sicilians, who called it *litra*.

The libra was divided into 12 *uncia* or ounces, and the ounce into 24 scruples.

The divisions of the libra were, the *uncia*, one twelfth; the *sextans*, one sixth; the *quadrans*, one fourth; the *triens*, one third; the *quincunx*, five ounces; the *semis*, six; the *septunx*, seven; the *bes*, eight; the *dodrans*, nine; the *dextrans*, ten; the *deunx*, eleven; lastly, the *as* weighed twelve ounces or one libra.

The Roman libra was used in France for the proportions of their coin till the time of Charlemagne, or perhaps till that of Philip I. in 1093, their sols being so proportioned, as that 20 of them were equal to the libra. By degrees it became a term of account: and every thing of the value of twenty sols was called a *livre*.

LIBRA pensa, in our law books, denotes a pound of money in weight. It was usual in former days not only to tell the money but to weigh it: because many cities, lords, and bishops, having their mints, coined money, and often very bad too; for which reason, though the pound consisted of 20 shillings, they always weighed it.

LIBRARI, among the ancients, were a sort of copyists who transcribed in beautiful or at least legible characters, what had been written by the notarii in notes and abbreviations.

LIBRARY, an edifice or apartment destined for holding a considerable number of books placed regularly on shelves; or the books themselves lodged in it.

Some authors refer the origin of libraries to the Hebrews; and observe, that the care these took for the preservation of their sacred books, and the memory of what concerned the actions of their ancestors, became an example to other nations, particularly to the Egyptians. Osmanduas, king of Egypt, is said to have taken the hint first; who, according to Diodorus, had a library built in his palace, with this inscription over the door, $\Psi\chi\eta\varsigma\ \text{IATPEION}$. Nor were the Ptolemies, who reigned in the same country, less curious and magnificent in books.

The Scripture also speaks of a library of the kings of Persia, Ezra v. 17. vi. 1. which some imagine to have consisted of the historians of that nation, and of memoirs of the affairs of state; but, in effect, it appears rather to have been a depository of laws, charters, and ordinances of the kings. The Hebrew text calls it the *house of treasures*, and afterwards the *house of the rolls*, where the treasures were laid up. We may, with more justice, call that a *library*, mentioned in the second of Esdras to have been built by Nehemiah, and in which were preserved the books of the prophets, and of David, and the letters of their kings.

The first who erected a library at Athens was the tyrant Pisistratus; and yet Strabo refers the honour of it to Aristotle. That of Pisistratus was transported by Xerxes into Persia, and was afterwards brought back by Seleucus Nicanor to Athens. Long after, it was plundered by Sylla, and re-established by Hadrian. Plutarch says, that under Eumenes there was a library at Pergamus, containing 200,000 books. Tyrannian, a celebrated grammarian, contemporary with Pompey, had a library of 30,000 volumes. That of Ptolemy Philadelphus, according to A. Gellius, contained 700,000, all in rolls, burnt by Cæsar's soldiers.

Constantine, and his successors, erected a magnificent one at Constantinople; which in the eighth century contained 300,000 volumes, all burnt by order of Leo Isaurus; and, among the rest, one wherein the Iliad and Odyssey were written in letters of gold, on the guts of a serpent.

The most celebrated libraries of ancient Rome, were the Ulpian, and the Palatine. They also boast much of the libraries of Paulus Æmilius, who conquered Perseus; of Lucilius Lucullus, of Asinius Pollio, Atticus, Julius Severus, Domitius Serenus, Pamphilus Martyr, and the emperors Gordian and Trajan.

Anciently, every large church had its library; as appears by the writings of St Jerome, Anastasius, and others. Pope Nicholas laid the first foundation of that of the Vatican, in 1450. It was destroyed by that of the constable Bourbon, in the sacking of Rome, and restored by Pope Sixtus V. and has been considerably enriched with the ruins of that of Heidelberg, plundered by Count Tilly in 1622. One of the most complete libraries in Europe, was said to be that erected at Florence by Cosmo de Medicis, over the gate whereof is written *LABOR ABSQUE LABORE*; though it is now

Library. exceeded by that of the French king, begun by Francis I. augmented by Cardinal Richelieu, and completed by M. Colbert.

The emperor's library at Vienna, according to Lambeccius, consists of 80,000 volumes, and 15,940 curious medals.

The Bodleian library at Oxford, built on the foundation of that of Duke Humphry, exceeds that of any university in Europe, and even those of all the sovereigns of Europe, except the emperor's and French king's, which are each of them older by 100 years. It was first opened in 1602, and has since found a great number of benefactors; particularly Sir Robert Cotton, Sir H. Savil, Archbishop Laud, Sir Kenelm Digby, Mr Allen, Dr Pococke, Mr Selden, and others. The Vatican, the Medicean, that of Bessarion at Venice, and those just mentioned, exceed the Bodleian in Greek manuscripts: which yet outdoes them all in Oriental manuscripts.

As to printed books, the Ambrosian at Milan, and that of Wolfenbuttle, are two of the most famous, and yet both inferior to the Bodleian.

King's LIBRARY, at St James's, was founded by Henry, eldest son of James I. and made up partly of books, and partly of manuscripts, with many other curiosities, for the advancement of learning. It has received many additions from the libraries of Isaac Casaubon and others.

Cottonian LIBRARY, originally consisted of 958 volumes of original charters, grants, instruments, letters of sovereign princes, transactions between this and other kingdoms and states, genealogies, histories, registers of monasteries, remains of Saxon laws, the book of Genesis, thought to be the most ancient Greek copy extant, and said to have been written by Origen in the second century, and the curious Alexandrian copy or manuscript in Greek capitals. This library is kept in the British Museum, with the large and valuable library of Sir Hans Sloane, amounting to upwards of 42,000 volumes, &c. There are many public libraries belonging to the several colleges at Oxford and Cambridge, and the universities in North Britain. The principal public libraries in London, beside that of the Museum, are those of the College of Heralds, of the College of Physicians, of Doctors Commons, to which every bishop, at the time of his consecration, gives at least 20l. sometimes 50l. for the purchase of books; those of Gray's Inn, Lincoln's Inn, Inner Temple, and Middle Temple; that of Lambeth, founded by Archbishop Bancroft in 1610, for the use of succeeding archbishops of Canterbury, and increased by the benefactions of Archbishops Abbot, Sheldon, and Tensison, and said to consist of at least 15,000 printed books, and 617 volumes in manuscript; that of Red-Cross street, founded by Dr Daniel Williams, a Presbyterian divine, and since enriched by many private benefactions; that of the Royal Society, called the *Arundelian* or *Norfolk library*, because the principal part of the collection formerly belonged to the family of Arundel, and was given to the society by Henry Howard, afterwards duke of Norfolk, in 1666, which library has been increased by the valuable collection of Francis Aston, Esq. in 1715, and is continually increasing by the numerous benefactions of the works of its learned mem-

bers, and others: that of St Paul's, of Sion college; the Queen's library, erected by Queen Caroline in 1737; and the Surgeons library, kept in their hall in the Old Bailey, &c.

Libration
||
Libra.

In Edinburgh there is a good library belonging to the university, well furnished with books; which are kept in good order. There is also a noble library of books and manuscripts belonging to the faculty of advocates. See *ADVOCATE*. The library belonging to the society of writers to the signet, although of less extent, yet in the judicious selection of the best books, and the best editions, which by the attention of the society are now kept in excellent order, is inferior to none in the kingdom.

LIBRATION, in *Astronomy*, an apparent irregularity of the moon's motion, whereby she seems to librate about her axis, sometimes from the east to the west, and now and then from the west to the east. See *ASTRONOMY Index*.

LIBURNIA, in *Ancient Geography*, a district of Illyricum, extending towards the Adriatic between Istria on the west, Dalmatia on the east, and Mount Albius on the north. *Liburni*, the people. The apparitors, who at the command of the magistrate summoned the people from the country, were called *Liburni*, because generally men of *Liburnia*.—*Liburna*, or *Liburnica*, (Horace), denoted a kind of light and swift skiff, used by the Liburnians in their sea-roving or piracies, for which they were noted. *Liburnum* (Juvenal), was a species of litter made in form of Liburnian skiffs, wherein the noblemen of Rome were carried, and where they sat at their ease, either reading or writing.

LIBURNUS, in *Ancient Geography*, a mountain of Campania. Also a port of Tuscany. Now *Livorna*, or *Leghorn*. E. Long. 11. N. Lat. 43. 30.

LIBYA, in general, according to the Greeks, denoted Africa. An appellation derived from *lub*, "thirst," being a dry and thirsty country. See *AFRICA*.

LIBYA, in a more restrained sense, was the middle part of Africa, extending north and west, (Pliny); between the Mediterranean to the north, and Ethiopia to the east: and was twofold, the *Hither* or *Exterior Libya*; and the *Farther* or *Interior*. The former lay between the Mediterranean on the north, and the *Farther Libya* and Ethiopia beyond Egypt on the south, (Ptolemy). The *Farther* or *Interior Libya* was a vast country, lying between the *Hither Libya* on the north, the Atlantic ocean on the west, the *Ethiopic* on the south, and Ethiopia beyond Egypt on the east, (Ptolemy).

LIBYA, in a still more restrained sense, called, for distinction's sake, *Libya Propria*, was a northern district of Africa, and a part of the *Hither Libya*; situated between Egypt to the east, the Mediterranean to the north, the Syrtis Major and the Regio Tripolitana to the west, the Garamantes and Ethiopia beyond Egypt to the south. Now the kingdom and desert of *Barca*. This Libya was again subdivided into *Libya* taken in the strictest sense of all, and into Marmarica and Cyrenaica. *Libya* in the strictest sense, otherwise the *Exterior*, was the most eastern part of *Libya Propria*, next to Egypt, with Marmarica on the west, the Mediterranean on the north, and the Nubi, now called *Nubia*, to the south, (Ptolemy).

LICENSE,

Licence
||
Licinius.

Licnon
||
Liddel.

LICENSE, in *Law*, an authority given to a person to do some lawful act.

LICENSER OF BOOKS, has been an officer in almost every civilized country, till the close of the last century, when it was abolished in Great Britain. It has been proved by Beckmann, that such an office was established, not only in the Roman empire, but also in the republic and the states of Greece. All the copies of the works of Protagoras which could be procured, were burnt at Athens by the public crier, and the satirical works of Labienus shared the same fate under the reign of the emperor Augustus. Not long after the invention of printing, laws were enacted for subjecting books to examination; a regulation which was proposed even by Plato, and which many have since wished for. It appears that the liberty of the press is only a modern privilege, and that it has not been enjoyed in its utmost latitude in any country but Great Britain.

LICENSER of the Press. See *LIBERTY of the Press.*

LICENTIATE, one who has obtained the degree of a license.—The greatest number of the officers of justice in Spain are distinguished by no other title than that of *licentiate*. In order to pass *licentiate* in common law, civil law, and physic, they must have studied seven years, and in divinity ten. Among us a *licentiate* usually means a physician who has a license to practise, granted by the college of physicians.

LICETUS, a celebrated physician of Italy, was born at Rappollo, in the state of Genoa, 1577. He came, it seems, into the world, before his mother had completed the seventh month of her pregnancy; but his father, being an ingenious physician, wrapped him up in cotton, and nurtured him so, that he lived to be 77 years of age. He was trained with great care, and became a very distinguished man in his profession; and was the author of a great number of works: his book *De Monstris* every body must have heard of. He was professor of philosophy and physic at Padua, where he died in 1655.

LICHEN, LIVERWORT, a genus of plants belonging to the natural order of algæ, in the cryptogamia class. See *BOTANY Index.*

LICHFIELD. See *LITCHFIELD.*

LICHTENBERG, a castle of France, in Lower Alsace, and the chief place of a county of the same name; seated on a rock, near the mountains Vosges, and looked upon as impregnable. E. Long. 7. 35. N. Lat. 48. 55.

LICHTENBURG, a town of Germany, in the circle of Franconia, and margravate of Cullembach. E. Long. 12. 0. N. Lat. 50. 26.

LICHTENFELS, a town of Germany, in the circle of Franconia, and bishopric of Bamberg, seated on the river Mayne, in E. Long. 11. 10. N. Lat. 50. 20.

LICHTENSTEIN, a town of Swisserland, in Tockerberg, seated on the river Thour. E. Long. 2. 15. N. Lat. 47. 25.

LICHTSTALL, a handsome town of Swisserland, in the county of Basl; seated on the river Ergetz, in E. Long. 7. 57. N. Lat. 47. 40.

LICINIUS STOLO, a famous Roman tribune, styled *Stolo* on account of a law he made, while tribune, that no Roman citizen should possess more than 500 acres of land; alleging, that when they occupied more,

they could not cultivate it with care, nor pull up the useless shoots (*Stolones*) that grow from the roots of trees. He is memorable also for enacting, that one of the consuls should always be of a plebeian family. He lived about 362 B. C.

LICNON, in the Dionysian solemnities, the mystical van of Bacchus; a thing so essential to all the solemnities of this god, that they could not be duly celebrated without it. See *DIONYSIA.*

LICNOPHORI, in the Dionysian solemnities, those who carried the licnon.

LICOLA, or **LAGO DI LICOLA**, a lake in the kingdom of Naples, formerly famous for plenty of excellent fish; but in the year 1538 an explosion of a volcano changed one part of it into a mountain of ashes, and the other into a morass. It was anciently known by the name of the Lucrine lake.

LICONIA, a genus of plants belonging to the pentandria class. See *BOTANY Index.*

LICTORS, among the Romans, were officers established by Romulus, who always attended the chief magistrates when they appeared in public.

The duty of their office consisted in the three following particulars: 1. *Submotio*, or clearing the way for the magistrate they attended: this they did by word of mouth; or, if there was occasion, by using the rods they always carried along with them. 2. *Animadversio*, or causing the people to pay the usual respect to the magistrate, as to alight, if on horseback, or in a chariot; to rise up, uncover, make way, and the like. 3. *Præiitio*, or walking before the magistrates: this they did not confusedly, or altogether, nor by two or three abreast, but singly, following one another in a straight line. They also preceded the triumphal car in public triumphs; and it was also part of their office to arrest criminals, and to be public executioners in beheading, &c. Their ensigns were the *FASCES* and *SECURIS*.

As to the number of lictors allowed each magistrate, a dictator had twenty-four, a master of the horse six, a consul twelve, a prætor six; and each vestal virgin, when she appeared abroad, had one.

LIDD. See *LYDD.*

LIDDEL, DR DUNCAN, professor of mathematics and of medicine in the university of Helmstadt, was born in the year 1561 at Aberdeen, where he received the first part of his education in languages and philosophy. About the age of eighteen he repaired to the university of Francfort, where he spent three years in a diligent application to mathematics and philosophy. From Francfort he proceeded to Wratislaw, or Breslaw, in Silesia, where he is said to have made uncommon progress in his favourite study of mathematics, under the direction of a very eminent professor, Paulus Wittichius. Having studied at Breslaw for the space of one year, he returned to Francfort and remained there three years, paying the most intense application to the study of physic. A contagious distemper having broken out at that place, the students were dispersed, and Liddel retired to the university of Rostock. Here he renewed his studies, rather as a companion than as a pupil of the celebrated Bruceus, who, though an excellent mathematician, did not scruple to confess that he was instructed by Liddel in the more perfect knowledge of the Copernican system, and other astronomical questions. In 1590 he returned once more to Francfort. But having there heard of the increasing

creasing

Liddel,
Lidford.

creasing reputation of the Academia Julia, established at Helmstadt by Henry duke of Brunfwick, Mr Liddel removed thither; and soon after his arrival was appointed to the first or lower professorship of mathematics. From thence he was promoted to the second and more dignified mathematical chair, which he occupied for nine years, with much credit to himself and to the Julian Academy. In 1596 he obtained the degree of M. D. was admitted a member of that faculty, and began publicly to teach physic. By his teaching and his writings he was the chief support of the medical school at Helmstadt; was employed as first physician at the court of Brunfwick, and had much practice among the principal inhabitants of that country. Having been several times elected dean of the faculties both of philosophy and physic, he had in the year 1604 the honour of being chosen protector of the university. But neither academical honours, nor the profits of an extensive practice abroad, could make Dr Liddel forget his native country. In the year 1600 he took a final leave of the Academia Julia; and after travelling for some time through Germany and Italy, he at length settled in Scotland. He died in the year 1613, in the 52d year of his age. By his last will he bestowed certain lands purchased by him near Aberdeen upon the university there, in all time coming, for the education and support of six poor scholars. Among a variety of regulations and injunctions for the management of this charity, he appoints the magistrates of Aberdeen his trustees, and solemnly denounces the curse of God on any person who shall abuse or misapply it. His works are, 1. *Disputationes Medicinales, Helmstadt, 1603, 4to.* 2. *Ars Medica succinctè et perspicuè explicata, Hamburgi, 1607, 8vo.* This performance is dedicated to King James VI. and is divided into five books, viz. *Introductio in totam Medicinam; De Physiologia; De Pathologia; De Signorum doctrina; De Therapeutica.* 3. *De Febris Libri tres, Hamburgi, 1610, 12mo.* 4. *Traçtatus de dente aureo, Hamburgi, 1628, 12mo.* This last performance Dr Liddel published in order to refute a ridiculous story then current, of a poor boy in Silesia, who, at seven years of age, having lost some of his teeth, brought forth, to the astonishment of his parents, a new tooth of pure gold. Jacobus Horstius, doctor and professor of medicine in the *Academia Julia*, at the same time with our author, had published a book, which he dedicated to the emperor Rudolphus II. to prove that this wonderful tooth was a prodigy sent from heaven to encourage the Germans then at war with the Turks, and foretelling, from this golden tooth, the future victories of the Christians, with the final destruction of the Turkish empire and Mahometan faith, and a return of the golden age in 1700, preparatory to the end of the world. The imposture was soon after discovered to be a thin plate of gold, skilfully drawn over the natural tooth by an artist of that country, with a view to excite the public admiration and charity. 5. *Artis conservandi Sanitatem, libri duo, Aberdoniæ, 1651, 12mo;* a posthumous work.

LIDFORD, a village of Devonshire in England, situated on the river Lid, two or three miles east of Brent Tor, was formerly a famous town, with a castle. It was much destroyed by the Danes in 997. The village is now small, but the lands in the parish are rich and fertile, the whole forest of Dartmore being in the

verge of it. The river here being pent up at the bridge with rocks, has made itself so deep a fall, that the noise of the water only is heard without being seen.

LIDKOPING, a town of West Gothland in Sweden, seated on the lake Wenar, in E. Long. 13. 40. N. Lat. 58. 25.

LIDNEY, a town of Gloucestershire in England, 71 miles from London, is seated on the west bank of the river Severn. In the neighbourhood are the remains of a large Roman encampment, with foundations of many ancient buildings, among which are the ruins of a Roman hypocaust of an oval form; and Roman antiquities and coins are often found. Mr Bathurst has a fine seat here called *Sydney-Park*, in the midst of extensive woods.

LIE, in morals, denotes a criminal breach of veracity.—Archdeacon Paley, in treating of this subject, observes, that there are falsehoods which are not lies; that is, which are not criminal: and there are lies which are not literally and directly false.

I. Cases of the first class are those, 1. Where no one is deceived: as, for instance in parables, fables, novels, jests, tales to create mirth, or ludicrous embellishments of a story, in which the declared design of the speaker is not to inform, but to divert; compliments in the subscription of a letter; a prisoner's pleading not guilty; an advocate asserting the justice, or his belief of the justice, of his client's cause. In such instance no confidence is destroyed, because none was reposed; no promise to speak the truth is violated, because none was given or understood to be given. 2. Where the person you speak to has no right to know the truth, or more properly where little or no inconveniency results from the want of confidence in such cases; as where you tell a falsehood to a madman for his own advantage; to a robber, to conceal your property; to an assassin, to defeat or to divert him from his purpose. It is upon this principle, that, by the laws of war, it is allowed to deceive an enemy by feints, false colours, spies, false intelligence, and the like; but, by no means, in treaties, truces, signals of capitulation, or surrender: and the difference is, that the former suppose hostilities to continue, the latter are calculated to terminate or suspend them.

Many people indulge in serious discourse a habit of fiction and exaggeration, in the accounts they give of themselves, of their acquaintance, or of the extraordinary things which they have seen or heard; and so long as the facts they relate are indifferent, and their narratives though false are inoffensive, it may seem a superstitious regard to truth to censure them merely for truth's sake. Yet the practice ought to be checked: for, in the first place, it is almost impossible to pronounce beforehand, with certainty, concerning any lie, that it is inoffensive; or to say what ill consequences may result from a lie apparently inoffensive: And, in the next place, the habit, when once formed, is easily extended to serve the designs of malice or interest; like all habits, it spreads indeed of itself. Pious frauds, as they are improperly enough called, pretended inspirations, forged books, counterfeit miracles, are impositions of a more serious nature. It is possible that they may sometimes, though seldom, have been set up and encouraged with a design to do good: but the good they aim at requires that the belief of them should

Lidköping
Lie.

Liechtenau, should be perpetual, which is hardly possible; and the detection of the fraud is sure to disparage the credit of all pretensions of the same nature. Christianity has suffered more injury from this cause than from all other causes put together.

II. As there may be falsehoods which are not lies, so there may be lies without literal or direct falsehood. An opening is always left for this species of prevarication, when the literal and grammatical signification of a sentence is different from the popular and customary meaning. It is the wilful deceit that makes the lie; and we wilfully deceive, when our expressions are not true, in the sense in which we believe the hearer apprehends them. Besides, it is absurd to contend for any sense of words, in opposition to usage; for all senses of all words are founded upon usage, and upon nothing else. Or a man may act a lie; as by pointing his finger in a wrong direction, when a traveller inquires of him his road; or when a tradesman shuts up his windows, to induce his creditors to believe that he is abroad: for to all moral purposes, and therefore as to veracity, speech and action are the same; speech being only a mode of action.

LIECHTENAU, a town of Germany, in the circle of Franconia and margravate of Anspach, subject to Nuremberg. E. Long. 9. 5. N. Lat. 48. 43.

LIEGE (*Ligius*), in Law, properly signifies a vassal, who holds a kind of fee, that binds him in a closer obligation to his lord than other people.

The term seems to be derived from the French *lier*, "to bind;" on account of a ceremony used in rendering faith or homage: which was by locking the vassal's thumb or his hand in that of the lord, to show that he was fast bound by his oath of fidelity. Cujas, Vigenere, and Bignon, choose rather to derive the word from the same source with *leudis* or *leodi*, "loyal, faithful." But Du Cange falls in with the opinion of those who derive it from *liti*, a kind of vassals, so firmly attached to their lord, on account of lands or

fees held of him, that they were obliged to do him all manner of service, as if they were his domestics. He adds, this was formerly called *ligium servitium*, and the person *litge*. In this sense, the word is used, Leg. Edw. cap. 29. *Judei sub tutela regis ligea debent esse*; that is, wholly under his protection.

By liege homage, the vassal was obliged to serve his lord towards all, and against all, excepting his father. In which sense, the word was used in opposition to simple homage; which last only obliged the vassal to pay the rights and accustomed dues to his lord; and not to bear arms against the emperor, prince, or other superior lord: so that a liege man was a person wholly devoted to his lord, and entirely under his command. *Omnibus, &c. Reginaldus, rex Insularum, salutem. Sciatis quod deveni homo ligeus domini regis Angliae Johannis, contra omnes mortales, quamdiu vixero; et inde ei fidelitatem et sacramentum prestiti, &c.* MS. pines W. Dugdale.

But it must be observed, there were formerly two kinds of liege homage: the one, by which the vassal was obliged to serve his lord, against all, without exception even of his sovereign; the other, by which he was to serve him against all, except such other lords as he had formerly owed liege homage to.

In our old statutes lieges, and liege people, are terms peculiarly appropriated to the king's subjects; as being *liges*, *ligi*, or *ligati*, obliged to pay allegiance to him; 8 Henry VI. 14 Hen. VIII. &c. though private persons had their lieges too. *Reinaldus, Dei gratia, abbas Ramesie, preposito et hominibus de Brancestre, et omnibus vicinis Francis et Anglis salutem. Sciatis me dedisse terram Ulfe, in depedene (hodie depedale) huic Boselino, et uxori ejus Alfnie—ea conditione quod effecti sint homines legis.* Lib. Ramesf.

LIEGE-Poussie, in Scots Law, is opposed to death-bed; and signifies a person's enjoying that state of health in which only he can dispose of his property at pleasure.

DIRECTIONS FOR PLACING THE PLATES OF VOL. XI.

PART I.

Plate CCLXXXVI. CCLXXXVII. to face	page 10
CCLXXXVIII.	52
CCLXXXIX—CCLXXXIII.	112
CCLXXXIV. CCLXXXV.	240
CCLXXXVI.	352
CCLXXXVII.	388

PART II.

CCLXXXVIII.	477
CCLXXXIX.	488
CCXC, CCXCI.	744
CCXCH—CCXCV.	782

