Bailments.

A bailment is defined to be a delivery of goods upon a contract express or implied, that they shall be restored to the bailee according to his direction, when the purpose for which they were bailed shall have been attained. 1 COB. 251. Joes, 3 48.

Every bailment is a qualified property in the bailee. This principle is of utmost practical application. It is said in the old books that a person differs from another in having his hands in the thing bailed, but there is no such distinction. Every bailment comprises a qualified property or special interest in the bailor. See Clarke, p. 90. The distinctions alluded to. 1 BAC. 240. Dec. 7, 129. Jones on Bail. 112. 7. 5. Rep. 392, 397. For the distinction alluded to, see 2 Co. 83, 84. 1 Must. 89 a.

Indeed it may be stated as a proposition that admits no exception that a mere lawful detention, which of course presupposes a present right of repossession, includes a qualified property or special interest in the bailor in the case of finding. Thos. 775.

By the definitions the bailor is to restore the bailee or his order, it is not from that to be understood that he is answerable in all events, for all to be paid to restor yet if it is in consequence of a loss without any default in him he is rigorously not liable. 1 BAC. 236. Joes. 8.

Want to determine when he is in fault in case of loss.
The place of the bailment and the quality of the thing bailed as well as the owner's conduct are to be regarded.

Lift. bailments require different degrees of care for what would be thrown away care in case of large bulky articles, bailment ought to be great neglect in property of a different thing.

And the principal inquiry here is: to ascertain in all cases what degree of care and diligence is required of the different kinds of bailors, so that we know in what cases the bailor is entitled to recovery.

The most general rule is, that when bailor is under a general acceptance, he is bound to keep or use the goods with a degree of care proportioned to the nature of the bailment.

Acceptance is said to be good when there is no special agreement by bailor with respect to the degree of care or diligence that the bailor shall use or the degree of responsibility that he shall incur. What is wanting to this latter part of the law is a determination of what care and diligence it is his duty to use and to be accountable for not using.

But on the other hand, when there is no special agreement, whether respecting or qualifying the bailor's ability to make, this unlawful or unwise use of the thing, liability to any degree is well understood. Any bails to be recovered, when that is an implied agreement.
the is implied by law or custom.

And the different result.

be not shown, in relation to degree of care required of

the court, or to be considered as having reference to cases

of guilt, or innocence only, for what there is a standard

of care, according to its definition that must deter-

mine the requisite care or diligence.

The law distinguishes the
different degree of diligence or neglect into three classes,
only, without noticing the minute degree, which may
be found among men.

The standard from which these
different degrees are measured is called ordinary care

or diligence. By ordinary care is meant that which

rational man in good use in their own affairs. This

is just the standard or middle term by which the

others are measured. Another word, ordinary diligence is

that which every rational man of common pru-

dence uses in his own affairs. Dan. 9:10.

The degree of din-

gleess of each side are not distinguished by any tech-

niques or appropriate discrimination but are subject

by a principle, what would ordinary care induce

more than ordinary diligence. what fails that is called

left.

Now it is obvious that to every degree of care or di-

gleness there is corresponding degree of defalcation.

Neglect so poor will consist in that which

omissions of care of some degree. Since the omission

of ordinary care is called ordinary neglect. The
omission of that care which attention and singleness of purpose only can in this case afford in lieu of any ordinary neglect. But the omission of such care as inattention, carelessness, carelessness, is more than equal to any neglect. 1 Sam. 11. 13. 30. 31.

The omission of neglect can on such as negligent men use is guilt, called gross neglect. This is guilt regarded as evidence of fraud or want of good faith, but it is not deemed for that reason unless it is prima facie evidence of fraud. For if bailor has been guilty of some neglect with respect to his own goods, the presumption of fraud is not excluded with the neglect it is still the same, that is gross. 2 A. Ray 915. 1 Sam. 30. 53. 64.

In most guilt, rule on the subject I observe is, that bailor under guilt, acceptance is to undergo a degree of action as the nature of the bailment requires.

How to apply this guilt rule to particular cases it is necessary to observe three other rules. First, when the bailment is exclusively for the benefit of the bailor, so that the bailee derives no advantage from it, the bailor is bound to nothing but good faith and is liable for nothing less than gross neglect. This rule favours an equitable measure quasi at common law, but actual notice seems i.e. he who receives the bailment ought to have the risk, as when one con-
start a lane heartily to keep or carry goods or money, whatever the rules of morality may require, the
principal law subject to the bailor for loss or damage caus-
ly in case of gross neglect. But in the previous
fim of pounds. 23. Ray 915; 1 Cmns. 2d. 117. Cmns. 15.
32. 51. 61. 101. 2.
I would premise that in 2 Co. 3. 1.
(2on thecote, care) it is holden, obiter, that the bailor is
bound to keep the goods safe at his peril, that is with
the strictest care, but this, like all the other minor
rules advanced in that case, is implied, except the de-
cision which from the record appears certain.

Or

been again that these rules apply to cases of great negli-
gence only, for by a special acceptance bailor's lia-
bility may be extended to all risks, whatever. 223. 3.
61. 2. 23. Ray. 910.

Whom: When bailor only is lia-
ble, he is liable for slight neglect, that is he is bound to
use more than ordinary care, and in case of loss or car-
riage lost. and the principle that governs is the same as
in the former rule when bailor only was benefited.

3. When the bailment is for the benefit of both, that
is mutually advantageous, the risk is equally divided
between them. the obligation belongs in an even bal-
ance, and the bailor is bound to an ordinary care
nothing more. it is liable for ordinary neglect but
for nothing else. for the two last rules see Dom. 146.16
23. 3. 19. 101. 105.
These three rules do not apply only to cases in which the acceptance is general. I proceed now to enunciate 4 opinions on these rules.

The different kinds of Bailments.

The divisions of bailments known to the C. L. are 2: Sir W. J. Smith makes but few of them, viz., that the 2 division does not appear to me the most logical; it is known to division made in the joint case of Coggis v. Burman, the major case of the law of bailments, and other authorities, and is the one I have chosen to adopt. Before the case accrued to 2 L. 1 May 909, the law of bailments was but little understood, even in Westminster Hall.

Bailment of the first kind, or class, is called offerei in the Latin expression. This is a delivery of goods to be kept for the exclusive benefit of the grantor without any reward to bailee; this is something called naked bailment, and the bailee naked bailee. I shall call mine depository L 2 May 912 Bull. et P. 72, 1 P. 247.

Bailment of the second class is termed commissariat. It is a simple eng, and is distinguished from the kind at a moving carriage, loan of goods to be used by the bailee for his own benefit. As when edc. lends a carriage or a sledge for use to be returned specifically. It is a great bailment; the bailee is called the lender, the bailee the borrower L 2 May 914, 915.
This species of bailment differs from what is called in law
mortmain; this in some particular, they are precisely alike.
a mortmain is a loan to quit a gratuities one. but it is
for consumption and not merely for use. it is to be paid
in property of the same but not to be specifically rectified
and for this reason a mortmain is not a bailment.
This money bound on any article of food, which can
never intended to be specifically rectified.

In a mortmain
the absolute property rests instead in the borrowe
in case of a loss. even at the moment the property
is received he bears it in all events because it is
the loss of his own property but that of another
Dow. Stu. 129. 1 Bac. 241.

3 times is location
consideration this is a delivering of goods to be used by
bailor for a remuneration or hire to be paid to bailor who
is called lessee or the bailor considers. or whom a can
nag or barn in kind.

I should call this letting or hiring
in the former clause is lending or borrowing. It is in
fact a letting on one side and a hiring on the
other. this business is not legal language Dow,
50. 119. 1 Deo. 251.

4th clause is a delivering of goods or a
security for a debt due from the bailor to the bailor.
this in Latin is called "caution" a pledge or pawn.
the particp. forner of fries. 2 Deo. 51. 104. 1 Deo. 251. 2.

5th As a delivering of goods to bound
so some act to be done about them by bailee for a
award to be paid him. There is no technical ap-
propriate determination given to this class. 913. 914. 915. 916. Som 50

This fifth class includes all those
not only to common carriers who act in the discharge
of some public employment, but to private carriers
or bailees, as to common bailees in matters of ship,
as also to a tailor it may.

9th. Bailees of this fifth
class last class an delivery of goods for conveyance
as for some work to be done about them quickly, without
charge, a bailee of this kind is called mandamus
since the bailee mandatory. 2 2 Blye 913. 915. 918. Som
50

The first kind to be considered is explained as
what is called deposit, being a delivery of goods to bailee
to be kept without reward, advantage to the bailee
only, and of course by the same rule enforced;
the bailee is bound only to the observance of good
faith. It is liable at most for gross neglect only, noth-
ing short will subject him

And gross neglect subjects
him only as being prima facie evidence of some
want of good faith. From it follows that he is
not liable in all cases for gross neglect. 14 Q. I.
Finds. 149. 2 Blye 910. 912. Som 1099. 2 Blye 249. Bell
1 973. 974. 975. 976. Som 32. 64. 5. And that it is the pre-
sumption of fraud only that subjects him, you may
see 2 Blye 915. 2 Blye 452. Som 581. Som 18. 26. 64
Now it is true that you will find it hard to draw that ordinary case in this case it will be seen at once which seems to imply that want of ordinary care, or ordinary negligence will subject him, but it will not. The truth is the assumption was made before the term ordinary was precisely defined & it dotted off in this vague sense, attics barely supports the rule as I have laid it down. 2d May 913 1 Bow. 247.

I protest that a depositary is not liable in all cases for gross neglect, indeed it appears to me the correct way of their being described, that he is not liable at all for neglect of such, but may for the fraud pursued from the neglect, for it is gross that if there is no fraud he is not liable.

On this subject S. Holt observes that if bailee is a negligent tenant, fellow, it is his own fault if things are lost, he should not have trusted him, I think that unless it is strictly true that as depositary is liable for fraud only 4 Burr. 300. The 1099. Ch. 2.
May 655. 914. Term 656.

I would remark again for I cannot expect you to apply your mind to special acceptance or any subject yourself to any extent. You to answer is for inevitable accident you will esteem that I am been stating of the law in relation to bailees under a quite acceptances. 2d. May. 655. 911. 913. 3 Decem Brit. Eng. Law 245. 6. 394.
In the former case, another distinction between an express agreement and one implied becomes apparent. By the old rule, the party offering the contract is bound to use ordinary diligence for ordinary purposes. But the distinction is too nice to become practical, and it is not recognized in any judicial decision. *Dunsop v. Bens.*

The old rule, however, is very different from the rule now laid down. 

Coutts v. *Catskill Bridge Co.* per Chief *Justice Marshall* (1827), decided a case on the same principle. The rule in that case, that the owner of the bridge has not been required to feature the bridge, is doubtless correct, but there is hardly any principle laid down in that case which has not been approved to be law, and it is a little strange that so much stress should have been placed on it. *Hawtrey v. Price.*

But the decision was reversed in that case, that a broken window glass need not be replaced at all. *Bown v. Dunsop.*

And in 1859, *Dunsop v. Bens.*

The doctrine that the owner of the bridge can not be held responsible for the breaches in the case.

*Again, 1869.*

And in *Dunsop v. Bens.* it is said that the former binds him, but the latter...
This distinction is entirely exploded, the usual
theory is that of the 8th Chap
so that the very right involves a large
extent. It is the distinction to be had on principle
as well as defined by authority 1B. c. 241. 7 T. R. 909. 910. Doe V. ton 12. Q. B. 387. 3 Prym. N. Y.
C. 248. 6. 394.

It was said in Southcott case
that if goods are left with a custodian in a chest of
which barrels lift the key, the barrels was liable for that chest
only in any until and not for the goods, for it is said they
are not trusted to him,

2. South during this in case of Gip

But mindful, for the barrels has a title on them until
it is goods as to any benefit he might have by them when
they are out of a chest or when in and is much right
to secure them when in or when out of a chest.

Yet see ifOTT notice. The knowledge of the custodian
on to the articles in the chest, and on every alteration that
occurs to me an important fact; for what in one
case might be extraordinary care in another would
be gross neglect. 2 South would have been liable if these
were stolen.

If it were not known what was in the chest
it might be doubtful how far the barrel ought
to be liable unless his neglect were gross as to the
The question is not definitively settled by authority, and I should not think that it would be laid down unconditionally that the bailor should be liable for the goods not knowing the contents of the chest, i.e. when not guilty of gross neglect as to the chest.

I have assumed that a repository or any other bailor might in some respects or trust or qualify his liability, still an unqualified trusting to keep safety and not subject him in all events for his interest from losses occasioned by inevitable accident, or by wrong stores which act by violence on or ever will not protect such losses, but in such cases it is certain that there would be no excuse at all, might be prevented by negligence, &c. Read 913. N.C. & S.C. 180. 1 Pea. Com. 248. J. 130. D. 34. Term. 62. 75.

Indeed according to the amount of circumstances under the ground on which they stand, it appears that when a repository unqualifiedly engages to keep safely, he will not be subjected without some negligence, and that an engagement of that kind involves him to an unwary care. This is not liable for the acts of any others.

Deprive of authority, or commodities, in Eng., it may be honest lending & borrowing, it is a gratuitous loan of goods to be used by the borrower for his own benefit only. Specifically,
The burden of course turns out narrower than ordinary negligence; it is liable for less than ordinary neglect; that is for slight neglect.

The requisite degree of care must be various in different cases so that each case is to be determined by its particular circumstances. For example, if, by giving the horse to a horseman, the owner leaves him in a stable without locking, the horse is liable if he is stolen, but not if he has escaped the stable. See 2 Lew. 916. 1 Pau. 249, 250. Bull & S. 912, 1 B. & C. 244. Sum. 92.

And it seems that unless loss, occasioned by theft, without more violence than in taking and carrying away goods, the presumption is against the borrower that he is prima facie liable, unless he subjoins to himself or proves that he used extraordinary care. See 61, note. 91, 2 Lew. 916.

But on the other hand, he is generally not liable for loss occasioned by such force as he could not resist. Hence a borrower is not liable prima facie, for loss occasioned by robbery, or, as it is distinguished from theft, for care does not prevent such losses any more than terrorism. Thus a borrower on a horse robbed in the highway, the borrower subject himself by wanting it and fully offering for it, it appears that in case of taking the horse is prima facie not liable. Which throws the issue on to the lender, ib. ex. 1 Pau. 251.

See on Widow
state, and thus if a borrower should have the high road to travel when there was great change, as it was, known that robbers were frequently committed to such, and much worse such roads in the night, if he was robbed he would be liable.

But a borrower is not liable for those accidents called inevitable as lightnings, earthquakes, tempests, inundations, &c. But he would be liable if he hazardedly exposed the property to destruction by such inevitable accident, as by rashly putting a horn into a boat in tempestuous weather.

And a borrower might render himself liable for any loss, however occasioned, by a breach of trust for from that time he is a thing for in his own way as if one borrower or horse to go to New York and go directly to Albany, he would be liable for all the consequences of his illegal conduct, if the horse was struck with lightnings.

If one borrower a horse for a limited time of twenty-four hours, or any other chattel in deed if does not return it by the time, he is liable for all the consequences. And this rule applies to all the species of tenement. 2 Ray 915, 917. 1 Bow. 249, 253. 1 Bae. 244. 1 Sim. 76. 1 Co. 352.
B. Bailment of third kind is called locatio in condictio. In Eng. it may be called letting of hiring, it is a loan of goods to be used by the bailee for a reward to be paid by him.

By the contract the hirer gives a transient qualified property in the thing bailed. And the bailor an absolute right to the price or hire to be paid. 2 B. Ray. 913. Ves. 119. 1 Co. 625.

On the bailment being mutually advantageous they are both equally entitled to the same. This is contrary to the ordinary rule because the principal ought to be equally divided between. The bailee is bound to an ordinary diligence, but on the other hand he is liable for ordinary negligence.

This is what Pinto to be the true rule laid down in Coggs v. Fermon. 

But, says Bell, that the bailee is bound to the utmost diligence, if so be he is liable for the slightest neglect, so equally liable with a borrower, but this is contrary to analogy to principle. The truth is, Bell says, and under that can very loosely, as I think he did in this instance.

There is no more that considers him to be as equally liable. Bell says and would restrain the liability beyond the analogy, even beyond that of a borrower, then he does not hesitate to trust it as fully then that of a borrower. But the principle is so well established that there is no reason in saying that a bailee is bound to an ordinary care only since to be subject
By a seeming mistake Justice laid 1Ser. 111. 121. 123.

Indeed the same has this merit if not a mispronunciation of a Latin maxim.

It is usually decided care than requiring more than ordinary care and is no anomaly requiring more, the kind is of course secured in case of rolling, though it is broad that he warranty respecting good would be liable.

It was formerly a question whether a bailee was not bound to keep an instrument he had in his custody for hire, but it is now settled that he is not. And if bailee were out the instrument he must repair it for himself.

1Somm. 32. 1 B.C. 53. Doug. 740.

4. Bailment of the fourth class is "vadeum", or pawn or pledge for the security of a debt due from bailee to bailor. 1Ser. 50. 104. 2 Doug. 913.

Upon this subject it may be material to observe that in analogy to the laws of mortgages, if good are delivered to secure a debt due from bailor to bailee, combined with a right of redemption, whether may be the terms of the contract, it is still open as also the goods are conveyed for an absolute bill of sale, it appearing by another instrument that the person had a right to sell the person.
had a right to redeem. It was, therefore, to punish for one a sin always a sin, 14 Bl. 181.

This kind of bailment being advantageous to both parties, namely by removing sentences, etc., and procuring or prolonging credit, if persons who have bailed are bound to use ordinary care, liable for nothing less than ordinary neglect, this is agreeable to principle and authority. Cl. Ray. 917. 1 Pown. 252. Talk. 523. Sim. 105.

But in debtors' cases, L. & Cot. says that the pound is innate, kept the goods as his own, and is liable like a depository, for neglect only. The reason of this is, that he has a property in the goods, but every bailee has a property in the thing bailed, so that there is no foundation for the distinction of the rule founded on it is not law. 1 Co. 83, 161. See also note on 1 Co. 120. 14 Bl. 172. 1 Bosc. 240. Sim. 105, 112, 115. Cl. Ray. 917. Talk. 523.

In this case, the authority, an abundant justice here, is in conformity with principle. It follows, therefore, that where the loss is occasioned by robbery, the pound is prima facie answerable. The he may subject himself for any loss by breach of trust or wanton exposure, as in the former case. And when the degree of care required of any bailee is not used, or ordinary care, he is answerable for losses by robbery, being distinguished from theft. Talk. 523. They
In Southcot's case it was laid down that the bailee is not liable for losses occasioned by law theft, and this view is adopted in the same or that which to show that he is only liable for gross neglect, viz. his having any foreknowledge of the goods and is, of course, only bound to keep them as his own.

Sir 60. Some hold, unreasonably, that bailee is liable in case of theft. This view is as outrageous as that of La Cret. He says that the bailee cannot be considered as having any arbitrary diligence when he suffers the goods to be taken from him by stealth. *Co. 83. b. centa.* *Sons 106. 7.*

But Sir 60. fairly contradicts himself as well as all the maximologies of law. It is not true in fact that ordinary care will protect anything and is contrary to all experience to say that rational man of common prudence do not suffer by theft. It is a question of facts whether ordinary care was used or not. The most determinate bailee liability. *La Cret.* places the care of theft on the footing as a factor who is not to if he use reasonable ordinary care.

Indeed Sir 60. himself says that in commodata the bailee is liable for mere theft unless extraordinary care, thus admitting that they may be theft even when extraordinary care is used. *R. 71. 18. 1 Vent. 1421. 1 Dow. Com. 25. 2 Sons 92.*
The power gains, like other bodies, a qualified property in the thing bodies, but the interest is exposable.

By payment his interest is extinguished, or by tender which for any purpose of writing the property in person or is equivalent to actual pay. In Scott, 2 S.R. 244. A.C. 836. Bull. N. Y. 72. Gell. 179. Iowa 111. 2 T. 7 I. Ref. 27.

If this after pay, or tender & demand of restitution made by hounor on the day appoint for payment, hounor refuses to receive, the equity of a breach of trust, it is liable of course for every loss or injury the property may sustain while in his keeping it may be occasioned as by lightening tempest etc. Talk 525. 2d Ray 917. 8d. Leg. 625. 4d 836. 1 Bow. 253.

And if hounor refuses to receive the goods on pay, or tender & demand of restitution, the hounor may immediately maintain action against him: & the rule is the same if the refusal be made by hounor, clerk, agent or servant acting regularly in the course of his employment, for this amounts to a conversion by the mischalt himself agreeable to the maxim "qui facit per alium facit per se." Indeed if it were not the regular business of the agent to receive such articles the principal would not be made liable by his refusal, it would not make the master a wrong doer. Etc. 92 244. Talk 444. Moro 841. Iowa 111. 126.

In this case hounor the hounor may have his election between the two actions.
the breach of trust is the foundation of the action of trover. And the breach of an express or implied con
trust, found as for an bailment, the recoverer utters if he
or implicitly engages to receive on that. 4 El. 372.

But it seems that he cannot maintain either of those actions without touching on spying all that is basely done
to the principal party interest, even when the bailment
was made on an excommunic, condition. For the action of
the same two founded in equitable, principle, atte, under
concerning nothing an unseemly contract, yet the party
claiming must do equity as between the recoverer and

A refusal to receive fraud.

taught one party or the cas is an indictable offense. But the rule is not good as to breach of trust arising
the being deemed civil injuries only not offenses.
On this point the opinion differ, but it have been
well settled. 2 Buck 527. 3 Co. 307. 2 T. 277. 1 Beav. 240

This rule is obviously a mere rule of policy.

for it is clear that a breach of trust between recoverer
is no more criminal than between any
contracting parties. The object of the rule is to
guarantee the recoverer from pecuniary injury.
the design of which is greater in this than in
any other species of bailment, in as much as the
trespassation is guilty, to which that recoverer is un
able to conceal the facts. Besides recoverer
obligation, by persons who are accomplices, it would


...who of course are the most apt to have
offspring, there I state to be the true ground of
this rule.

It seems that in some instances, the father may
not, when the son may, be profitable, since he
has not the right. This right which is called to be
found as in a particular instance, may be

New 2d 12 s to the foundation of this right in all cases

the prescription of consent is said, to exist or not in great
and the thing is likely to be made better or worse or not to
afford it at all by the son.

A case in which a father is made
father by the son is seldom
occur. The W. 2d., p. 83,
60, 671, 672, 673.

And this right to be seen when the
child is

72 a long time or a house is to be kept, then the
winter or year, it might be beneficial to be done
indirectly, this

This house might be accorded in another place. 5322, 1 B. & C., 277, 283, 293, 328, 528, 538, 629, 629.

...and to secure against this where the thing pledged is of such
kinds as not to be injured by the parent may not be kept
herein, for the case is for his own advantage exclusively,
and he is liable in all events as if he should be sold. Similarly,
the given on covenants, jewels, etc., settle these will at length
work out yet the injury done them when carefull, and is so
on all that the law does not require it, "on minima non
emittis loci". 522, 1 B. & C., 283, 293, 328, 338, 483,
1, 589, 629, 917.

...and in the third place when the
communicate in action immediately.

The law is so vast
in the same case with respect to goods found by Art. 217,
and to the liability of the finder. It is very much
the same, but the finder has no lien upon the goods
as the bailee has. the same obligation however is
alleged of each, as W. White says the finder is
bound to use ordinary diligence in keeping the

Thus in a case in Co. Eliz. in which it is said that a part
of goods is not bound to keep them safely. It is not lawful
at all for any agent keeping. This I think cannot be
lawful or is it lawful on principle. it is a wise decision.
the determination of the case is doubtless right, but
the reasoning is erroneous. Co. Eliz. 3. 17. 1 Eliz. 899
2 Buls. 21. 1 Chin. 123, 1 Bac. 124. All these authorities
agree that he is not bound to in any case and is not to
be subjected for negligence keeping.

Now it would seem
on first impression that a finder ought not to be sub-
ject to any thing short of gross neglect, for the sole
benefit of his possession accrues to the owner. the finder
cannot compel the owner to pay him for his trouble. the
finder has appears like a depository.

But in case of a
depository, the master selects out the goods and not in a
similar selection by the bailee. he selects his depository. Now in the master, or ought to know
him. this is not the case with goods found, which of
course cannot be said in strictly to be bailee, and
it would seem that the finder ought to be ordinary
woman or house the goods for some one to take who
would be honest enough to do it.

The 1st law of Con

enables a finder to receive compensation, but that
the finding is clearly advantageous to both parties,
the finder then is bound to use ordinary care
from the first principles of bailments. 1st Con. 3320

one statute than settle the question, I further it shows the
risk on the owner provided the finder is faithful,
which I think imports that he is to use ordinary
care at least.

Since it shows the C. L. rule to be the same.
the reasoning is Con. Eliz. is against it. That was an
act of throw 1d. the finding which had been lost
found & spoiled in the hands of finder by misgiving,
so it was allowed on Brum; it was held that
the action would not lie. the decision was, might the
clearly throw will not lie for some non-plea
it must be a positive error. the gist of throw is con-
version, but the dicta of the court in that case
is not lower Con Eliz. 219 - 8 Co. 146. 5 Barn. 2827. Holk.
251 Esp. Dig. 579.

It is well settled at C. L. that a finder
has no lien upon the goods for his trouble of finding, but
when demand made by the true owner with evidence
of ownership, he is bound to deliver if he does not;
he is guilty of conversion & liable in trespass. 2 Bl. 1117
24 Bl. 252. 361.
Now the case of salvage is different, when goods are cast away or lost in salt water, the finding is entitled to reward, but thisdepends when it public maritime law of nations does not refer any rule of the C.L. Case Roy. 292. 2 H. Bl. 252. 5 Dec. 270.

But suppose, in case that the finding has no lease on the goods, it has been made a mere question whether it could in any way receive a reward. If he can it must be by implication of some promise. Now the law will imply a promise, but not a reward for there is no priority between the parties. The finding act is founded in equity.

Now I confess that does not sit down room for necessary, there is nothing in the nature of a contract express or implied. 2 H. Bl. 258. As to voluntary curiosity see Nov. 106. 61. Dig. 87. 95. I am strongly inclined to think that there is no remedy for the finder. If the owner has not honesty to know enough to pay the finder must lose his reward.

But suppose by the finder to return the goods an demand is not of common convention, it is not, unless there is evidence of ownership, evidence for if it were he might be forced to return it to the first applicant. The rule is then that if an demand and reasonable evidence of ownership be refused to deliver, he is to be subjected. As this is made the judge as to the evidence, of the question while it was reasonable or not is included in the issue, which goes to the jury. 2 Bul. 312. Eli. Dig. 570.
But there is one case not decided in the book to my knowledge, I find no such which actually belong to it.

I demand then which on unfree things an action by false testimony wastes the full value of it. thin 13, brings his action against it, can he recover? And the next question is, on how many some analogous to the case which homnau does not relate to former. 167 Pld. 255. 7 B. C. 11. Doug. 161. 1 D. 669. 682. 2 M. 208. 1 Abbott 445.

To return to the subject of homnau.

If on tenor by homnau as refused by homnau, the homnau recover in tenn. the homnau may still recover by action his own debt, notwithstanding his breach of trust. In homnau first demand the money tendered. 1 B. 29. 31. 1 B. C. 238.

If imposible goods can pledged, if they decay, homnau does not for this recover own his debt, because the homnau neglected to reclaim. In many still reeue and recover for the debt or duty remains the the pledge is lost.

Indeed it would be gross injustice in most cases to make one owe to the other for the homnau is something that of half the it goods. is of double the value of the debt, and the homnau has given this partial rene of the debt. the homnau is sure a satisfaction but a se.

For this great may have been the construction of the homnau he is still entitled.

The debt is not the homnau may recover
for the life of this tenantry. And that constituted property is done, and the property income, what brought ought to remain. 1 William and Mary, 723. 2 Inst. 179. 1 Bosc. 233.

And while the pledge remain unreimbursed in the hands of the person who may sue for his debt and receive it, until he has qualified his right by an act of fienage so that he could only on the pledge alone, for the pledge alone alone cannot satisfy the debt. 1 Blk. 97. 1 Bosc. 179. 2 Inst. 116. Esp. Dig. 86.

If the debt for which the goods are pledged is not paid, by the day appointed, the property in the pledge becomes, at law absolute in the person acquiring from the personor. The principle is the same as that of mortgage, the condition is broken. The title absolute is law. In Eq, however, the right of resumption is not gone in analogy to the law of mortgages. 1 Blk. 106. 1 Inst. 205. 2 Vern. 691. 698. 3 All. 595.

It seems to me however that the equity of resumption can be exercised only when the property remains specifically in the personor, or is assigned by him as a pledge, for having absolute property, he must have the right to sue it if sold I should think personal could not remain.

A distinction is to be observed between a person or a mortgagee of a personal chattel, how the mortgage he a quiet property and that is not equity of resumption after the way of payment is often for fruition. It does not create a resumption as a person alone. 8 Johns. 96. 98. 15 Pick. 253. 1 Pick. 348.
But in case of a lease properly so called the right of re-
demption exists after full term it might have been
agreed at first that if the lessee was not restored at
the time it should be considered as sold, in analogy
to the law of mortgages, since a mortgage always
a mortgage since the mortgagor has an equally to hold.

This means does not, however, the principle to mean
however, that if property is conveyed as a security with
or with a right of redemption no collateral agreement made
at the time shall cut off the right of redemption.
This rule is intended to prevent oppression in to guard
persons who are not for it and in distress from the
hands of unreasonable creditors which would
seem might impose on them. 2 Vern. 698. 1 Dec. 238.
1 Decm. 30. 114.

A factor cannot render his principal's
goods at so to give the same any lien or against this prin-
cipal's, see Martin & Pratt title agent,

The reason appears to be
that the factor has not a lien but that is a personal right
which cannot be transferred by the transfer of stock. The
principal is willing to trust
the factor to give him a lien until his account is settled,
but he does not give him a right to sell a sum lesser.
And it is now settled that if a factor pledges his princi-
pal's goods to secure his own debt the principal may
not, in turn, arrange against the holder after demand and
without involving to the factor the debt due him. The
act of financing is a breach of trust by which the factor
forfeits all his own rights. 117 8. 3 Telf. 304. 1 P.B. 332. 3 S. & S.
On failure of pay at the day, the passerius is allowed to seize the pledge for the debt at absolutely notice in him at
down. 1 Inst. 205.

And according to some opinions he may sell or assign aside, before the day of pay. 2 Inst. 136. 1 Bac. 219.
11. 1 Bac. 739. But this opinion, for reasons therein
reason cannot be corrected. Every balment implies a con-
tract strictly founded on 1. and S. Bulle abounds that line
is a personal right, i.e. a right annexed to the person that
transmit to. and 1. Elizbonough repays the same thing
on a doctrine of the same kind is clearly deducible
from former cases. 4 Ed. 244. 16 Eliz. 178. 5 Ed. 606.
7 Cot. 6.

Now the doctrine of this point, on way or the
other is practically very important, for if an assignee
before the day of pay is not legal, if follows that the passer
must not listen to the assignee, but may claim immi-
dately of the passerius; and as besides, the passerius is fere-
fact a wrong done bigness of conversion.

And further

Of assignees, contrary to the analogous of the law that a passer
should be thus assignable. It is clear that the passer
cannot be parted to the king or public by passers
act or treason, or felony. 1 Bac. 238. But a man
may thus perfect what he is capable of conveying in his
right. 1 Inst. 8. 14 Co. 12. 4 Ed. 87. 5 Eliz. 178. 2 Bac. 376.

And shown in (Booke a good and F. that a passer cannot be
assigned, meaning briefly assigned. 1 Viz. 389.
1 Bac. 238.
Again it is settled that a pauper cannot be taken in
64
because the interest of pauper is of such a kind, as
render it dangerous to the rights of pauper to allow
the pledge to be thus taken. 1 Bac. 238, 352. 4 Dun. 766.
Per 124.

I think it appears satisfactorily from this anal-ogic principles that a pauper cannot be espigned be-
fore the decay of pauper. A pauper is in the nature
of a personal trust and if the pauper could be espigned
the pauper would be in a dangerous situation for if the
esquire should become a bankrupt and the pauper bate
than his pauper or misconduct the pauper could not
act to the pauper.

And this is the principle that

yours all fiduciary contracts or property, it is
different from that of a mortgage, cannot
be espigned. To mortgage insolvency or bankruptcy
cannot prevent redemption. That a chattel may
be run away with distinguished or unbred.

But in a case
in 2Vern 691, 688 which seems to show that a pauper
may esquire a pauper before the decay of pauper. 2Vern
pauper of pauper to B, who directly after before decay of pauper
in pauper the pauper goods to B. A bill to redeem
it was observed that he should pay the same due from B to
C.

It is to be observed that this bill was, lest after the forfeiture
when the equitable claim of the esquire was precisely the same
as if the esquire had been after forfeiture. Wherein rested
that question in the discretion of the action in a bill.
late, it should have appeared that there has been a trustee in trust, or the action should have been brought immediately, so that the point is not diminished in that case.

On the other hand, the possessor may perfect his right to the pledge by treason or felony or any crime that works a forfeiture, but the King or publick cannot take the pledge from possessor without paying the debts for the interest of possessor is but the right of resumption which is forfeited. 1 B. & C. 238. 1 Bulst. 29. Cyre. 179.

Abt. 99, that the fair construction is that possessor cannot assign before forfeiture.

It was certainly deemed equitable to a possessor that it should be delivered at the time the debt accrued which was intended to be secured by it. And it was that, not if it accrued afterwards, it was not a pledge, but a license to receive a benefit in taking it, to be added during possessor's possession, which has end of course in claim when he chose, but this is not law, for it is now settled that a possessor may be delivered as well after the time of debt contracted as a covenant. 2 Vern. 50. 1 B. & C. 238. 9 Cyre. 164. 1 veg. 353. 359. Bull. N. P. 35. 1 Bull. 68.

It was formerly doubted, when no way of paying was fixed, whether paying on trinidad would arrest the property unless made during the joint lives of the parties. It was at this however that it might be made at any time during the life of possessor. 1 B. & C. 237. 1 Bulst. 29. Cyre. 173.

Cont. C. 2. 234, 5.
The portion of the text is not clearly visible, making it difficult to transcribe accurately. The handwriting appears to be from an old manuscript, possibly a religious text or a historical document.
But when the law that limits redemption to a human life, I mean there is a right of redemption after his death in Eng. men's than one a g. to the contrary clearly proves. There is some doubt to this point, but it is laid down in a note in Bac. I presume it is correct: an estate of redemption remains after forfeiture when the law is made by the parties and doesn't reason why it should not be the same when made by law. 1 B&c. 239.

When a

claim is enforced for pay by the parties the law makes the
interest is not forfeited by his death before the claim arises, the right of redemption is transmitted to the 

1 B&c. 29. 1 B&c. 239.

3. Bailment of the first class is a custody of goods to be carried or some other act to be done about them for a purpose to be paid to bailor. It includes a custody to private carrier or other private persons in the same

hand to one to another to persons who are in the receipt of some public employment or common carrier. See

Kemp. 2 Co. 917. 1 [om. 132.

In consequence of

these two kinds of bailment are so different that I shall treat of them separately.

1. of delivering to a person not receiving a public employment or tailor, factotum

common agent, clerk, bailiff, etc. Now a delivering to a private bailor may be to one in a private professed character as a shoemaker, tailor be or to one profession, no particular employment or profession. 2 Co. 918. 1 [om. 1289.
Bailment of this kind includes a delivery to an agent for another, i.e. one who has the cattle of another, if he takes care of them. He is a bailee of the 5th class.

This bailment is advantageous to both, or intended to be so. It is so in the presumption of law. According to principle and authority it is well established that a bail of this class is bound to use ordinary care only, it is to be subject to no ordinary negligence. 1 Rev. 4. 2 & 3 Rev. 918. 1 Pow. 554. 2 & 3 Rev. 257. 1 Vict. 131.

A private bail of this class, prima facie incumbent in case of robbery, i.e., the rule relating to him is the same as that to the same exception as in the case of a person thief, if he is in no private business, record. 1 Rom. 129. 30. 138.

The rule is the same of all private bailees of the 5th class as to theft. Shoemakers, agent for another, factor, brokers, auctioneer, agent, etc., they are in prima facie incumbent in case of robbery, and violence. 1 Rev. 89. 2 & 3 Rev. 918. 1 & 2 Rev. 131. 2 Co. 84. a.

In case of a theft by bailee theft, he is liable, or not, or be omitted, ordinary, or superior care or not. Prima facie his is liable to trust as in all cases of bailment that are mutually advantageous. And this leads me again to remark upon an observation of Sir W. Scott, that ordinary care will prevent that theft will not occur when ordinary care is required. In this can be says that if goods are locked up with
reasonable care the bailee is bound to in effect a.
potting or contravening his own doctrine. It is
question of fact in every case whether reasonable or
ordinary care was used or not. 1 Vest. 121. 5 Lew. 5. 2d
Kap. 918. 1 All. 4. Jones 138.

If property bailed is dis-
tained by bailee lawful for suit to be as it may
be so that bailee loses it, the bailee is liable for
it was want of ordinary care to suffer the property of
another to be taken for his own state. Jones 141, 2. 3 Bl. 8.

And this rule is absolutely common to every bailee of goods who
receives pay or compensation for keeping or doing any act
respecting them as taylors, carriers, &c. and bailmentable
are mutually advantageous.

If silver be ordained to assart
to be made into an emitter or ornament. Sir W. Jones
considering the contract as a mutuum trust a bailment
then on the property according to his opinion will adver-
tely in the smith if lost by any event can invisi-
ably the smith bears it. Jones 89, 141.

And hence
also be held, that the smith may use it for one other
and in turn an equal quantity of the same standard.

And if our proposition is correct, we assert the other is.
The reason in which he builds is, that the form of the
property by the terms of the contract, is to be so attuned
by fusion, that it cannot be identified if so it can-
not in legal contemplation be specifically noticed.
It could not have been the intention that it should be a duty if the rent were not to be an advantage but a medium being similar to the loan of bond or of goods to be immediately or at least in braccio. 2 Cl. 404. Dep. 38.

It seems difficult to deny the correctness of the artificial reasoning put forward, and the person interested the property should be entitled. But if the fact can be ascertained that it is the same, I do not see why the rule should not be the law of ordinary cases. The property remaining as it was and for in the case would be still stronger. In it, however, gives the same right as to the holding as in the case as such a fiction founded on the intention of the parties.

Such a rule of law would have extremely hard on that class of men if it were allowed thus. I think it is a point which the artificial doctrine of the police must be very clear to induce them to follow it.

When the tenant is, some act of others in his professional business or character for him, the law implies a two-fold contract that he will not interfere with ordinary care, but further, he is to do the work skillfully, i.e., he is to use all means very skillfully.

But if not in the line of his professional business, the law implies no such agreement that the act should be done skillfully. In the case, therefore, he cannot be subjegted unless there is a special agreement.
This cloth be delivered to a blacksmith to be made into a garment. Having it, tailor has remit in the bargain, there is a special undertaking it was the tailor's own folly. To the same extent within the maxim, that the law will not assist fools of how wide. 1 Ch. 131. 158. 11 Co. 54. 3 Ch. 165. 6. 1 Land. 324
Est. Dig. 601. Som. 128. 9. 137 to 140.

If goods delivered to tailor of the 5th class are lost or destroyed, this want or omission of the requisite care, before the act be contracted to do about the thing was finished, it is an incidental question whether he can recover pay for what he has done.

I see no room to doubt it is clear that he is liable for the loss of the property. The tailor is not benefited by the labour and it was the purpose of the tailor that he is not. The objection points him in diminution it is as to the second, it common justice that he should recover. Besides it would be nugatory for if he were to recover for the labour the tailor in his action for the goods a thin value, ought from to be allowed the value of the goods an increment by the labour. 3 Bunn. 1597 to 5. Est. Dig. 56.

2. Bailments of the fifth class include also a delivery to a person who exercises some public employment as a common carrier, innkeeper etc., of the Idem now to treat. A first of a common carrier.

A common carrier is any person who makes it his business to carry the goods of others for hire as a common part, as man, waggon
hoops, hoopsmen, shipmasters, &c. 20 Pay. 918. Sours 149.151
4 Co. 84

It was formerly doubted whether any other than a common carrier was a common carrier, but it is now settled to be immaterial whether the transportation be by land or water. N.B. 17. 18. Co. 3. 331. 12. Mod. 487

The law was first cited to common hoopsmen in 351. 35. shipmasters in Chit. 2. Sours 149.152.

 Owners of ships employed in carrying goods for others, are considered as common carriers, and if a loss on a vessel may be laid on either the master or the owner, 3 Holt 440. 1 T. R. 18. 78. 3 Ed. 259. Cave 62. 1 How. 29. 101. Esp. Dig. 613.

Grain, &c. are not liable except to the master or owner. This is not a rule in Eng. 7 Geo. 3 limiting the liability of ship owners to the value of the ship and freight, when loss is occasioned by the navigators. Thus, you observe is not a rule of C.P. 1 c. 6, not affected by 1 T. R. 18. 78.

If a common carrier, having the convenience, to carry goods offered him refuses to take them, when the hire is tendered, he is liable in a suit of assumpsit to the party offering. For the law implies a contract on the part of common carrier to carry all goods offered them, so they cannot capriciously refuse. This duty is like that of an innkeeper, who cannot refuse a vacant room without just cause. 1 33 4. 344. 33, N.B. 70. 3 S. L. 166. 2 Shaw 327.

But a common carrier is at liberty to make a choice, so as to carry
i.e. a conditional one. *E.g.* that he will not be answerable for specific articles or money, merely he is notified of their being contained in the parcel & paid according to their value, and his not liable or a common court unless the condition is complied with.

This is very reasonable, for he ought to know how to appraise his diligence, the greater the value the greater the risk.

A common ear cannot however in judge what turns higher, or much worse makes one or destroys this liability, as not to be liable for negligence or robbery on apprehending from ship bring unreasonable. *E.g.* 1 Ben. 2398. *E.g.* Dig. 622.

Amount case in which a stage mann suffered for the care of the driver of the stage between New York *v.* N. Y. occasioned him to ascertain that he would not be accountable for the negligence of his drivers, such condition could not be enforced, and the notice will not avail him, the effect is the same as quo warranto if he shall publish that he would not be accountable for his own neglect or fraud.

This kind of contract being advantageous to both, if there was nothing to impair the operation of the goods, this case would become to an ordinary case only it could be subjected for nothing left than ordinary negligence. *I.e.* 1 Ben. 2398. *E.g.* that robbery occurred *i.e.* 1 Ben. 2398. But it was settled in the time of *E.g.* that
rubbery was no issue. 1 Co. 84 a. 1 Boull. 2. Penn. 146. 8. 1 Boull. 2

245.

Hence the rule now is, that he is liable for injuries occurring in any way except by the act of God, inevitable accident, or the act of public enemies, or the act of the bailee himself. 2 S. F. & B. 918. 3 Bro. 1593. Bull. 97. 70. 71. 1 T Ref. 27. 1 Boull. 609. 1 Penn. 253. Galk. 18. 1 Mils. 281.

This was not the original rule of C. L. the true construction of it is, public policy that makes an exception, for by the then general law, assent to the commencement of this title, when the bailee is mutually advantageous to him, the bailee's liability was limited to ordinary negligence, but public policy requires a more extended liability. For the exigencies of commercial people require some persons to act as com. carriers, and that the public should have confidence in them. As any person traveling becomes a com. carrier, the law ought to make the bailee safe as the hand of such persons, and against their conniving with robbers & thieves. And the opportunities of defrauding one so numerous, that the law imposes a higher liability than strict justice between man & man would require. 2 S. F. & B. 918. 1 T Ref. 30. Galk. 143. Est. Dig. 618.

In Southern cases.

C. L. Cofin says, that the grounds of a com. carrier's liability is that he has no insurance, it is not so. For the reason is equally applicable to a priv. carrier or any bailee included when the bailee is mutually advantageous. It is true that if bailee means no insurance he is not liable
for in such case he does not act as a com. The common cannot be subjected as such. C. 285, 1 Eccl. 66, Ex. 36, Dig. 621.

You perceive then that a com. may be in the nature of our in our own act or events but the act of God or public common or of the breacher himself.

By the act of God according to L. Mansfield is meant an act which cannot happen by the intervention of man. as constitutes lightening num. deating temp. etc. 1 T. Rep. 33. 21. 128

Fin occasional or otherwise than by lightening is not dev. 66. 113. Ex. Dig. 620

Such as he has been determined that a common common case or act is not act or acts of man by a rat gnawing a house this that occasioning loss or damage. The wise says ordinary case will prevent such losses. the 500. 70. 1 Mr. 28. Bull. 110. 114. 114. 114.

A common case is not known by the act of a man and no. 18 in society or public common within the rule. But when a loss is occasioned by piracy he is secure for such case is not under the confines of civil society. 1 Wis. 239. It is not known occasioned by what we call bare without piracy that infest many harbors. They not being any act as public common. 1 T. Rep. 16. 198. 1 Mr. 85. 36. Dig. 620.
act of God. or by tempest; the common carrier is not liable for doing it. for the mischief is inevitable, the in immediately act is by the carrier. 1 Roll. 567. 1 Roll. 69 & 69. 2 Rulst. 282. Jones 151. C.P. Dig. 620.

Then in Allen v. 93. when a common carrier was not liable for throwing a box of jewels over. The case is very similar. since the probability is that there was no mischief for throwing it over, we should support a bill that

V. crop in white. since there was probably the great

the jury must infer. The great rule is well settled.

When goods are thrown over merrily: the master, owners, frighten the passengers, must suffer the loss among them, the master, or not included. This is a rule of the law merchant, that a C. 6, m. 3 Bae. 374. 5. 1 East. 320. Browne, Sil. Mac. 148. 2 I. 167.

But if a common carrier voluntarily or unnecessarily exposes the goods to danger from inevitable accident, as caused by public enemies, he is not, we are, as when a layman voluntarily put to sea in tempestuous weather, when a loss was probable. Thus he is liable unless the immediate proximate cause was inevitable accident, Ste. 128. The doctrine was recognized in a suit can before the court of errors. Williams v. Grant.

A common carrier is not responsible for acts of the goods; unless the loss is occasioned by the act of the bailee himself. Thus when an action was brought for
the loss of a ship, occasioned by bursting. It appeared at the trial that the ship was in a state of preparation when sunk, the bursting occurred on loading, the cargo was not set. It was the act of the bailor in sending it at an in-lieu time. Bull N. P. 69. 74. 61. R. Dig. 621.

And again when the waggon of a common carrier was full of the goods sent the goods up on him, and a loss was occasioned by overloading. the goods were received on the ground that it was the fault of the bailor. Y Shaw 127. 1 B. C. 344.

But in order to keep the common carrier to the intent of the goods, rule the goods must have been sent while in his possession or under his immediate care & control, for if the owner sends a servant with the goods in a refusal to have the control of them they are stolen the carrier is not liable i.e., as a common carrier. for he cannot act as such when the goods are under the control of guardianship of another.

It is known if the loss was occasioned by the carrier's default of bailor, either the goods were committed to the immediate care of another, the bailor would be liable, as if they were lost by neglect not being seaworthy or the mismanagement or negligence of the seamen. Bull N. P. 70. Y Shaw 327. S. T. 690. 1 B. C. 344.

Yet when goods were delivered to a common carrier & a hapenny was required to take the oversight of them. the cargo was said not be liable for a loss for a man sued for that, he took after
the goods were not described him of [properly or contained over than 1 Roll 2 Bro. 532 1st. 117.

And it seems that a commoner
receives the ignorance of the contents of a box or parcel is liable for the goods in case of loss unless he is charged himself by a qualified exception or in some condition varying.

Charm Bull. 470 12th. 120. Star 125. Const. 285.

Inno. 148. 1 Bac. 525.

If such an action is presented, the
bailor can not complain of information the bailor is with not liable as all or only to the value of what is specifically accepted.

It will not suffice to remit that I questioned the propriety of the rule making a

 depositor liable when he did not know the contents of the parcel, unless he was grossly negligent, or to the parcel.

Still it seems that the rule just laid down
as to common carriers liability in such case is strictly correct, for him the treatment is mutually advantageous to both bearer and ship.

At the same time the liability does not depend upon the degree of care or negligence that he may use, the nature of the goods being cannot affect his liability. And if he is willing to run the risk and to accept unconditionally, he ought to be liable, so that the rule appurtenant corrects.

Thus an

two cases in which it was determined that the common
carrier was liable when he was misinformed as to the
contents of the parcel by the owner, unless the exception
were special, and in both the cases the owner intended
You will observe that in both these cases the same mind was
wont to use the phrase of diminishing the pain.
These clauses in opposition to this contrary principle, they are
pointedly disapproved of by Lord Coke & exemplified
may now be regarded, I trust as annulled. These judges say
that a case ought to be heard on the ground of facts
and perhaps the case would come within the third
clause that girl being a 1/6 accused by the act of the
Vailor. 2 Err. 270. 1 East 610. 2Dav. 148. 2Sta. 145.

I would

just observe that for the purpose of making a special ac-
tertainment, it is not necessary that there should have been
a personal communication between the parties, a notice in
a public newspaper of the hearing on which the con-
carrier engages to transport may be sufficient. I say may
be, for it may not. And when the court suspends
for the ground of special circumstances a notice given that
compliance with, the jury may infer from such statement
that the carrier had notice, it does not mean so serious
the carrier but if it appears that the carrier had notice
the jury will so find. — the publication is more not
like the evidence. 1 Burr. 2798. 2Cal. 485 Bull. N.Pap.
1 Den. 144. 298. 8 T.Pap. 531. 6Sta. 145.

You further

from the rules already laid down, that under a given accoun
tcept in case of peace, a common carrier is liable to the full
amount of the goods received, and to the may not know the
value of them; but when he agrees to specially he is liable for
as much only as he undertakes to convey, or in other words
for as much only as his surew 2 ent contract is to. Thus, where a bag
shipped, t was described as containing only $200
when it actually contained $800; the carrier would
liable only for the two hundred. Contr. 485, Bull 1970, 2
70, 71. Esp. Dig 1921

And when a com" carri" published
that he would not be answerable for certain valuable
articles, at all, unless or money goods be received in cer-
tain condition, that he was not agreed with, or the
known to balance the com" ear" was adjudged not
liable at all, or when the condition of being informed
of the value he was misinformed. This com is
different from the former, than the condition was, that
he would be liable only to the amount he was agreed for;
when the com teachings he will not be liable to all
matters infor mundane. 1 Shin. Bl. 298

The master of a stage
coach who receives him for passengers but not for baggage
is not liable as a common carrier, but if he carries for
him he is then liable. Contr. Ap, 25, Balk 282 Bull
570, 70. Esp. Dig 632, 624. 9 Shin, 128, 1 Bac, 3 24.

Once a common carrier is liable according to the distinc-
tion when between, who paid before he must or not for what
is then en we very partly denies to pay or not, he cannot
come on the implied furnishes or any quantum amount.
1 Bac. 315

It is common mon brunt to
receive goods only upon, a tender of the bill is made to him.

To change the custom it is not necessary that the goods be lost in transit, but while keeping a moving for if lost at the time when he arrives, he is no goods liable. He is only liable in this case if the carrier is deliver or to the consignee. But that is not the custom here liable until the time of delivery. So that in either case he is prima facie liable and the same is shown upon him. C.C. Rep. 916; 3 Will. 2, 29, Burn. 57, Est. Dig. 723.

But when the custom is not to deliver to the consignee in person, but for the consignee to take the goods out of his care at a common warehouse, he is not to be liable as a common carrier, that if he is keeper he may be liable in another character, but the goods are not in his custody, he cannot be liable entirely at the delivery.

If the consignee directs by whom the goods are to be bid, he is regularly to bring the action in case of a loss. If not the consignee, the is the purchaser is to sue. I not the seller as, if I am. Where goods are made an order for them, I have done the buyer, as between the seller and myself I now think the consignor is my self. But a right of action occurs, I must inform it. 8 T. Rep. 302, Const. 294, Bull. N. P. 235. 1 Bow. 3. 333. Esq. Dig. 57.6.

But when the consignor assigns his own carrier, the right of action for loss or damage no goods in him. as if I vend goods.
and the seller directs them to which carrier ship he,
in case of a loss he must bring the action. For there is no
priority between me & the carrier. And even when
I have assigned the carrier if the seller makes him-
self liable by agreeing for the price of conveyance,
or takes the risk of conveyance, he may bring the ac-
tion. For the agg't makes him principal and con-
tracts a priority between him & the carrier. 5 Burr. 2640
15 R. 257 8 ib. 333.

As to summons of parties and how
to take advantage of nonjoinder see 4 Bl. & Bl. pass
Vol. 440. 5 T.R. 651. 3 Bl. 513. 5 Burr. 2611 2614

At C.L. a post master not being an officer appointed
by the government, was sued as a common carrier of this
title, to commit it to him. I adjudged liable as such.
But since the stat 12 Car. 2. established a quid pro
futre & required private post, post masters are not held
liable as common carriers, they are regarded as exe-
cutive officers of the government, a post master makes
no contract with the party who lodged letters, receives
no compensation from him. He is paid by the govern-
ment. The his wages are in the nature of a kind
age upon what he collects. still it is merged from the
government. therefore that is no priority between
him over the party delivering letters at the office.
Park. 17. 1 Le Roy. 696. Cuv. 752. 754. 2 Dall.
opinion is ag. this rule but I take it to be un-
established.

Such a post master is unquestionably not
liable for the actual sailing of his servants or under officers, the he is for his own actual sailing like any other individuals. But his servants and under officers are the servants of the government, since he acts as a servant of the government in appointing them. 3 Will. 4, 143. Comp. 165. 2 Salk. 15.

Common carriers have been said to be liable on the custom of the realm. The common method of declaring has been to count upon the custom as if it were a special one of force in particular district only. But this is entirely no more misleading than it is for one man at least to count upon the common of descent for a custom of the realm is no other than a part of the laws extending throughout the realm. 1 Pet. 4, 145. Hard. 188. 6
Pet. 18. 1 T. C. 33. 8 M. 127. Sum. 130.

When property is stolen from a common carrier or otherwise lost or injured so as to subject him, when there is no fault in him, when he is guilty of no misprision, the remedy is by a special action on the case, tresp will not lie. But if he is guilty of an actual misprision or by breaking a box, tresp will lie. 4 when one presents a bottle of wine once open without a little it was deemed a conversion of the whole. 8 Co. 146. 5 Brow. 282. 5 Bac. 327. 2 Salk. 655. 2 Salk. 251.

It is not then liable in tort for actual misprisions because to subject him to this action he must have been guilty of some actual misprision. 2 Salk. 655.
Another class of persons exercising a public employment consists of 

Iron Keepers.

A deliver of goods or baggage to an inquirer is a bailment of 

the 5th Class. This subject has been strongly defended by 

different authors. Especially places it with considerable 

to which it has not the least affinity. Buller treats it 

as a manifest which is equally incorrect, the true 

place no doubt is in the 5th Class of Bailments.


It is not 

known so important when it is dealt as the subject relating to it so well defined. Still it is very manifest 

that it belongs here, because it is a deliver to another 

do some act about for a sum and is given. After 

that may be no nominal reward. The pay is in this 

case in some charge for action into the storage. Sims. 133.

In this place I shall enter in fullness as they are liable 

for the goods delivered them by their guests, in a baile 

fees which they guests have. Strictly are. Their other 

right to duties will be the subject of a distinct title.

The bailment being mutually advantageous in their 

case, according to just principles the inquirer holds 

only for ordinary care liable for nothing left than 

ordinary negligence, but the policy of the law has 

limited the liability somewhat farther so far as an 

common as that of a common carrier at least it is 

not until extending it thus far. Sims. 133 to 135.

An invincible trust is liable for life or a certain
act of common robbery, for the same principle applied
there is known nothing elsewise to be found on this
subject. Plowden says that if the house is taken by
force he is not liable. I find no house or rule that
places him under the same liability with a common carrier.
Some say that a force truly irresistible always, in the near
neighbor, i.e. if it were irresistible by the invincible force
in and around. Indeed the reason Plowden gives why robbery occurs is that such violence cannot be resisted. Sir W. Jones only appears to be the correct one, 5 Co. 32 a. 1, 48a. 466.

The common is in such a that an
innkeeper is liable to the same extent with a common
carrier. If I suppose I saw not why he should not be
his house is absolutely necessary for the accommodation
of travelers, his means of defense are incomparably
greater than those of a common carrier. He is sur-
rounded by his guests in the midst of his family
and his means of evading with robbing thieves is
affording them facilities to defraud at much 
greater than a common carrier. who on the other hand
is travelling on the highway usually alone with
protection.

It is laid down by Coke that an innkeeper
is not liable unless the house is a fortress in him or his
servants, thus rendering his liability below ordinary
case. But in this case since the guest to
subject an innkeeper it is more necessary to
poor negligence. It commonly carries your armour
is liable for all losses except those occasioned by
act of God, of a public enemy or of the bailee
himself. The exception is now confounded in
favour of an innkeeper who is sued for the loss
occasioned by any irresistible force. 8 Co. 33. a.
and
be done. 5 T. R. 276. 81 T. R. 270. ibid. since
that case the decision 5 T. R. 276. ibid. is apt to make
mistakes. 8 T. R. 626. 7.

An innkeeper however is
liable on such for those goods only that are in his
possession, including stocks but not horses. 8 Co. 32. b.

If then the effects are removed by the owner, directing
more to the innkeeper is not liable on such. In
else there is some actual default in him. As if he had
over his host to another, if he were not the innkeeper
would not be liable unless in default of his own
occasioned by want of force, not however in the prin-
ciples which govern this title.

On the other hand if the
innkeeper puts the horse to pasture without the con-
sent and direction of the owner he would be liable. 8 Co. 32. b. 1 Rob. 4. Bull. N. P. 73. 81 T. R. 626. 7.

The remaining rules relating to innkeepers will
be considered in a short title by themselves.
Bondment of the least degree is called mandament or
mandate. It is a delivery of goods to a bailee to be cared
or some act to be done about or upon them, without au-
orward or quotairement.

The appropriate name is mandat,
it is sometimes improperly called acting or commis-
ion, but it has no relation to that species of trust. The
bondment is a mandate. the bailee as mandatory.
Bom. 57. 75. 2 RAY 918.

The difference between a man-
date to a deponent is surely that the latter lies in ex-
acting or the party holds the former in feoffance, a conveyance
of doing something with or about.

This seems to apply
be of the same nature with a deposit. it is beneficent
the bailee and so by and so, probably it is clear that
it is well established by authority the bailee is bound
to good faith & liable for gross neglect only. 2 RAY. 139
1 PON. 255. 1 LOR. 158. 163. 2.

As in other kind
of bailements, when there is a special agt. to care a given
thing if can the bailee is liable if left unattended
by his omitting to care it. this was the case in Cogg's
and this case. PON. 75.

And an agt. to see all
necessary can't while may be implied in certain cases.
But such an agt. is not implied unless the act be
done as in the way of the bailee's profession or position.
Thus if a lawyer engages gratuitously to make a will
be impliedly engaged to use all the requisite care & skill.
the act is presumed from the fact of its being in the line of his business, for if cloth were delivered to a blacksmith under such an engagement it would not subject him just to work with skill. 3 Bl. 165. 6. 1 Son. Bl. 158 11 Co. 54. 1 Saund. 324. Pown. 139

In the question of distinction between the duty a man takes upon him and his power or authority in other words between the duty of bail when it lies for a person before keeping peril to his person, when his duty consists in actual guarantee. He says a great deal of diligence is requisite, to use his own language, "to a degree of diligence adequate to the performance of the undertaking."

Now I suppose that this is a distinction of which I must think on the reason now put the propriety it is arbitrary it is not sanctioned by any judicial determination, it is an entirely peculiar feature in this excellent little treatise, which I have. 3 Bl. 165. 6. 1 Son. Bl. 158

This is a distinction unknown to the C.I. There is however a doctrine advanced in the case last quoted from Shaw Bl. 1 by G. Broughborough which draws attention as coming from such respectable authority. He says that when the engage, by the bailor is to do the act skillfully the omission of the necessary skill is gross negligence so too where the law implies such an undertaking is that of a-bailor's occasioned by a want it will gross neglect on him not to perform his engage. The amount is that when a bailor is subjected, but is of common quality of gross neglect. Such a declaration confounds the
different origins of case. to neglect in the case of Cooper v. Bernard I fail all the other cases.

grant every man is negligent, for it involves all bales to a hand by negligence, then all those in any manner liable, in the ground of gross negligence it changes the whole symmetry of the system, with equal justice it might be said that a common carrier when subjected at all was liable on the ground of gross negligence as if he were not. I think it is apparent from the ground that a bailee by his engagement is subjected only for gross negligence, whereas a bailee may be subjected by slight or ordinary negligence.

When this is so engages his powers implied to use skill or more care than he has in his own affairs he is liable for gross negligence only. Then in the case in 31. at 13 having two assignments of goods. It is agreed to return them both at the custom house, but at having joined them by a wrong description they were forfeited by the owners law. Therefore, it must be clear from the nature of goods, that they must be subject to all having joined them by a wrong description they were forfeited by the owners law. Therefore, it must be clear from the nature of goods, that they must be subject to all having joined them by a wrong description they were forfeited by the owners law. Therefore, it must be clear from the nature of goods, that they must be subject to all having joined them by a wrong description they were forfeited by the owners law.

The true distinction then I take to be, that in the case of Cooper v. Bernard I fail all the other cases.

...
of non-statutory profission, he is liable only for gross neglect.

The agi. this implied by law extends to the person or the servant of the owner who is bound to be done as does not provide ag. accident by force of cause, that is not connected with the stipulated act.

Thus in the case of the tailor he for mentioned, the law implied a contract to in the necessary case while in making the garment, but not to remove the garment or state from other inevitable accident to who is not liable for loss, the occasioned unless he is guilty of gross neglect in removing the goods. As to the duty of keeping restoring the loss in his contrary liability on this point, there on the point of a person who is of not particular occupation or a man deferring anything.

Thus if the tailor agrees gratuitously to make a garment if not will make him liable, but if made some time afterwards because he left his door open, the question of his liability must depend on the fact of the goods in the gross neglect which is furnishing. if the goods of vendor only was repaired if he paid contracted the garment to a person though he would be liable. This to be the extent of a mandatory, liability when employee personally it appeared consent with the opinion of Lord image 2. the that he is not very imposing. 2. 255

Since then is an agent, by a mandatory to keep safety, he is not liable for loss occasioned by robbery or inevitable accident.
and I think clearly that he is not liable on such an agreement without some degree of defect. When one
contracts thus to keep safely, he only means that he will use all necessary care for that purpose. He cannot be
considered as insuring ags to the act of God, or transport,
or insinuate force. So that if his is no defect he
will not be liable however unconditional the agreement.

1 Thes. 9:0.9:15. Cons. 11.15.

But I think that a man
datory cannot demean himself by giving an ag to prevent
ability for fraud. It is certain hence power is so illigal
by the principles of certainty Cons. 66.75.

Then has been
some certitude of opinion opposed as to how far one
may by a mandatory is binding as a contract, that
is of ag to every good or to do some act about them qui-
tid. according to some opinions, the mandatory is not
bound by his ag to a contract, because it is without
pretext, but his liability is formal in that is fraud in
evant of con.

According to others, I think, on his ac
itor, in giving his ag to the voluntary items, him, as a contract, it is so far voluntary that he gets no ben-
"it still the giving is sufficent. 1 Thes. 9:0.9.10:19.20

The true distinction is that if an gratuitously engages to
be the mandatory of another, and afterwards refuses to be-
come one, he is not bound, the contract is no cumpar-
tum. But if the goods are actually delivered into his
hands, he is liable freely to send in ag, which could
alleging in contract, it is true known that he may also
send in text 5 T. Rep. 143. Distinction thus taken in, that
if A agrees gratuitously, for B, if B does not deliver the ma-
terials at is, not known. And if the act is liable,

"Hutt says that a delivery on one side and unity on the
trust by the other is sufficient for 12. 2 Pay 920 1 Bosc. 241
sec. 129 12 alleq. 487 5 T. Rep 149 150 1 Cow 364,
Coo 1267 Contr. se. 4 128.

In that case in Hutt it
can be seen that the act did not bind as a contract of
this can either opinion to that effect. But the case
in Coo 1267 is a very strong can precisely in fact, and as
can in Hutt is this can unit to amount. In Coo of
delivered money to B on a promise by B to deliver it on to
without reward. B fails to perform, A then brought
his action ags B on the above promise stating the delivery
only a consideration & receivable. Now it is impossible
for him to recover this unless the act is even binding as
a contract. It is true A might have recovered the
but can act as an implied act for money had received.
but this was on express contract to seem to have been but
on purpose to try the question. Coo 1267 168. Hutt
recognizing confirms this doctrine in the case of Logue v.

Sir W. Sarsob knows how that when ship
steans or acts by bailies not performing his agreement
by not being coming on a sty or when he has agreed to
an action as in ags to him. Cow 126 to 80.

Sir also says
that the grounds of the action in these last cases
is some special damage, but is to be remembered that it is
a breach of contract, the damage accruing from the breach
of contract. It is sufficient to suppose that there can be a
special damage in consequence of the breach of a contract
that does not exist.

This I agree, gratuitously that there
carry a letter to it. If from disappointment or even
apprise if you please, he does not carry it not. I suffer
a loss in consequence. In 65. I was saying that on
and by A wrote this. I am not knowing that. I know of no
principle of C. T. to support him. Then is there
an actual delivery, or can I point out premises or
found in the case 8 might not sustain his action.

In no
agrees that the action cannot be sustained or else
this is special damages, but if there is it can,
how many civil action must sound in contract a lot by
the hypothesis that is no found or miniguars so that
it cannot be subjective on that ground, but can be subject
on the ground of contract 8. W. says yes, but
how is it to support the action, the validity of a contract
is a get to be determined from the facts existing at the
time of contract made. it must be good at writer, and
the special damages may increase damages in most
on the breach. yet special damages can never give
validity to a novel factum, can never go to the ques-
tion as to the weight of action a contract cannot be
hindered by anything of that facts. And if a contract
has not virtue enough to support an action without
special damages, it certainly cannot have with
In W is certainly mistaken that no special
age is necessary to use sec. 2 & 109, 10, 911, 18.

Sir, says plaintiff that when an act is not
ag. or mandatory negligence is the ground of the action
true he is not entitled to. I do not see how his sub-
ject to negligence. If contract is the foundation of the
action, negligence is out of the question. If negligence is
the ground of the action it can not be on the ground
that the party has been guilty of a breach of contract and
the act may be best on the promise.

Besides an other
easy alternative to this, where a mandatory and phy-
sicians are any reason of care he is bound to the if
that of that engage? but now can he be entitled to
ship prima in him that does not bind him. How can
it restrict his liability beyond what the law would
require of him. A contract caused by engage to car-
y goods, & warrants? robber, book, with the ques-
tion, that he is liable in case of loss. Now? Sir
says, in consequence of negligence, that entitled
the ordinary negligence, would he be not liable?
know, if not, he is liable for this than the law re-
guines, if the ag. is a matter of fact. It follows
thus that the contract binds him.

In W's view,

is content on this subject, that his authority is too
much; it can not be relied on silence.

The true dis-
function is that when the engage becomes the mandatory
of another & afterwards, refers the is not liable.
but if we now become bailer in either of the engagements is bound to the extent of the breach of the contract. L. B. Rey. 910, 19, 5 East. 140, 149, 52, 3 East. 64.

There are certain miscellaneous rules applying to bailments in quit with which I would now present you; under this general division, the first inquiry is, in what cases the bailor is entitled to a lien against the bailee.

Now a lien is a direct claim or incumbrance upon some specific property of another by way of security for debt or duty and is always accompanied with actual possession.

A specific property in a lien are two distinct things, there can be no lien without specific property, but there may be a specific property without a lien. A lien exists in favor of bailor of the fourth of fifth claps. Bailor of the fifth clap you will recollect I mean one, two, and the fifth are those who are entitled to also come in with or about the goods for which they receive a reward, a lien does not rest however in favor of all bailors for fifth clap.

If however there be a lien on the goods, said it is created by ordinary law the terms of the bailment without any thing done is not facts by bailor. The precise object is to create a lien to secure a debt or duty of the securer, consists essentially in the existence of the lien and right of possession. The lien must have existed as in all cases, when the contract is lawful to hold the bailor until the performance of the bailment is accomplished.
which is a discharge of the state or duty. Co. 5, 124. 5
2 Me. 178; Talk 522; 211. Ch. 249; Esp. 259. 582

Most bailers
of the fifth class have a lien, i.e. a right to retain goods
against the bailor by way of security for compensation
for the loss or damage by the terms of the bailment,
or in the case of the proper or the proper, the object of 5 was
that bailor should do something for which he is to have
a reward for the security of which he has a lien upon the
goods but condition in law amount to the Bailment.

The law does not require that bailor should be an own safety demand, but before he has paid, and enables
him to retain the property until he is paid. 3 Bos. 188.
12th 24.

It is not universally true that bailors of the
fifth class have a lien on the goods they have. I will dis-
tinguish it, as precede.

No certain bailors have a lien get
a third person who obtains possession wrongfully from
bailor cannot avoid himself of it: the bailor may
sue without tendering to anybody. As if A has
goods 18 18 5 get wrongful possession, it may ven-
them without tender & cannot recover ag. with, 11
5th 455. 3 East. 585

In the Talker, A common
East has this lien a right to retain the goods against
the owner until paid the increase or price of transpor-
tation, since the wrong thing to goods own price if the is
not paid. 5th Ray. 757, 867; 5 Wern. 282. 5 322. 269.
Talk 654; 2 Me. 64, contain 5 Bond. 5th Ray. 567. on law
And indeed if goods are stolen & delivered by a thief to a common carrier, he may retain them up to the time when he is paid the price of transportation, for by law he is obliged to receive & convey all goods sent thereto. The law does not oblige him to be so received as to demand pay before the act done, but allows him to retain as security after. 2 De CNY. 567.

An

An

An

An

An

An

An

An

An
as it is said in behalf of "trade & commerce" meaning manufacturing commerce.

When however a mechanic is in the habit of trusting to the personal credit of the bailee, he ought not in a particular instance to retain or assert this right of detention without being given previous notice or information at the time of receiving the goods. For if he does not give this notice he is presumed to receive as he had done before; there is no judicial determination of this point; but it is laid down by the courts of Bacon. 1 Bac. 240, n. 2.

But an agent or factor who is a bailee of the ship has no claim for want of the warrant, which speaks in the case of the common carrier in bankruptcy, or in the case of the mechanic as agent in his favour. He is not bound to receive for partnage, i.e. the interest of trade & commerce as an act at all concerned. Bull v. P. 245. Co. Ch. 10. 1 Bac. 200.

The captain of a ship has no claim upon the ship for his wages and stores, i.e. the mariners have, the warrant, that according to the common course of business, he is presumed to trust to the personal credit of the owner, but the mariners, trust to the ship; the warrant is only by the owner, the mariners, by the master, who acts as agent in engaging them if they are entirely unknown in many cases to the owner. Doug. 97. 101. Addison Shipping. 140. 168. Black. 632. 1 D. 125. 4 Mod. 140. that the mariners have a lien upon the ship you
But when there is a special agreement on which bailer relies for his compensation the law erects no lien in his favor; then in the case of a principal to whom a hire was assigned the factor decided it was proper that the same was being a uncertain and determined that the ag to reside in the lien or right of detention. The reason assigned is that when there is such an ag the bailer does not rely at all upon the property the fact shows that he thought to the direct extent of bailer.

I believe however the true reason is more artificial. It is this that where there is an ag of the law cannot imply one on the master if proper to an tient, either to may imply one when the bailer have not made one. Er. Law 42. 1766 Ch. 5 Dec. 277. Ed. 1 F. 52 T. 1.

A factor or any commercial agent i gent has a lien upon the goods of his principal in his actual possession for the balance of accounts between them. There are a variety of rules relating to unem anent agent for which I invite you to "Master Keys" 3 & 11 Rep. 119. Corr. W. 4. 94. 1754. 1784. 1784. 1766. 1152.

These are the principal bailers who on creditor a lien on or right to retain the goods until the debt or duty is paid. It is not however to be understood that no others than these I have mentioned have right to hold property at all ag the bailor must un undoubtedly a hire has a right to hold until the
The object is accomplished on the time referred for which
the property was bailed, like that time the bailee has
no more right to take than a third person and the
same is the same in relation to a bailee, unless the baili,
must is gratuitously.

Thus far as to the rights of certain
by bailor, the not subject to be considered until thirty
years of the most practical importance is,

Now far the rights of strangers may be
affected by bailments.

Deposits are not often a
part between bailor and bailie, but the right of the en-
terst of the bailor is purchased under him and is fre-
time discretionary.

Before we enter into the particular
examination of this subject there are a few in-
troductions rules to be laid down.

In the first place,
it is said, but I think inaccuracy, that if our
bailee as his own the profits of another, the bailee
must return it to the bailee and not to the true owner, i.e., to the person of whom he received it without protest to the true owner, because it is said that the bailee cannot judge between the bailee and the true owner. But this rule you will see goes further than the reason. 1 Edw. 60. 4. 1 31 Bac. 337 31 2.

Saff. know that this rule means nothing more, if it does not mean more than is law, than is that the bailee will be just as liable as he would be to the bailee, and that he may thus en charge himself of the claim of the true owner. The reason of this goes no farther. It would be entirely harsh to compel him to judge in his name for he might then be subject to a loss when the rule was introduced for his protection and the law will not subject him if he subsides to the bailee. This ought to be the rule on principle.

It would be unjust to suit the owner of his property who takes it may not claim as elsewhere. Again, how can the bailee enforce a right a right which he has not in any other than the owner of the property. If owner is such that the bailor knows the fact.

But it is all afterwards in 1608, from whence the right rests it rests that if bailor claims the bailor to the bailor before or pending an action but act himself by the true owner, it will lose the action. This statute to know that bailor does not define the true owner of his right, it shows that the owner may recover of the Colone. 1 Rol. 607 31 137. 1 Bac. 242.
In cases of this sort where there is a dispute as to the title of property between the owner and the bailor, it is the owner who must exhibit sufficient evidence of ownership, unless the bailor ought not in principle to be subjected, but if such evidence were shown, I trust he would be liable unless he discharges himself as above by delivering to bailor. 20 May. 1867.

The rule laid down by Lord Botetourt is, that if goods owned by A. are stolen by B. and delivered to a common carrier, he may retain them against the true owner until paid for the transportation but no longer.

Now if the rule from Lord Botetourt is correct, the case from Botetourt is entirely contrary to the course of the law. For A. would be bound to deliver to the true owner the goods and not to the bailor, i.e. he would not be discharged by delivering to him from a receiver them as against the claims of the true owner.

Again according to the text of Botetourt if the bailor in a case of this kind shall come into receipt of the goods, he must deliver to the true owner at his peril and not to the bailor, i.e. he will not be discharged by delivering to him from a receiver them as against the claims of the true owner.

Because it is said, the B. having acquired possession by law by transmitting from testator in must deliver to him who in law is the owner, this rule seems to prevail in a case somewhat similar to the B. in this instance might have delivered to the bailor.
to discharge himself from the claim of the true owner, because he could not be compelled to judge between the claimants. An Ee' court of course offers a better opportunity of judging correctly and in most cases not so good. This is no more contradicting Holt's rule but I consider it to cannot be law. It appears to be arbitrary and founded on reasoning on technical and artificial as can be suspected. I suppose that the Ee' stands on principle precisely in the place of his text and may discharge himself in the manner 1 Roll. 607. 1 B. & C. 237.

We are now to consider the rights of those persons who purchase under a bailee and the rights of others who lay upon the goods suffering them to his care after his care in which the following may will be found useful.

I would shew that by the Stat. 31 Geo. 1 which stands to be in opposition of the C.L. if a person becoming a bankrupt has in his possession over disposition the goods of another by his consent they can have for the debts of the bankrupt bailee 1 the creditor may take them as his. 1 & 3 & 66. 1 & 3 & 50 & 2. Doug. 305 & 3 & 5 & 2. 7. & & 268.

This statute you will shew relates to bailors who become bankrupts or to the possessor of the goods in the same by a person becoming a bankrupt while the goods are in his possession but not to cases in which the bailor
Not to goods not sold, belonging to bankrupt, but sold to him on ten which did not belong to him and were sold by him without a transfer of possession, i.e. it includes not only the case of goods sold without transfer in possession, but also those not his but borrowed to him. Comp. 232, 1 B. & C. 30, 31. Dig. 569.

And would have priming the act to goods originally belonging to bankrupt by him sold but permitted to remain in his repository or in favour of his creditor, but the statute on it is not for by 2 3 & 4 W. 3. 13 Eliz. it was said that a sale of personal chattels the vendor continuing in possession was fraudulent as against his creditor, i.e. it is a badge of usurpation prima facie evidence of it, which might however be admitted. Comp. 233, 5 & 6. 2 T. & L. 597, 595, 716, 71.

The creditor of the bankrupt to bail in allowed under the statute 21 & 22. 2 3 & 4 W. 3. to come within the goods in his possession not strictly on the ground of fraud between the bailor and balee, but by reason of the false credit given him by the possession of those goods for his credit might have been furnished, given or transferred from his being the ostensible owner, indeed it is the apparent ownership which gives him credit with one another, it is on this ground that credit one ought to be allowed to take them. 1 Viz. 364, 366, 376, 312, East Dig. 566.
The bailsor admitting any presumption of actual paid
between himself & bailsor, is of no avail as between
himself & the bailsor creditors, their claim is not
found on any presumption of fraud but upon this
false credit which the ostensible ownership given
to the bailsor. 1 Ky. 365.

This statute seems to be founded
upon it in affiance of the great principle of the
C.L. that when one of two innocent owners must suffer
by the act of a third, he who occasioned a malus
thence to cause the loss, shall suffer it rather than the
other.

The bailsor in this case by permitting the bailsor to
act as ostensible owner has given some agent credit,
the question whether the credit given in a particular insur-
ance an acquired was now made, it is suff. that the
policy is received for public. and then to bailsor enables
the bailsor to occasion the loss, he must therefore be liable.
This is clearly the rule of the C.L. 1 of Equity. 3 T 13 p 70.

If the stat of B. is in affiance of the C.L. it follows
that the stat once the construction it has received in
Eng. can t as much importance him or there,

It is

not to be understood that this stat extends to goods in
the hands of the bairn which he bails in the right of an
other, e.g. as guardian of husband or executor for
the bona in such case giving him before & the party in
whom is the right of propr. cannot prevent it this
not in consequence of any debt after rights of propr.
that they hold, so it is not the fault or folly of the owner or
baire that occasioning this loss of comm the case does not
come within the statutes. [c.f. 159, 3 P. N. 189, note.
3 T. & A. 618.

The statute likewise also extends to sales in which the s and t
people of goods as to absolute sales, where the execution was
held by the assignor of the mortgagor who is left in
possession. [c.f. 549, 555. 1 Ed. 105, 1 V. 348.
1 Will. 260. Esq. dig. 568.

You will observe however that
the same rule does not hold in relation to mortgages of
land. for the mortgagees having in the possession of
land is no evidence of his legal title. The title of
land may always be traced, and if the creditor does
not choose to examine the title itself, it is his
complaint
the rule of
stands only to
mortgages of personal

in this case, this statute extends to the sale of
a ship at sea: for in this case immediate possession
cannot be given. Subject to mortgages by a bill of sale
a ship at sea to B. immediate possession by B
is impossible, and if he is constructive in possession
by his agents, the master, & mariners, still the state
does not reach the cause since it mortgage, B
will not deal to the assignee of the creditor of A it
is not unfair because immediate poss. cannot be
taken.

A cannot however, take assurance immediately on
his arrival unless if he does not if he suffers her to
remain on, or values or mortgages possession.
will continue his false credit if this come within
the spirit & operation of the statute 1 edlt 160.
1 Viz. 354. 361. 366 V T. Rep 262. 285. 491. 651 Dig 567

And that in other cases too in which an actual man
with delivery is sufficient with i.e. is not considered
necessary to enable the vendor to hold against the
purchaser creditor, then in cases in which symboli-
cal delivery can hold suff.

Thus if a store of goods
are sold by a bill of sale on the agreement to the purchaser, it is sufficient and it gives him
the control over the subject so that if the vendor afterwards becomes bankrupt, the vendor
will have to the exclusion of the vendor creditor. 7 T. Rep 416
2 Har 955. 651 Dig 577

or also to bring a case with
the statute the goods must be delivered by the bankrupt but
he as his own goods & i.e. he must not only be in the
possession but in the manner & disposition of them in the
language of the statute. That is he must
in some such way as to appear it would seem to the world otherwise the pretended vendor would give him
no false credit.

Thus a man insipid with a dependency
set up out of sight does not to appear this or not to
appear at all inures, that would not be liable for
the credit of the bankrupt defendant.

But if at the same
or agreement of goods evincing to remain or
dominant owner, subject A to take the title of the goods to sell, manage trade, &c. in his own name, or in the name of the lessee of the goods, as the lessee shall require, with the consent of the lessee, if such be required. The lessee still retains the goods, and may sell or dispose of them in any way he chooses, &c.

In the latter case, the lessee has a larger interest in the goods, and the lessor has a smaller interest. In the former case, the lessee has a smaller interest in the goods, and the lessor has a larger interest. The lessee may sell or dispose of the goods in any way he chooses, &c.

In the former case, the lessee has a smaller interest in the goods, and the lessor has a larger interest. In the latter case, the lessee has a larger interest in the goods, and the lessor has a smaller interest. The lessee may sell or dispose of the goods in any way he chooses, &c.

In the former case, the lessee has a smaller interest in the goods, and the lessor has a larger interest. In the latter case, the lessee has a larger interest in the goods, and the lessor has a smaller interest. The lessee may sell or dispose of the goods in any way he chooses, &c.

In the former case, the lessee has a smaller interest in the goods, and the lessor has a larger interest. In the latter case, the lessee has a larger interest in the goods, and the lessor has a smaller interest. The lessee may sell or dispose of the goods in any way he chooses, &c.

In the former case, the lessee has a smaller interest in the goods, and the lessor has a larger interest. In the latter case, the lessee has a larger interest in the goods, and the lessor has a smaller interest. The lessee may sell or dispose of the goods in any way he chooses, &c.

In the former case, the lessee has a smaller interest in the goods, and the lessor has a larger interest. In the latter case, the lessee has a larger interest in the goods, and the lessor has a smaller interest. The lessee may sell or dispose of the goods in any way he chooses, &c.
And a bankrupt bailor must appear in all respects to be the same to bring the case within the statute for if from the nature of this business the presumption of his ownership is excluded, the bailor will hold by the violation of the bailor's creditor.

This is spec.
to in the description of its goods, so far as his act as he abandoned to use them or his own to have the whole contro\n
"As he is known to be a factor if he afterwards becomes a bankrupt his creditor evidence to the goods, the principal or bailor will hold for the bailor being thus known would acquire such evidence to the goods by the possession. 1 P.B. 82. 1 P.M. 318
3 ib. 185. Esq. Dec. 570

Thus far I have traced of the rights of the creditor of the bailor, and found for other observers in relation to purchasers that

The purchasers in a bailor who under the goods to belong to him will hold against the bailor precisely like the creditors of bailor., i.e. according to the description already taken 2 B. & C. 503, 53.

Indeed when goods have been sold pursuant to power to remain in possession of vendor who is an insolvency the statute of 27 Eliz. provides that the subsequent purchaser shall hold in exclusion of the first purchaser. The 21st. Stat. 1 affords the same protection respecting sales in which the goods have not been sold.

The 21st. Stat. I affords the same protection respecting sales in which the goods have not been sold.
of both the statute at any rate the state of C has been sold, and conclusion of the C in Cn. I entirely think that it is of the same character see Comp 434.

In common cases of breach of warranty the buyer is entitled to the return of the goods, and to some inferior value or, where he does not become bankrupt, to the general rule is that the buyer, that is the buyer may recover against the purchaser under the bailee or any subsequent purchaser, or a creditor who lives on them as bailee under the sale as in market, or against any person into whose hands they may then have fallen however honestly he may have obtained them. The maxim being caveat emptor.

Now you perceive that is no false credit given, for at the goods are in the actual possession of the bailee, yet he has not the "true disposition" of them, and for this reason the purchaser cannot hold against the bailee should that the property in such a manner as to induce the belief that he was the real owner. The sale is a breach of trust I can convey no title.

This is letter

Insert 13 to 42 or 100 miles. B in breach of trust to the house to C while on his journey. C cannot hold against the bailee. For the circumstances of B's riding the horse is no evidence of ownership. The fact of letting driving horse connives at a fact of daily occurrence. And if C should sell to D & F & H & C to whom, it is immaterial how numerous may have been the sales.
on honest the indirecct purchaser, the rule is the same the purchaser must lose his money unless he can recover it of the seveller, or the house has been sold in market court, for you observe that the seveller has not the ex.

position of the house. 1 Wils. 8. 2 St. 1187. 3 Ed. 34. 283 Ed. Dig. 579.

And in another case which is the great leading one in the Eng. reports, where a seveller bought a box of jewels with a jeweller, he in breach of trust broke the seal & claimed the jewels, the question was whether the seveller could hold against the true owner who lost, torture against whose hands & the court held unanimously that he could not. But was strongly argued that attes in the profession that the jeweller was not in the society of the jeweller. Stewp. vs Scoane. 3 Ed. 44. 1 Wils. 8.

When bailee has been in possession for some considerable time, that not in the order & disposition of the goods, with the owner consent, the rule is the same. But has however been good clear precedents at. 3 T. R. 376 14 ib 640.

And thus is an exception to the said rule, when the property bailee is money i.e. specie bailee, by operation constitute the ownership of the county in case of this kind a regular transfer by the bailee to a true purchaser. i.e. to a person ignorant of bailee right will bid the property, tho' it be not in market court. Lat. 186 3 Bl. 1516. 1 Pol. Rep. 418. Ed. Dig. 39 579.
lows to deposit a sum of money with B for safekeeping for a long or a short period at B in breach of trust transmits it to another who has not known of A's ownership, the\nreason will hold to the exclusion of A. Indeed this would be the same if B had stolen the money.

The reason assigned by Dr. Sandwich for this exception is that money has no real mark that this reason will not hold in the case of bank notes any more than it will in the case of specially issued bank notes, that this will be safe in the present defunct state of the world of money. As we can oblige to require into the till of the holder of money before he receive it, commerce would be at stand.

I have almost to you that your honor is not a state in that of B. It is that the note except by our counsel is enforced to it, I can even that our counsel consider it as it is, I am using your counsel consider it as it is. B. is not present properly. Writing in Eng to Can. for I take the rule to be the same in both: a section of the bailor of the property to his, or a purchase under a bailment will not hold the property in any case until the bailor is insolvent. The reason is that if the bailor is solvent the purchaser has his security on the implied warranty of the vendor has it in his power to lay on the property.

The reason why the purchaser or vendor can hold in any case is the great principle of C.L. before married as the

foundation of the state that where one of two persons

must suffer by the act of a thief, the one who occasioned it	
there to cause the loss must bear the loss. And until	
the bailee is a bankrupt there is no plea in equity.
It is therefore indisputably in the case at 2 B. & C.
that the bailee be insolvent to entitle his ant. or	
purchasers to hold a therein; there being no occasion
to divest the bailee of his title. 3 Edth 2d.

And even when the bailee is insolvent his purchaser, or creditors
will not hold against the bailee until the purchase
was clearly such as to give him a false credit; the
rule is found in the words of the statute. Bailee must
have been in the "order of distraction" of the property
by which is meant that he must appear to be the actual
owner of it. 1 B. & C. 82. 3 B. 6d. Dowg. 306. 7 T. R. 67

Second, that the creation of
an insolvent bailee will not hold against the bailor
until the time of the bailment was such as to entitle
the bailee to the possession as of his own, i.e. he must
appear to be the actual owner; otherwise he has not the
order & disposition of the goods by the consent of the
bailee. The consrt is indispensable. This is the case
of Lewis v. Adon. the jewels in both the sealed bag
then became the apparent owner, but breaking the
seal was a breach of trust, and the jewels did not
appear to be the actual owner. nor had the order
& disposition of the goods by the consent of the owner.
He could not so appear by the terms of the bailment
any more than a thief could. 3 Edth 2d. 1 Edth 185.
The great principle governing the relative rights of a bailee on the one hand, and of the entrusted of the bailee on the other, under him have been already explained; yet a few of frequent application I will state a few more examples.

To bring a case within this statute the bailor must not only be in possession but he must have the actual disposition of the goods, i.e. he must appear to the world to be the true owner of the goods; and this is also the C.H. rule.

So if a hired man give me goods of Y for him with him until he can recover them, I become in so much they will not go to his use.

So if a tenant have likewise to leave him with a farm to be cured or his carriage I leave it with a servant for repairs, and in the meantime the bailor becomes bankrupt: this is no fiction that the entruster can hold against the bailee.

And it is a great rule that where there is given to the bailee a temporary possession for a particular, special, reasonable or necessary purpose, the entruster of the bailee in his becoming bankrupt cannot hold against the bailer. Doug. 605; 1st Ed. 155 to 157; C. & G. Dig. 567.

Now the circumstances under which one man may be in the possession of the goods of another in the character of bailee are indefinitely varied and numerous. Thus in many cases in which a consigner's man would trust to the evidence of survivorship, when one time prudent man would not. I have explained the situation as far as I was able.
Some state another example which seems to be that in the state of New York there was a lease of a farm to which the cattle were at home. The lease was for a certain term by which the tenant could hold the cattle in his possession. The fact of driving them was no evidence of ownership. The truth is that when the tenant drove his cattle to market, he might be stopped and it would be superfluous.

When goods are bailed for him to be used for a certain time by bailing it has been a most frequent question whether the bailer himself could take his interest in the thing bailed as security. The reason of his interest a year or over of $1 for 6 months. Here all has a personal interest for that time. Can his security take by $1 his special interest? It appears to support this in his argument when he says that the creditor would be entitled to the beneficial use of the property during the time.

But I conceive that the creditor cannot take the goods upon the ground that the bailment of personal chattel is always a fiduciary contract. I think that in my discussion upon the subject of securities the bailor by that a person cannot assign the farm until the property becomes absolute in him, even then and if a hire take his interest in the thing bailed, if one of them should him a house to go to without telling him, might take him from him, and thus render it him himself could not assign the chattel.

Inspect the record
is founded on personal confidence of the person to whose 

the bailee to transfer, that was not the intention. If the 

bailee can lawfully assign, he would not be considered 

for subsequent bailee's conduct and a stranger would 

become the arbitrary dispensor of writing interest. 

It appears 

to be going to far than to say that a bailee can assign 

personal effects, a factor, than his creditor, cannot take 

them, 2 Chitty, 389. 7 T. Rep. 11. That a bailee can 

not assign see 5 T. Rep. 604. 7 East. 6 

The truth is, however, that 

the opinion of 2 Chitty, that a second mortgagee on camc 

merain is not at all subsequent to the principle I have laid 

down. The case was a question as to the furniture belonging 

to a house, and as the tenant might be taken the goods might 

without some be taken and sold with it, but see 2 Bac. 352. Cor. Dig. 


Thus far of 

the relative right of the bailee on his hand and of the cre 

ators, Purchaser, under the bailee on the other claim more to 

regain. 

To what actions the bailee and bailee may 

be respectively entitled. 

It is a great rule (in the books 

laid down as universal) that the bailee as he has 

in every transaction in the goods in his hands or in the 

hands of another, against any stranger who takes away 

the goods, or injures them while in bailee's possession. This 

to show that this rule is not universal 5 B. & C. 164. 260 

Stat. 214. 1 Roll. 4. 2 Bul. 268. 3 Chitty 325. 391.
Thus if a deposit goes with B & C injuring or taking away the bond may maintain trover or trespass in any section, the case may require agt. C. for although the bond has not the actual possession, yet in things personal and real property, where or what is called a constructive possession or a possession in law, which is as effectual as to support trespass or trover as actual possession. 2 N.Y. 569. 1 Vesb. 238.

I would show that a right of possess of property in any one can arise to a constructive possession or a poss. in law, and that some other person or an actual poss. under colour of letter & adverse title, a constructive poss. & poss. in law being the same thing.

Then in the case above it has a right of possess of poss. in any case, to maintain & the delivery at any time. B is not in actual poss. under colour of adverse title & therefor has a constructive poss. once or in the other or individually entitled to an actual injurious claim. This State is the true construction from this principle the bond may sworn in the case stated.

Do if a not et be lodged with a goodsite to be transported & et be taken away the bond may maintain trespass or trover for he has a right to continue the delivery.

If some goods bailed to be undy 6 months by bailor & that to be paid him. If within six months within the 6 months they are taken away, can the bailor maintain trespass or trover for them ag. bailing done. 1 N.Y. 281. 7 N.Y. 9. 1 C.B. 280. E & 383. 3 John 457.
1 Rev. 68. Ex. Dig. 576. In most questions, 

What the bai

ler may maintain an immediate action there is no doubt. Whether baiier can maintain any defory 

what? is the question.

But of goods; an wrongfully taken, 

from a depositary or owner, while in his possession. the 

bailor may shortly maintain an action immediately 

for his, a constructive perfj, which is a right of 

instant possession. And this rule holds. but in all 

cases in which the bailment is commence and all 

at pleasure of bailor for him the of course has a 

right of instant perfj. 5 Bae 164. 260. Latel 214.

1 Roll. 2. 3 Ram, Hist. Eng. law, 372. 0 Bals. 268.

It is said 

in the books that if a baiier gives goods to a stranger, 

they cannot maintain this paper against the 

stranger or done, nor in the first instance shown, 

that he cannot maintain within until demand 

made when a refusal amounts to conversion, the 

right being having tone lawful 5 Bae. 164. Vol 

1 Roll. 606. 71 Bae. 237.

But according to a let can 

this doctrine would appear questionable, for the deliver 

of the goods would itself be a breach of trust. In the case 

whereby either of the factors, keeping the goods of his prin 

cipal, it was, decided that the principal might 

maintain an act, ag. either the factor or buyer 

without being done at all, for it was a breach that 

a mispragance amount to conversion. 9 Sect. 0.
And yet, it has been determined that if goods are
given to a stranger by a bailor, and torn to bits
for them in the first instance it will not lie, and
still I conceive that this is a more flagrant breach
of trust than the foregoing. There the breach cannot
be reconciled. It would seem that this latter in-
volving a theft to the bai. is exploded.

As any act after demand
made it sufficeth evidence of ownership, and it is on such
to deliver by bailee, done, bailee on his recognizance-
tedly, maintain trover. 1 Bae. 244. 1 Roll. 666, 2d,
Ray. 867. 1 Post 58.

So also it is agreed that most
bailees, & I conceive all bailees, without exception,
may maintain trover or trover on any other defensa-
tion, or cause, may quitam, against wrong done for
the full value of the goods. E. g., a common carrier, spe-
cial carrier, against farmer, farmer, house or box
answer, the same, shall have the right, for the ba.
lie in each case, as between himself & a stranger
may be considered as the true owner. It is to declare,
such in his action, for he has a special interest as
a right of property, which consists in the way then
for maintaining the action as well. Or, if he were a
true owner. 5 Bae. 165. 262. 2d, Ray. 276.

On the same principle, the法人 of goods may main-
tain trover or trover against a stranger who injures
or wrongfully takes them. Thus in time of 2 King 26.
Chaving found a pawn went to a jeweller to know the value, who assured him to be worth some £100. The boy then by his wet plucked out the ring and it was recovered because the boy was hallowed into possession by finding, and he who has the lawful possession has a right to retain the goods against all that he can oppose. Bull. et. 33, 493. 1 B. & C. 346. C. 5, 69. 578

Can it then be said that a subrogrant or mandatory who holds by the refund of any one of the bailees, has as much interest than a finder who may recover merely because he has a right of possession? And how then is a less interest in a mere business title to substantiate an action?

But it is said that the ground of every bailee's right to sue for the full value of the goods in any action is his own liability, even to the bailee. And therefore it is said that a subrogrant or mandatory under a good acceptance who holds only for praise, cannot maintain any action. This appears to be the opinion of LORD T. It has been adopted since in most of the abridgments. C. L. 69, 432. 13 Ge. 69. 5 B. & C. 164. 5, 262.

Now in the first place with regard to this reason, it is not true in point of principle, i.e. the action in respect of liability of the bailee even to the bailee is not the ground of his act. And if it were the ground of his right of action, still he would have a right to recover on any other basis also.

For first every bailee has a special protection in the
thing baul'd. When he is liable even to the bonds, or
not is not material, it is his special interest his right
for actual profission which gives him his right ac-
tion as can be shewn by every analogy in the
laws. 1 Ed. 372, 378. I Sen. 112. 1 Bae 240. This
authority is very strong which might be adduced thus:
that every owner has a special interest: that, that
would with the lawful profission give him the right of
action. See again. 1 Bae. 346. 5 Ed. 262. 7 Tral. 396.
398; Esp. Dig. 575. 577. Sta. 505.

In the last cited
vig. strength is the case of the finder, than the language
of King is em. practical. He there says that a finder
has such a property as will enable him to keep the
thing against all but the true owner: consequently
he may on innocent tenures. This special interest which is
ground of his action is his only as he has the lawful profission

But then on other analogia, which are very strong in fa-
vor of my opinion. By the statute of Westminster 1729 the
statute of "Huh, Tury" it is stated, that a ser-
vant may ascertain an action against the
hundred in which he is not but of his master's,
But the authority on all agree that the servi-
not liable even to his master, so that his the
liability is certainly not the ground of his right
of action. 2 Mod. 281. 1 Com. 6th 657. Com. 263. 10
1 Mo. 524.

It is also well noted that a man may
have an actual of nothing. This is a criminal process
affair of flory, kept was not liable over to his master, as he is himself guilty of fraud. 13 Ex. 69. 7 Ex. 630.

Sums 129. 136.

So also it has very recently been settled in the C.P. that an insurmountable bankruptcy having acquired goods since his bankruptcy may maintain an action of trover for the goods against a wrongdoer. For all his property belongs to the assignees yet the lawful lord, which he has was deemed sufficient justification for the action. 1 B. & C. 574.

A year ago a house had been blown down by the wind; it was determined that the lessee could maintain an action for the timber in the component parts of the house even if they were separated by the wind from the main structure which was uninjured in the hurricane. Yet by the wind the house was converted into a shattered ruin in the face of a tenant. Thus this is a very strong case, that the tenant or rather lessee was not liable for the loss occasioned by the timbers, nor was he under any obligation to assuage or aid the timber agents if he sustained the action. 1 B. & C. 573. 574.

Indeed it is to be well settled that a special property or his property which is embroiled in lawful proceedings is sufficient to found the action of trover in the hands of another wrongdoer. This rule is laid down in so many words 7 Ex. 397.

It seems then, that there is no such

ity of renting, to the question of bad faith, liability over.
in order to determine whether he can recover in tort or
in equity against the wrong done. The true ground then is as
I have demonstrated that in against a wrong
done, because all the but the true owner the bailee is un-
known to owner and it is not for the wrong done to say
that he is not.

2d. Granting that the bailee's right of
action is grounded on his rightful liability over to the bailor,
still a defendant is as much entitled to an action as any other
bailee notwithstanding. A defendant is certainly ac-
countable to bailee and may be actually subjects. Now
when the "bailee's liability over" is spoken of we are to
understand by it nothing more than his rightful li-
ability for his actual liability, in any given case can
not be tried in an action between the bailee and owner.
If it could it would be futile for it would not
be binding on the bailee in an event viz. on the
bailee in the other, their relative rights infect
cannot be tried in an action brought by bailer
against the wrong done. All bailors or a particular ba-
ilee are not always liable, a defendant as a mandant may
be liable certainly but it is equally certain that other ba-
ilee may not be liable. It is very clear that on this
true ground the right of a defendant in mandanty
is precisely like that of all other bailors.

Again

the policy of the law 1. to prevent mischief require that
every bailee whatever should have a right to sue a stranger in
wrong done. For it is not uncommon that the bailee and
bailee reside at a distance from each other, sometimes
on different contents. In such cases, if a wrong owner
should take the goods from bailor, he might well be
questioned to make the world to proceed a form of suit
from bailors to sue him.

The most safe in the
title might be adduced in aid of my argument viz.
If a bailor alter goods to a stranger it is an agree-
point that the stranger may maintain an action
against any one who sues out an action
yet what is he but a defendant? the goods are ad
sum for more custody. This, then, comes directly
in the teeth of the rule. I have been continuing
against. 5 Dev. 260. 1 it. 242. 1 Rot. 607.

It is an agreed
point that an action in a bastard may maintain
an action in his own name on the contract made for
goods sold by him to a purchaser and this rule holds
the purchaser who sues out the goods. As agin, a serv-
vant makes an contract in the name of the master
the master must the same must maintain the action
Chitty says on the reason of this diversity, that the
servant has an interest by way of commissary in
the goods sold. I suppose however that it is because
he makes the contract in his own name. 1 Chit 25. 5
1 Su. Bl. 31. 2 it. 54. 1 Con. 284.

A further than a further may main-
tain an action against anyone who sues out an
him but upon immediately exist. In this a shipment
may maintain an action for freight. There agents
contract in their own name and must for such

ty be allowed to sue in their own names for their contracts
of their principal, qua subjects in foreign countries.
The rule is, the owner is a bailee, the substantial
reason is that the owner shall be that the agent
contracted in his own name. 12 H. 4 Vernon, 82.

Then you perceive that under certain
circumstances, either bailee or bailor may maintain
an action against the wrongdoer for the full value,
that sometimes, either bailee or bailor may bring such
an action the not both, yet it is not always that the
bailee may have an action, and the rule there was
specified under what description the case may fall.

That the bailee & bailor may both have a right to
sue a wrongdoer; yet that can be eventually, not on
recovery for the full value. When then the bailor brings
his action in trespass or trust & recovers the whole
value, the bailee cannot recover in either of those actions,
for the full value. But if the bailor has recovered
the bailee cannot recover at all.

The rule you see
is not precisely alike in both cases, the difference is
that after a recovery by bailor of the full value,
the bailee in a suit, action may recover for his
special damage but not the full value. 1 S. 69.
5 H. 165. 263.

The rule here seems to be
that if both have an action pending at the same time,
he who first recovers wins the other of his actions,
also
And if the bailor has received satisfaction of the wrong done he clearly cannot have an action against the bailiff even when the bailiff has been in fault, as by warranty rejecting the goods to injure or loss for the bailor allows, but no satisfaction for the same thing done. The C.I. allows if there were remedy in any case. 2 May 1417, 24 Ch. 35. 3 Edw. 124. 12 M. 11. 6 Ed. 68. 8 Ed. 124. 317.

The rule just laid down is certainly correct but I think it might have been laid down more strong and more certain: for if a bailor first commences an action against the wrong or wrong done he if the facts discharges the bailiff or in other words waives his remedy against the bailiff. If there is no authority or absolute necessity for this but of the bailiff by commencing his suit can prejudice the bailiff from having one against the wrong done, it certainly ought to be the rule, for it would be returning
unreasonable to refuse the bailor to an action on the
part of the bailor when the bailor had himself
suffered the bailie of his inaccuracy, or by con-
suming or discontinuing a suit against the in-
dor when perhaps he has become a bankrupt.

Bailor it is submitted to analogy. This is a case of
secured. The bail may sue within the bailor on the
sum at his election, but if he commences an action
against the secured the bail is discharged. The
situation of bail in this case is very like that of bail
or the keeper of pledge viz., the bailor being the
one it would seem should be the same in relation to
both. This rule is literally from an authority in hand
given in 'pads' by 3 Hines 396 Dig. 610 612. Note 150
Cra Ch 77 16.

And there are many analogous cases in
which the party having an election of two remedies
must abide by the one he chooses. I will abandon that for
another for our sec 5 Dec. 179. Salt 2 658 12 alld 663 4.

On the other hand if the bailor first commences his action for
the full value against the wrong done, he makes himself
liable to the bailor at all events. This rule however supposes that he
who first commences such an action
also facto seeks the other of his action of a similar
nature, and follows closely from it for if the bailor
takes the remedy from the bailor he ought at all e-
vents to be liable himself.

But when the bailor first
commences an action to enure the loss he has incurred; yet, the bailee may have a special action on the case for his special damage if he has sustained it.

For there are many cases in which a bailee can and may sue a mandatory or defendant cannot make all damage by the injury of the article below or by being displaced of it in as much as they receive no benefit from the Mesne-

But not only a person but a house or furnishing sustaining great special damage in that way and by may maintain an action for it distinct from the action by the bailee to recover the full value if as before observed this action by bailee is not prevented by a former recovery by the bailee of the full value. When is no person can of the kind as in the last; but the principle is very clear for it is well established that when does a wrong act involving what is called a damnum esse to another the latter may have an action for it i.e. for the special damage; &c. &c. The 65.

If the bailee himself takes the property away fully from the bailee, as before the time agreed upon he replies in the furnace accomplishments the bailee may have a special on the case against him. for the sustaining an injury, an consequence of a magnetic dawn in violation of the bailment.

abovehouse known that he cannot maintain torts or trespass against the bai-lee for they are actions to recover the full value of goods.
the contrary is laid down by Cottis and adopted by many
writers since, 5 Bac. 165, 266. Esp. Dig. 201, 13 Co. 69.

Now the reason why he cannot maintain trespass or
wrong is that his special property is the ground of his action &
his special loss the measure of his damages. It is true the
this special property gives the bailee a right of action agai
third person, for the full value & against them only
as I conceive, as to such he is the true owner & they are
not competent to deny it, as to them he has the general
property, but not as to the bailee. And there is certainly
no property in allowing the bailee an action agai
the bailee to recover the full value. That this
the bailee, relating to strangers, see Bac. 575. 88-
Dig. 547. 1 Veg. 269 261.

Now as between the bailee

of bailee, the bailee has a special property entitling
him to the custody & use & this is the extent of
the bailee's right agai
the bailee, but as against
wrong done he is the great owner & recovers the full
value in behalf of the bailee.

According to Cottis

rules the bailee may bring trespass or wrong in the
ownership of D B & the bailee will go in mitigation of

damages. But I conceive that in all cases in which
the full value is sued for, the D B is entitled from a first
to an action to recover the whole value.

So if goods taken

an return, it will go in mitigation of damages, the
in all cases, when the damages ten mitigation by my
Using past facts.

But in the present case the landlord had no such rights originally, or at the time of injury done to the property, distinguished from those cases.

But there are still stronger reasons why bailees cannot bring the servant or tenant, viz., for an action of trespass by bailee. But the real value of the property furnishes no rule of damages even presumptive. The special circumstances in which the landlord's case should be being an action in which the real value of premises is the rule of damages in measure.

Again, the injury may be less than the full value of the goods in such case. It can be said the damage may be mitigated down to the actual injury. If so it is at any rate a very considerable inconvenience in any mode of measuring.

The reason why the bailee was for the full value in any case is that he may mean for the benefit of bailee; but in this case the bailee has secured himself by taking care. This also injures the bailee, so that in this case the landlord can not see for the benefit of bailee. I make these observations because I think that it is not correct, still it cannot be disregarded, nor can I least the I think its clearly opposed to principle.

If a bailee delivers, it seems to me in violation of bailee's order, he is perfectly guilty for reasons a misrepresentation amounting to it fraud
will be without demand. Therefore, you will remit
be for an unlawful taking, except, if sustained, this
is a case of unlawful use. 4 T. R. 260. 5 T. R. 581.

As a general rule, the bailor can maintain no other action against the bailor than an action on the case. He may bring the action of trespass or recovery of messuages of the goods injured by law, from which
is an action on the case for conversion or quiet
possession in the possession and use and use of the goods. This is a very clear case, the only
action that he can bring against the bailor. 2 Buhl 278. Bull. 273, 72. 3 Buhl 244. Bull. 581.

Adams

the goods are not injured by the neglect of the bailor.
the bailor may sue the bailor in tort for the
neglect or is in a suit on the agreement and is not on tort, for
not in tort, for the goods injured, and may be
converted which consists of the injury of the goods as a position tort, not in non-remissiveness.
8 East. 621, 282. 2 69. 319.

But in good

higher man his, by bailor agt. bailor acts to himself, because the right, taking was, lawful, so that the bailor
has within the actual man constituting possession. But
this is an exception to this rule in that the bailor acts
wrongly electing the goods, he would be liable to the bailor.
bailer in traps, for by that act it destroys the bailment, as it has been said, the goods, for the purpose of destroying traps of hunting them, as an assisting farmer who killed the hawk bailed to him to pursue. And I have been seen to this effect that if bailor said the goods bailor could maintain traps but I am not sure if it is so. 8 Co. 146, Park. 5191 5 Co. 134, 154, 57, 2 Roll. 555, 2 T. R. 465, contra 5 B. & C. 266 when it is, 7. that bailor cannot maintain traps because in this case, not law, however.
Inns and Innkeepers.

This act is closely connected with that of 1789 which was passed in the course of which most of the provisions relating to inns and inns keepers are noticed.

At a Law, any person may recover the employment of inns. A keeper omits the number of inns becomes so great as to be inconvenient to the public, for by the C. L. inns are established without license. The statute law of U.S. of 1789 declared if not the state a license is necessary 2 B. C. 1789. 1 Bull 84. Cas. 37th. 574. Palm. 374.

And it follows from this inconvenience, number, many become common nuisances and the keeper may be indicted 8 C. as nuisancers. You will readily see that this cannot be the case when the keeping can be proved according to statute, 2 B. C. 168. Cas. 549. 2 Shall. 174.

So also a disorderly house may be considered as a public nuisance. A keeper inculpated for it as such in subsequent of any reference to nuisance. There is 1 Hand. 198. 225.

In 1789, no inn was lawfully be established unless it was according to the statute. The rule in the same is most of the states, 4 N. C. 2 in the case of appointments 13 cor. 11, 4 cor. 6 195.
And under our statute the keeping of an inn without license is punishable by a fine which is double the amount in geometric progression for every repeated offence. St. 446.

And that is now a temporary law of the U.S. requiring all inn keepers to obtain a license. It is not a law regulating the establishment of inns, that is left to the individual states. But being the employment of innkeepers, they must obtain a license. The income one of the sources of revenue by indirect taxation.

Our local statute laws provide that the civil authority must set some may pursue or otherwise furnish inpursers. To not seeking to explain the St. 445.

Such proceeding however can not trust exist the U.S. proof being indispensable for fixing the duty. However for that is no such rule which provision in our statute. Such a U.S. right of this kinds is not in your to be provided by implication.

The status of an innkeeper attached in guilt only to the entertainment of travelers & keeping their goods to the animals they travel with. 3 B & 180. G Co. 87.

And if one under a proviso, without sufficient cause to keep a traveler or reason and price the goods (for he is not compelled to trust his guest) he is not only liable liable to an action on the case in behalf of the person injured.
is also to an indictment. "It being otherwise before some time to punish the cause of their institution."

[Page 168. 1 Brands. 225. 3 Bac. 181.]

The case requires

If an innkeeper does not intend to the person of his guest but to his property only, that is the case and to protect him from the violence of others as in

Kipper, every individual is bound to prevent such of the peace. But if a guest is eaten or one in his inn the innkeeper as such is not liable. Va.

32. 3 Bac. 181

If an innkeeper by himself or not deals out to his guests unwholesome food or liquor he is liable to an action on the case 1 Rolls 95. 3 Bac. 182.

The principal rules in relation to an innkeeper liability for the goods of his guest have been presented in the title of precedent. In assessing this goods he is strictly a bailee. There are two

woven some additional rules which I am now to notice.

His liability in this respect is not discharged by alarm or sickness or even insanity. This

may be founded in at least to guard guest from fraud, habit.

since might be no purpose to avoid liability for intentional mischief. his sickness or insanity might be affected and at any rate he is bound to provide against such as the guests besides the opportunity he has to observe and judge make that action in this rule indisputable. Co.

Cite 622. 3 Bac. 182.
An infant in his person is not chargeable like other in-
fants, i.e. as bailee, for he cannot make the contem-
plo or signish on which all bailees are found.
He might however be subject to for fraud or violes-
ces or any positive acts, but not for misprisons or
wrong grievance for the law will not allow his privileges to be in-
fringed on the grounds of public policy. 1 Bell. 2. 1 Bac.
182.

If an infant has, not the convenience to account,
or that his heart is full, and the trustee persists in
keeping his charge or the thing is, then
the infant may be liable like other persons for
fraud or misconduct. But in such case he is not
liable as in this case, and if the goods are lost or
injured or, in the case of a common carrier under
such circumstances, the owner must bear the loss
occasioned by his own folly. Dyce, 183. 3 B. & C. 183.

It has been made a question whether, if when a host
suspects a guest to lock his goods instead of his goods
are lost because he did not, the host is liable for third
the aforesaid appears to be divided, 3 B. & C. 183. Dy.
266. Allen 78. 158.

For myself I should think that he
ought not to be liable, the request is certainly impra-
sensible. Should be obey'd, this may be reason in
the Tawam and known to both, since if he does not
lock the door the host ought not to be liable un-
less it be proved that he was guilty.

Elderly feeling.
a key to the guest does not however as change the host, it is merely giving the guest an opportunity to secure his goods, it being supposed that there is no intention of damage on request to lock the door. But it is too much to say that an innkeeper ought to risk a guest over every apartment when he has requested the guest to lock their doors. 8 Co. 33. 3 Bac. 183.

And an innkeeper is liable as much as his ignorance of what his guests effects may consist, the if he was careless as to their value by reason of that. I should suppose his care would be like that of the canary which I have before mentioned. it. 5 T. 273. Mon. 158.

A guest inside must therefore be liable as such only to travelling and such as stay at his home in the character of guests, once at the price usually charged to other guests. It is not liable to his neighbours, nor to the shady places where in the house, or to a man he lost his boat if a guest came Nor to boarders properly or called who lived with him at the price charged at private homes, for that is no more why a boarder should have right or claim agst him than against any other man in whose family he may board. The host in this case is not in the character of innkeeper it cannot be liable as such. 8 Co. 32. b. 1 Rolle. 3. 6mm. 276. 3 Bac. 183.

Besides the policy of the law does not extend to him for one who lives in the house himself as a boarder can judge for himself of the character of the inn.
In innkeeper is not chargeable in the absence of the owner for any goods for the keeping of which he receives no profit. By the owner's absence he is answerable such as an owner as divest them of the character of a guest. In the innkeeper is liable as such only in consequence of the relation of innkeeper to guest. 1 Roll. 3. 338. C. 188. Salk. 388. 5 T. R. 273. Story 126. 115. 179. 3 B. R. 663.

But for goods for the keeping of which he receives no profit he is liable, and the owner has left the inn he is not a guest as to himself personally, for as to goods the relation does continue as if a traveller should leave a horse which it is lawful for the host to keep, in the function of changing his manner of travelling perhaps. C. 188. Salk. 388. 1 Roll 3. Story 126. 127.

And when the goods of a man are in the keeping of his servant taken by him to an inn, the innkeeper is chargeable to the master hereby as if the servant were the himself were the guest. C. 188. 224. H. 164. 2 Sir 158. 5 T. R. 273.

As to the money an innkeeper is answerable for what he receives against his guest. I have already stated the rules partly to you. An innkeeper may detain the money of his guest until the whole bill is paid, and if the guest leaves the inn without paying his bill without furnishing the innkeeper may pursue it to recover him. Once as I have said...
he has the same remedy as the guest for an unlawful
bouviring state. For it has been determined in Con-
t in N.Y. that bail may vitaka the principal
with a bail place in a neighbouring state. As to
ut C. 41, 504 R. R. 85, 3 B. 50 Ac. 665. 6 Dall. 338
Courts. 150.

In may obtain the horse for the expenses in-
curred in keeping the horse but not for any other
part of the guest's bill, this is according to the gen-
rule in relation to him on his side of attack. it once.

But

in may obtain the horse of his guest, yet he can-
not sue him, for he is in the custody of the lord
like an enemy, during a suit, damage pregnant
and if he has the horse or other animal at all
the party will make him a trespasser ab initio
and he is liable to an action at the suit of the guest for
the detention is a trespass in intent, and remedy, for
which the law gives the innkeeper a license, and
when the law gives because if the party abuses it he
is a trespasser ab initio. It may he sued in the same
manner as if the guest taking had been unlawful
ly force. 3 B. 50 665. 59. 56. More. 877.

Innocence, see the horse. in an.
Actions

Covenant broken. In common language, covenant, contract, and agreement are used synonymously, but covenant as understood in law is a contract under seal. A bond contract in legal language, a fuller explanation of the phrase is found not infrequently used.

A covenant is a contract written under seal, it may be either by deed indented or sealed poll. Fitz. Nat. Dig. 260, 270, Dig. 266. An action on a covenant, of covenant, is an action upon the seal. It being a recovery for breach of the covenant contained in it. Hence it is called an act of covenant broken.

When the covenant is in the form of a deed, by induction as well as in that of a deed poll, it is sufficient that the covenantor sealed it at the time the covenantee did not, and it will support an action as well, for it is sufficient in all cases that the instrument be sealed or unsealed by him whom it imports to bind. Cro. Eliz. R. 12, Dig. 266.

The usual remedy to enforce a covenant is by an action at law, for covenances, or covenant broken, of which I am now treating. The case will lie in certain cases, as when the covenants to pay a sum certain, or a sum which the defendant might make certain by reference to some common standard, or measure of value or quantity.

Thus at covenants to give
But if a covenant to deliver so many loads of wood or wherewith, &c., still will not lie here, as no reference to a common standard &c., debt will not lie to recover damages, to memory, Cost broken shown will always lie. Tha. 1889. Bull. 3 De. 307. 429.

But when the court is to do some specific acts or something in specie, distinct from the payment of money, the most usual described remedy is by bill in Chit for a specific performance as when one court to convey lands, &c. See "Powers of Chit." 1 Kent. 27. 139. 156. 1 B. & C. 526.

But as a general rule when the compensation for a breach of covenant lies in damages only, or in other words, when damages will be an adequate compensation a bill in Chit will not lie to enforce the covenant.

For in the first place, when this is the case relief may be had at law as well as in Chit, and it is a rule both in Eng & this country that when an adequate remedy can be obtained at law a bill in Chit will not lie.

Once again, as a general rule a court of Chit cannot ascuten damages, &c.
reason is that a case is submitted to the jurisdiction
of a court of law. 1 P.M. 570. 2 Bea. Ch. 341. 1 Port-
27. 139.

This rule is known as the universal rule when
the damages are the equitable & situate they are the only
way, yet if the remedy sought is merely a quantum rest.

This rule is known as the universal rule when
the damages are the equitable & situate they are the only
way, yet if the remedy sought is merely a quantum rest.

Thus, when in the
language of that rule, matters of fraud is mixed with
the damages, i.e., when a question of fraud is intermixed
with the damages, the court may be required to ask,
the remedy may be thus recovered but damages in
such a case, $5,000 in court-bill at law.  
A files a bill in Ch. alleging that the covenant
obtained by fraud through an injunction, it may
then file a court bill applying the powers of praying
relief. Thus if the fraud is not proved, C will recover
for the court against B for if it has been completed by
B to stay his proceedings in a court of law by a false
representation. C can then, in the same manner, that
C, nor his officer can maintain the damages but
the claim must be that the C has wronged damages.

1 Eq. Ca. 17. 1 Bea. 69. 526. 2 Bea. Ca. 216
Of the different kinds of cost and how created.

It is to be observed that under this head there are several coordinate division, and one. All costs are divisible into two kinds: costs in aid and costs in law.

Cost in aid is one expressly mentioned in the deed or instrument itself, between the parties. It would be more proper I think to call this an express covenant. 1 Co. 20. Esc. Dig. 266.

Cost in law is one that is not express. It is an implied law, and for this reason it is called a cost in law. This may be properly called as if there is an implied covenant in a cost distinguished from express covenants. This cost has its 6, 18 for a term of years, from the very fact of a lease being made. The law implies a covenant on the part of the lessor that he shall quietly enjoy during the term. It being understood that there is nothing required in the lease limiting his responsibility. 1 Inst. 384. Esc. Dig. 266.

The specific cost is one where between a cost in aid and a cost in law is this a cost in aid is found upon the words and the instrument, or amounting to an express covenant, the covenant not may not be the most correct after explicit.

Thus I claim to be $ and per annum, "keeping, "keeping," or "purchasing rent," which under such of theirseasons to complete the rent of $ and $ to pay. Then under an act the next act to be a while the court, plainly rise out of the language of the statute.
But on the other hand, even in law or indeed in all other

is not all raised from the language or phrasing of the

instrument, but from the nature of the contract or

agreement which is sought. As in the case just men-

tioned, at law with the words "you grant claim to pove-

ty," these words import a covenant in law that the

lifer has a good title, and that the lifer shall quietly en-

joy during the term. And any one of these words of

grant have the same effect.

And yet it is very obvious that nothing can be more remote or foreign from the

language of the deed. In fact, that an implied co-

vemant is not raised from the terms or phrasing of

the agreement, but from the nature of the con-

tract as Co. 2: if the lifer proves not to have title

whether the lifer is entitled or not, the lifer is liable on this covenant of origin, 1 Co. 80 b. 5 co. 17. Caeb. 98.

1 Pott. 510. 2 Pott. 892. Pott. 386.

All covenants again

an assurance of another person or being either personal or real. A covenant is one by which one binds himself
to pay or perform things real or lands testamentary or reinstatement.

Thus if A, I make a conveyance B in fee to covenants that he is well seized, or to want of expense, then one covenant real.

e A personal covenant

the other hand is one which is connected to the person or which concerns personal property merely. Thus if one

covenants to do an act of service for another, how this
covenant is connected to the person or if one covenant is
pay a sum of money. In both cases personal. 1 Inst. 129. Esq. 
Sib. 266. 294. 5 Be. 165. 11 Fug. 145. 314.

This division of

contract was personal derived from the subject of the contract. The former division into

which implies from a reference to the nature of

the covenant or agreement.

With regard to the structure of covenants, it would

absurd that not one form of words, no technical language

is necessary in any case to the formation of a covenant.

Any words showing a commissary of the parties in an

court, or sufficient to create a debt among words, is

short informing an agreement. 1 Burr. 290. 1 Rob.

513. 1 Chit. 27. 1 Vint. 10. 1 Beal. 327.

Thus in the case of

mention in the lease to A. when giving building a mort-

ing such a rent, bee the words in the lan-

guage of the lease, yet they amount to an implied

effect to pay the rent. I then Upon by accepting the

lease makes it his own. There are strict

words of rent of 13 Geo. from contract, wages

to pay rents, yet as the intention of the parties is

manifest. 13 will be liable on contract unless it be


375.

I am aware that all Poole calls the covenant

in the example just mentioned a constructive cov.

But I trust the. I have fully shewn in my title of
contrast, that there is no difference between what is a
 lawful term "constrains" to enforce contracts or not.

As Williams the editor of Saunders & St. C. calls it, an
 implied covenant, but that is demonstrably incorrect
 for the contract is not raised from the
 warranty of the contract. This if the lease were in the
 words merely "if not, then if the lessor would not be
 bound to pay rent" the whole obligation arises out
 of the words meaning reserving as which show plainly
 the intention of the parties, and in a succession
 of��添.es cont or can be supported, 1 Campd. 2416.

The subject of a covenant may be something
 past, present or future. This one may consist
 with what he has done a certain act. e.g. a contract
 with his agent that he has destroy a certain state.
 the former holds against him, and if he has not
 he is guilty of a breach so instant that he make
 the cost.

A covenant of service is as present. This
 a quarter or before court, then I am well served,
 have a good title: it respects something present.
 And
 a court may respect something future on every
 existing contract does, as a court of warranty is almost
 all persons owe to perform service pay money to.
 Plead, 308

Covenants may be restrained or restrains
 by if first covenants, i.e. when from the nature of legal,
structure of the contract. A court in law would brand any refusal or neglect or covenant will prevent the implication. According to the maxim ipse primum fact espace lacuem. Thus if a lease were by the words, grant to assume the law would imply a cost of good title in lessor & a quiet enjoyment for lessee. But if this were followed by an entry or effect by eviction by lessor or any claiming under him, the cost which would otherwise be imposed by law is excluded by the entry or effect, and the court will not be liable, unless the lease is voided by the lessor or some one claiming under him. See the entry cost or the cost in court. Year 175. Esp. Dig. 273, 4 Co. 80. 6
Co. Eliz. 675

It has been said that an imprudent raised from these words, "give grant a demise be an action with the for eviction by a stranger or by any person but the lessee himself, but this is clearly not true as it is repugnant to the lessee is liable on such acts if lessor is acted by right title. All that is meant is that the lessee is not liable for the acts of wrong done for he cannot be considered as an insurer a q.t. the lawful acts of all mankind. In this sense it is understood by time. Co. Eliz. 414. Esp. Dig. 268, note last 3 Co. 80. 6

I have observed that no particular form of words are necessary for the creation of a court. I have further to add that a claim in a court in the form of a notice of a prior act, creates
in itself a cost in which an action may be supported.

Thus, "Whereas it has been agreed that Edward, Day 18, 1800, I agree to pay £500 the second consumer the said sum confirmed as above," it makes it a covenant on the part of both. 3 Will. 4th. 1 Chir. 122. 814. 2268.

But as to covenants in duress, if the word covenant is not used, then must be some words used that do import esse agreement, although no word can be exact there must be some words which can be construed into words of compact. Thus if the language were "lifer shall agree provided before the timber," it does not amount to a cost in lieu of lifer to furnish timber, so if it were "an exact lifer to furnish timber," so if it were "an exact lifer to furnish timber," so if it amounts to more than a condition when the lifer can not.

But on the other hand, if the a.g.f. were that lifer shall agree provided it is agreed that the lifer shall furnish the timber," it is a cost thus binc the lifer for the subjunctive word, "it is agreed" transforms the condition into a cost. 1 Rev. 518. 412. 28.

Also, when a clause in a deed is in the nature of a mere description, it can never amount to a condition. Thus "lifer to agree, but if the lifer does not furnish timber this cost is to be void," means the lifer evidently is not bound to furnish the timber.

If a lifer receives a collateral benefit conditioned for the performance of the cost, in a loan or deed.
of other kinds. the obligation includes as well to sub\nlize on to the wife's court. Thus, a man is made
in their words, "give great advance to him." In Israel
the court can two fold, that, before he has good title, or
that, before he shall quietly enjoy. at the remarriage
before rectifies a land condition in the performance
of the covenant, in the land. Now, if he fares not

Construction of cov't on this subject the unity
that cont'd are to be interpreted literally. By this is meant
unity that the meaning & intention of the parties is to
be sought without such strict machinery to position con-

tinuous and present interest. 1 Inst. 45:46. Blow. 140. 1 Bell. 469.

Thus, in many instances, a literal performance would
not avoid the covenant; they must be performed
substantially, according to the spirit of the instrument or
the intention of the parties, which is the same thing.
This, when all covenants to deliver to 13 within a cer-
tain time a bond which, in itself, is a sine qua non, did
not before the time such before the bond's return, deliver
it as he had agreed. the court set not to the bond, as
well, it was literally performed, for it was a plain
vision of the intention of the parties, for the str
...vius intent was that the bond should be delivered up to be cancelled, that the obligation should be extinguished. So Ely. 7. 1 S. C. 48. 2 S. Dig. 270 1 Bac. 589.

So where a life estate commanst to have all the timber upon the land at the end of the time, cut the timber down & left it, it was held to be a breach. Phil. 2 Bay. 464. 1 H. 132 296. Esp. Dig. 271.

So if our covenant to deliver a pair of cloth by such a time, & in the mean time to impair it only, cutting it into fragments, that it is unfit for use, it is a breach. So too when our covenant to deliver all the ground thrown out of his business, and before delivery must ask us, with them so that they were usefull; it came. Thom. 39. 240. 1 Bac. 127 242.

...but on the other hand a substantial performance is sufficient although it is not literal. Thus, at 11 B. commarst that as you should marry a daughter, the son living when the age consent married a daughter to the consent, but on coming of age be disposed to the marriage, the performance was held good, for a marriage when age was obtained by procurer, if it was impossible that such a marriage should not be validable, the consent was there for consented a performance according to the intent of the parties. 1 Tim. 52. Esp. Dig. 270.

When in the construction of certain words, our uncertain so that the intention of the parties cannot be precisely ascertained, they are in gists, to be taken most strongly against
the covenant, if certain most favourably for the covenantor. This you will remember in the construction of all contracts, if it is not at all confinable to covenants. Thus in a marriage settlement, a covenant to pay the interest on 1,000 guineas for ever, time being limited, it is to be 100 pounds per annum, & not time limited, it is to be for the life of the husband, & still it is a good rule, that if one covenant to pay an annuity without limiting its continuance, it shall be payable during the life of the grantee, that being considered the most advantageous for him. (This rule excepted, does not apply to cases where the grant is to one & his heirs or assigns) 1 Lev. 102. 1 lapse 151. Esb. Dig. 71. 1 Boc. 539.

If one covenant to convey tenure to another by such a decay. Before the decay arrives, every covenant, the covenant is ipso facto broken, and the covenantor is liable immediately, at the time stipulated for performance has not arrived. For it is a good rule, that if o party enures directly himself to perform, he is to be considered as having broken the covenant, at the time. If he may be afterwards able to perform it. 5 Co. 21. a 7 Co. 15. Mnc. 318. 3 Viz. 1 John. 5 22. 6 110.

So if one covenant to day to convey his house to B in three years house, and that house voluntarily destroys it tomorrow. So if the covenantor, after delivering one horse or any other chattel to the party, should this deliver himself to perform
he is liable immediately from the very moment, ibone.

Then are some cases in which a clause in the form of an exception in a lease amounts to a covert in the part of the lessor, in which it does not. The distinction is this: viz.

(Rule) When the lessor is of a given suit with the exception of a certain part, the exception is not a covert in the part of the lessor that he will not occupy the part excepted or distinct from it in the occupation of it, he is a mere stranger to it, and if he does occupy or distinct the lessor in his occupation he is liable as a trespasser, but not as the covenant.

Thus when A has a lease to B, excepting a certain enclosure that he excepts don’t amount to a covert in the part of B that he will not occupy to. But it does amount to a covert by him that the enclosure shall not pass by the lease, and it operates as an estoppel to him to lay claim to it.

But on the other hand, when the exception is of some thing in perpetuity to your out of or be derived from the thing excepted, it does amount to a covert on the part of lessor that he will not distinct the lessor in the occupation enjoyment of it.

Thus A makes a grant of a manor to B excepting a right of way or if a house resting on a right of helping this to his out houses.
This amounts to a cor: in the right of easement, for it is a right in profit issuing out of the subject of this lease beneficial to the lessor.

The construction is consistent and even necessary for the security of the lessee, for if you have a tenant in the right of way a thing issuing out of the property itself so that he must not be liable merely as a stranger for a trespass if he disintegrate the lessee in the enjoyment of it, it is very certain that he is to consider the lessee as insuring it to the lessee.

But in the case above there is no security of this, if the lessee having no interest in the estate liable as a tenant of the lessor in respect to the tenant under, see Cro. Eliz. 61, 62, 63, 67. 6th Ed. 1 Adw. 21, 22; 252, 253. 1 Rob. 235. 1 B. & C. 531.

I tend to think rather whether the case was to an inducement a mere collateral. v. 15 (Pow. Cm. 235, Cro. Eliz. 60, 60, in one).

This is seen to be a difference between, upon the implied cor: in regard to their construction; in that respect that the former an easement more strictly than the latter. When treating of contracts I gave you one example illustrating one branch of this rule. When an assent, an agreement to perform a voyage to the port of London or to return within a certain time, the contract being in its own nature possible and the event being an event and all the consequences being impossible by inevitable accident as in this case, yet be
was held liable on the contract for the intention of the parties manifestly apparent to be that the canal should be considered as an extension of the turnpike. 29. 389, 163?: 8? 2892. 38? 233. 2 et al. 285.

Seago

When there is an unqualified absolute contract to pay a certain rent for a given time, for a building under the building, or lands being during the term, with the right by lotteries, yet the contract a bonus to pay the cost. This is presumed to have been the intention of the parties if it were not the lease should have qualified the engagements. 36. 1? 35. 381 77. 28 Aug. 13. 11. 366. 25. 370.

Whitman a court of equity would consider certain circumstances relative to the contract as having a certain considerable motive. It has not been decided what circumstances and you will the opinion, second? 38. 14. 365. 10. 6. 1819. In other than is an opinion in favor of the lessee. And if improperly was recovery in such cases that became in not the best authority, 36. 39. Such subject considered? 1. 385. 36. 37. 36.

Now I suppose that it

think a court of equity cannot, in principle, interfere in such cases, In the first place, because of equity cannot control the laws even in hard cases, it can remedy sufficient relief from its capacity to all without circumstances that cannot be avoided to in a court of law, but there is no such thing as this case. Equity proceeds on the ground that the rule of law was not necessary for such a case, but the consequence of its unreasonableness it is, Hugos.
But as I observe there is no fact to which a court of Law may not resort as well as a court of Equity, and indeed it is the very case supposed in the rule above.

Now the question of a construction of a contract is in Equity as at Law. What then was the intention of the parties? And if it may come hand it first comes to say that, commutative, there shall be liable to all events, yet that it will appear best in reflection.

Suffice now that it should be an absolute conveyance of a lease to B in fee, and tomorrow it should be known by tearing, there is no principle that B is entitled to relief. Suffer a g. that if A had handed the house for 50 years to B, where is the house for 50 yrs to B? 50 yrs. B's property is destroyed when it is burned. B. When there is the difference between the two cases. The truth is it sustains his property of the house, by losing the reason. Natural justice is as the claim of B the estimate in his house as the saying the must burn the house. When the E. is entitled to the same the must burn both.

And if B's property is greater than his equity, he must have but to two see the equity is more than equal in favor of the house. If the house was commanded to rebuild in case of such an accident. E. would command to oblige him to perform a new one the intention of the contract is clear that the house should remain the house would not be bound to remain the next after destruction. (Devoly 18. 2 417.)

In the case of without command, such accidents will occur, the construction. This there is no foresee that a house would be liable in the
emplied, courts for quiet enjoyment of the subject
destroyed by inevitable accidents, and would ascer-
cain he would not be liable in an antenuptial coot to
that amount in such a case. The example known
illustrates the rule. 3 Binn. 1639; 1 Hinst. 366; Doug. 259.

Every example has occurred in the title of landlord
where an antenuptial engagement is not to be voided solely
by the corset to or any other reason. In engagement would be

It is a great rule that an antenuptal
court is not discharged in the language of times
by any collateral matter, &c. by any collateral
accident or in the antenuptal coot of money. When an
understanding coot was unable to pay a rentment
in a certain form and the home was about
subject of the lessor was soon after burnt. The
burning of the home was a collateral accident and
it diminishes the consent of the antenuptal contract
but no doubt discharge the antenuptal court and his
powers to pay the rent.

There are two exceptions to the
rule since first. One court to do an act which
at the time is lawful but which an intervoir
subsequent statute makes unlawful, the court
cannot relieve, neither the statute is a collateral matter. or
to perform a voyage which an embargo or sort of war
makes unlawful. How the court cannot be persuaded
without a breach of this law. since the law will
never oblige one to do an act for the doing of which
...it would punish him.  

---

...and the rule is not at all inconsistent with the constitutional provision which forbids the passing of statutes impairing the validity of contracts, for that refers to such acts as are made for the very purpose of defeating contracts, but in this case the expiration of the contract is merely the accidental effect of a statute prescribed by public policy.

...Secondly... If one cannot not to do a thing and the statute which is attempted to be accomodated to his duty or compel him to do it the covenant is annulled... From this time one year without interruption and a subsequent statute should compel him to have B to supply an insurance as if an insurer the cost will at 100 years. As the rule is just laid down to what "lawful" is meant after "thing" but it is immaterial whether it ever lawful or unlawful in case outside the rule will apply. If however you can not to do one act at the time unlawful a subsequent statute may make the act lawful does not annul the court for the skill of the court can not do it in consent but it may be performed without violating the other.  

...It is evident that contract relations any particular subject matter can too be confined in their operation to that which is in being at the time...
of the court, make. Thus if an estate to pay all below, it extends only to those less interest, or at the end of the court, it not to them if a man should afterwards impress. As if the existing lease, in an heir to the settlor, must pay all those but if during the time a new radius should be leased as a window, he would not the sooner to pay them 1 S. 62, 112. 3. 12. C. 377. Stat. 119.

If a person to whom an obligation is given assigns it by deed to another, this assignment contains an implicit cost, or the part of the assignor that the assignee shall have all the benefit of the obligation, that he is at liberty to collect it in the name of the assignor, and without interruption by the assignee that the assignee shall enjoy the same benefit when collected.

In Camp, the usual remedy for the coven or such cove has been to sue the obligor in an action in the ear for breach for paying the original coven or receiving a release from him of the notice of the coven, in his hand, as well as the covenor.

In Eng 74: e.g. the original creditor the only remedy is in 3d. for the covenor can no more sue him for breach than he can on the bond. 1stly: I presume in the cases in these states when they have courts of C. But in Eng 74 in those states refer to an act for breach agt. the covenor will not lie. The remedy agt. him must be by costs broken or an action on his undertaking when the covenant was by parole.

A cost in one suit cannot be prayed in ban of an action on a cost in another suit can but the former is in the notion of an appealance or condition. 2dly. Esb. Dig. 305. Thus if the covenor in one suit gives a deed binding himself not to sue covenants for one suit in the former the latter cannot be prayed in ban to an action on the former, the latter being may be afterwards broken or cost broken on the latter suit.

But on appealance a suit suit may be so pleaded. Thus if after a suit in one suit by A to pay a certain sum of money to B. Presents a separate suit in a distinct suit conditioned that on the happening
of a certain event the form enjoined to pay shall be
void, then in the occurrence of that event it shall
be the duty of the oath to be taken in bar.

There also as near to this exception first given a case
by the oath not to sue a debtor for a limited time is no
bar to an act, but in the recovery of the debt, but
the creditor may sue within the time made
himself liable in the act. The reason is that if
the act should be placed in bar of the action for the debt
it must be in effect it is for the a release of the
debt. But in a person at night or a right of action
in no case moved it is gone forever. If when then
few of the act during the time it a release of it for
some better is evidently contrary to the intention of the
parties. Abol. 18. 12 Nis. 16. 18. Math. 6. 9 Thal. 379.
Bey 9 12. 120. 12. 9. Boc. 125. 1 Yalur. 11. 6
1 Thal. 930. 3 Av. 21. 4 Boc. 265 1 Boc 6. 663.

But if such a case to make a part of the instrument as
by a mere or another under it or a change in the writing
it may be so phrased it does prevent a right of action
to recover the debt until the time expires, this on the
face of the instrument the debt is payable in the
money. For the case is in the case a part of the
same deed that creates the obligation of the whole is to
be considered. And from different parcels of the
same instrument when taken in conjunction one could
not be a case to pay the debt so the expiration of
of the time appointed, 8 T. R. 483, Esq. Big. 306, 6 T. R. 737, 1 L. R. 670, 1 Ch. 152.

But I observe again that is a great rule that one event may be placed to another event in the same suit, that the thin are no

rules of defeasance in the case; for the time of the instrument of the intention of the parties is to be collected from the whole and not from

points it once. More 679.

Thus 500 to pay 500 per

rent, & thus falling another 500 in point of loss, that 500 may $50 of the $50 for repairs, 500 has actu-

ally about $50 to 500 sue him on the former suit for

the remaining $50. 500 may place the latter suit in

The rule above states that a cost not to sue for a limit.

the period is no bar does not operate as a release. A
do not apply to any other than personal actions for

a cost not to operate a real right for a limited time may

be placed in bar. For 500 may be treated as a release

for such time even if it does not amount to an extin-

guishment of the right, as a temporary sus-

pension of a personal right with. 2 H. Bl. 4.

But a cost not to sue at all is a bar to a real or

personal action may be placed in bar, 500 & 506.

Esq. 170, 286, 1 Coll. 239.

This rule is designed to prevent a multiplicity of suits to pre-

duce of the same effect, for if the cost

new case to be treated merely as a cont. it must not bar the action, the controversy might sue & recover, but then the controversy might afterwards sue the controversy
compel him to refund, which would bar the parties, in such one case to the cost damage which the will have incurred to no purpose. And this is one of those cases in which an instrument in one form is not, as
an instrument in another, it is in form a cont. but it is construed to take effect as a release. 1 W
Rep. 446.

But a cont. not to run at all or to run to some one
of two joint & several debtors is no bar to an action
against the other debtor, if it seems not to be to such
action against the controversy himself. 1 Ray 670
Nott. 176 8 T. Rep. 168 171 11 Mod. 534 1 Mod. 531

Now the reason of the rule is that it is an express contract that the intention of the creditor to rely upon the whole suit if it have been he would have released both. A cont.
contemplates merely this, that he will not run on one of them as a suit away in suit on such a contract with or without
joining the obligors. if the controversy runs but he will recover of them, but the controversy may
mean back in proportion in cont. instan.

But if the oblig. were joint and not joint debtors one
was a cont., sue to the one of the obligors would
owe the same be a release of both, for he cannot in
this can sue without joining both parties, and all
money appears to be intentionally advanced.
case known is not settled in the books.

As to a covenant not to sue within a limited time, it is no bar to an action, yet if a suit is, with his debtor not to sue within a given time ends, that is, if he does not sue, his obligation shall be void; this may be pleaded in bar to an action of the debt or obligation, for the covenants of defense unless the covenant is a refuge to extinguish the suit, if the suit is not within the limited time. 


A court not to sue one in a foreign country is good bar to a suit in a foreign country, yet that which is merely local is not total. Thus the summons of a suit to ship in a contract not to sue the bailee in a foreign country, and this was held a good bar to an action brought before the B.P. in Eng. but by the rules of Ch. it was not a bar to an action in Scotland. 2 R. & S. 143 171. 2 R. & Elp. 640. Comb. 137 3 Calk. 298.

Such a term is allowed by law, because it is in itself reasonable and consistent with just policy. Upon the consideration that from this country to travel abroad, having expenses to cover the time, there would be no advantage for it unless the thing would be of very advantage for it, not to declare the person to be sued in a foreign country a citizen of that nation, and hence

This a court by which one stipulates to exclude himself from
the benefits of resorting to the courts of justice in his own country is one. Better Ch. 666. For such a court is opposed to good policy, it is nothing else than amusement to announce the prosecution of the laws. If the covenant has no more right to bind himself than they who bind another to observe a certain action.

Indeed it is a consequence of this rule that a mutual, amicable submission of a civil claim to parliament is necessary; howsoever, notwithstanding, it may be by suit and by diversity. This however, not of the whole spirit of the rule but ought not for such submission ought to be so severe. Still however, the laws will not compel a man to submit to such an agenda; the courts of justice are the justest

Of those covenants which are ordinarily called

Hubs of Conveyance.

In all acts of conveyance except what is called in this country quiet claims but more usually "release," there are regularly two covenants written upon a simple essay.

1. Covenant of seisin. 2. Covenant of warranty which are the principal covenants in the act of title. When speaking of leases of goods, the lessee or of quiet enjoyment in that the lessor is thereby enjoin. For that is nothing more or less than a court of title, the second a court to enforce the lease. Co. 826.
either set up or impede in all conveyances except
grant clauses, and if they are not expressed, they
usually are the law will imply them from it
words "ad ete concepti" to understand that in something else
in the said to exclude or rebut the implication
[Page] 519, 520. Byrne v. Motz, 47 Ex. R. 266
to 268.

A cost of ruse in a good title is a cost on present
i.e. an assurance by defendant that he is well rigged
for the conveyance title to make a valid conveyance, and
if the title is not sufficient to make the conveyance
the conveyance is broken immediately on the making
of it.

Therefore in a cost of ruse grantor may submit
evidence by the privity having good or better title.
In order to maintain the action it is suff. for
grantor to show that grantor was not lawfully
rigged; it is not necessary that grantor should
allege evidence or that he has sustained special
damage but merely that conveyance had not
the title which he professed to have. Ex. Inc. 170
[Page] 369, 9 Ex. 69. Esq. Dig. 299.

In an action on cost of ruse
it is suffice to allege that the defendant was not well
rigged without stating who was. It was some years
since determined in Corn to the contrary, but the
rule now is well settled that in establishing in the
cost "that I am well rigged" it is suffice to negative
it by ensuing that defendant was not well rigged. It
then becomes incumbent on defendant to show that he was

might, and if be known that he was sued from a
concern, it throws the case on Def. to show whose
concern or a higher title in another. And if no title
at all is shown by Def., or if Def. shows a higher
title in another the suit must succeed. In case:

A covenant of seisin is broken not only by a title defect
of title, but by an existing, unencumbered, mortgage,
unless that encumbrance is expressed in the deed. This
a mortgage covenants that he is not seised of the
property of the mortgage. This is broken by the exis-
ting encumbrance. Whereas if mortgage had coven-
tanted that he was not seised of the property, such encum-
brance he would have been safe. 3 East 491, 4 Johns.
10.

In this case, known when the breach of contract
exists in a mere encumbrance, that encumbrance
must be specially alleged in the deed, by show-
ing the nature of the encumbrance & the ground
of cause of the interruption. It is not as in the
former case (where there was a title defect of title) su-
sufficient for covenant to run merely that covenant
to was not well seised for him the covenantor took
the affirmation & one probate & should there alleging that covenantor should have
his notice of the fact or governs & gives on
an opportunity to examine them personally. Bellup
S. 133, 457.

A suit of warranty or quiet enjoyment
is on the other hand is a suit on future, amounting to

that the covenants are divisible; tithes on that the covenants shall quit claim: On the covenant that the upper covenant was until eject, and it must not only appear in the fact, but that the covenant was under tithes, but also that it is under good and clear tithes. 
Lev. 27: 36. 1 Cor. 9: 22. 1 T. Ref. 617. 1 Cor. 11: 35. 1 Th. 1: 3. 271. 2 Th. 1: 301.

alleging in the 1 Hist. that covenants was vested by much an one having lawful right to tithes is not sufficient, for this right to tithes may have existed once have been derived from the Deity himself, in such case it certainly could not occur. 1 T. Ref. 466. 2 T. Ref. 177.

It must appear then in the deed that the covenant had shown a better tithes than the covenant entered to the covenantor. Other is also to aver that the covenant was by quit is not sufficient and mature much up to then the former covenant, for it does not own any tithes in the covenant; therefore might have been lost, without defense, by exclusion or false testimony or mere mistakes. Cro. 379. 403. 4. 388. 9.

There is however no technical form of words may vary in alleging this claim tithes in the covenant. But if it appears in the declaration that the covenant was vested by a person claiming under clear tithes, it is sufficient; the upper covenants tithes are not technically indistinguishable. 2 T. Ref. 617. 6 Ch. 278. 81. 121. 301.
Now is it necessary to state in what light this
motion was, or the connexion is, not intended to
state the title of the estate in his deed, or that he with
him or deviser of P. I say that he was a prior quarter
of the same subject from the connexion. In consid-
ering it short, how far a form about the connexion stated
his title, it is enough to state generally that he had
an older and better title, 2 Lev. 37, 4 Tit. Cap. 614.

See Bourn v. Hannah, 1797. 1 Bos. 466. Where the
court is made to say, in the language of the statute,
that the P. must show under what title the estate
was taken, which is in terms of plain and distinct
of the rule I have just laid down.

Of course, this
language is applied to the words in this deed, it will
be obvious, that it means nothing more than that
the P. must allege under what title the estate
which is hereby the rule before laid down. The
words in the deed were loga de jure sit titulus,
the court knew that that did not suffice, as that clearly was
not by the former rules in the statute might have had title under this P. Iff.

This I take to be the
true construction of the language of the court in
this case, as to it would apparently imply some-
ting; if however it means anything more it is
not clear.

The reason why it is necessary to allege title
at all is, because the word of warranty does not
extend to the limited set of estates. Thus if one
...mants to warrant & defend against all claims, & demands whatever he does not become an crim against the true intention of all mankind that a firm shall cease the house & it shall only to the title and is a court merely to warrant & defend that. And it is not broken until the covenant is violated by one having lighter and taken title than granted had. In other cases of injury the covenant must take its remedy agst. the wrong done. Ch. 140. 5 T. R. 534. 26 June 1619. Nov. 31. 13 T. R. Dig. 273. 303.

A grantee may desc many causes, the tenant acts of third persons in any one by his own voluntary act or any for duff. Consideration Subject himself to any or any of responsibility even for an involuntary accident. And in such case, an assumption of the duty to reimburse is instead of any title at all is not necessary. Dig. 273. 4

And it has been determined that a court to warrant & defend agst. the claims & demands of a beneficial person, refers to tenant covenants by that person and thinks in favorence of the supposed intention of the parties. Nov. 95. 29. 6 T. R. 212. 1 Roll. 413. J. 404

In what that this rule is founded in the supposed intention of the party, and it has been said that this was done without occasion. But it was felt that this construction of the intention often
to one question, and so I should doubt whether the intention of the parties was affected by it. Such a case appears to me rather a qualificiation of the great case than an addition of it, that the

warrant in question is the claim of D.S. and that the

grantor takes the risk as to all others. And it may

not if he is to be considered as warranting against

the claim in demand of all persons as well as

ag. those of D.S. yet it seems to me to be strain

ing the construction to say that he warrant ag.

the terms of D.S.

But if the warrantor himself asserted,

the warrantor even by the tations act under a claim of titt

he is liable on his act, and D.S. and not state that it might

any titt., if the act stated in the deed appears to have

been an aspersion of right, which is what is meant by a

tations act under claim of titt., it is sufficient.

And third

holds attine the cost by the way, unless, if it imperfectly exerts
do hurtful victims, for if the warrantor even to wit, in

warrantor by an act clearly unlawful under claim of titt., he is liable, an "casting up a few" which had

been flawed with such a cost, 4 stating the fact of lock-

ing was, held null, warrants or it amounted to an

aspersion of right. And the reason why the best

side holds is that the warrantor cannot defend

himself by alleging that his act was unlawful, but

in fact, it is not historically satisfied by his act.

1 T.R. 671. 1 Rawle, P.C. 21. 2 Thor. 425. C.S. 1 Dig. 275

300 302.
since this rule is the same as to all persons involved in the suit, i.e., the representation of grantee but not personal, as his Lordship observed, that if he dies before his heir at law comes to meet the covenant, a distinct time, attorn without notice, yet if it were on his claim of title, he is liable on the claim in its issue.

Again in the case of how an eviction by lease itself suspends the suit; but a mere trespassing act does not for an eviction by lease is a breach of the suit that will amount to eviction for breach of the lease, a mere entry on a trespass shown does not amount to a breach. Conf. 242

Once this rule again is the same when the victim is by any person included in the suit, as heir, executors, dispositors. 257, 261, 267, 268, 303. And this rule is the same the the heir executors not named in the suit, or heirs by the same authority.

Thus &c., &c., for quiet enjoyment against all persons whatever is instituted to themselves & persons claiming under them, since to subject them in such a case as the breach must happen by a new conveyance of some sort of the estate to themselves, i.e., it must be directly or indirectly their own act.

Thus &c., &c., for quiet enjoyment against all persons whatever is instituted to themselves & persons claiming under them, since to subject them in such a case as the breach must happen by a new conveyance of some sort of the estate to themselves, i.e., it must be directly or indirectly their own act.

Thus, &c., &c., for quiet enjoyment against all persons whatever is instituted to themselves & persons claiming under them, since to subject them in such a case as the breach must happen by a new conveyance of some sort of the estate to themselves, i.e., it must be directly or indirectly their own act.
broken except in consequence of some act of the party themselves, i.e. not by the act of any other person or persons. *Ch. 6, sect. 163. 12 Am. 158, ss. 34.

So it is a little difficult to be satisfied that this construction of a court, so broad, is according to the intention of the parties. There is however a technical reason for it which I do not find in the books, viz. That the EY which entertaining as such acts as representative teaches to make itself in his representative capacity, then that capacity, because it consists only as appearin the testator's rights, as it appears to do more in acts in his private capacity, when thought by the act of EY against the the claims of all persons, it must be considered as an act to support nothing more than the testator's rights after all however it is not certain that this was the intention of the parties.

I have now explained to you the differences between a connuont of saisin or of godstot and a court of warranty or of quiet enjoyment. Of the different actions maintained on these two sorts grounds.

The rule of choses goes in an action on a court of saisin. But in an action on a court of warranty it is different. And our rule as to the latter [i.e. in an action on warranty] is different from the Eng rule.

In an act on a court of saisin when Deff prevails in recovery the consideration money & the interest. The interest is supposed to be computed from the time of pay, if the money unpaid.
If it has been laid down, or from the time that it was
intest, from the commencement, 2 Mays, 448, 45
4 1 M. 108. 1 Delw. et a. 3, 351. 15. 1 Rart. 1081. 2. ib. 294
2 John, 1. 36. 3 ib. 49. 4 Dallas, 115. Hist. 3.

Now you presume
that the Peffurers, in common provis., the price
of the land at the time the estate was made to them
which was so instantaneous. And the rate of damage
in an action the cost of seizure is the same here
as it is in Eng.

So, an action on the cost of warranty
in Eng. the Peffurers, all his consider., money with
interest and the cost of the suit in which he was sued,
but nothing for improvements on the soil of the land
this is the bill, also obtaining in Eng and Newyork
3 Car. 111. 2 John 1. 3.

In our common and Maysa-
churts, the Peffurers in an action on the cost of warranty
means the value of the land at the time of seizure
and the damage sustained by the eviction, i.e.
the cost of the suit in which the property was vested
from him. 1 Rart. 3. 2 Mays, 448. 3 ib. 513. 546.

I suppose that I am inclined to think our rule the cor-
sider, according to principle. Now in an action on the
cost of seizure Peffurers, the value of the property at the
time the estate was intest that is at the time it was
leased. In other cases the constant money which is the dam-
age be subject in consequence of the breach of that cost.
It would seem then for analogy, that in an action on the
cost, the Diff should also receive the value at the time of
the breach, i.e. at the time of eviction.

But in a country

like this I think one has to be the only rule that can do
justice between the parties. In Eng it is not so material
as to the time at which the value of the land is worked
the rule of damages, for then the value does not fluctuate
at all. Here, the same suit is now paid or now paid
contends ago; at best, the cultivation, arising from acci-
dental circumstances, are very slight.

But in such a coun-
ty as ours especially in the new parts of it, justice re-
guins that the grantee should be paid for his trouble
of purchase, i.e. making improvements, sense for the sin in the
value of the land in consequence of the settlement which
which he has contributed to man. The damage to the
first ought to be rebutted for, as they will suffer
in consequence of his breach of cist.

On a sort of causi

the apogee of the grantee, i.e. a subsequent purchaser
cannot maintain an action agt the original owner;
but this is conveyed to B with consent of owner. If con-
veyed to C, now C cannot maintain an action agt
for the cause is taken at the moment it was made.
and of course the right of action accords on it before
the assignment, but a claim in action by C. cannot
be assigned, therefore C cannot bring the action in
other words if C can maintain the action, it must
be by virtue of the assignment of a claim in action which
would make a claim in action nugatory, which is
mainly contrary to the rule of C.L. Delafield, Esp. 439, Bull. et al. P. 158.9, Esp. Dig. 295. 2 John. 1. Summ. Point has been determined in Cor. in the case of Tiffen's not不动产.

But in the case of a court of warranty to take the last example, C might maintain his action against A (as he obviously might not if in his conveyance warranty for in that case the court is bound in the time of the assignee, then was no right of action against the cit. annum into his hands, so that from is no assignment of a chose in action C in the person assignor. 5 Co. 15. 6 17 a. Chitty, Pl. 3. 11. 1 Inst. 384. 1. Phelps, 198. Bull. et al. P. 158.9, 3 John. 241. 5 1d 120.

That an intermediate assignee who has neither claim or right by creation or being subject to or made by subsequent assignee cannot sue the next grantor for if the next grantor might be subject to an indefinite number of actions for if an intermediate assignee was made right might maintain it another might. 1 Cor. Pl. 241.

In all cases known the original covenantor might I as house on principle move at least nominal damages in an act on the cost of service of the original covenantor for a motion of action upon it even when it was broken which was the moment it was made or this right has not been more than to be found. But not on the cost of warranty for that has gone out of his hands it was not broken in his hands. The last covenantor a very subsequent
purchaser cannot maintain his act of covenant by reason for reasons already given. But it is to be noted that the first covenantor may assert his damages would be nominal as he has received no actual damage. This is known in such cases.

In an action on the cost of misrep
the drafts having acquired the right of action, but is no defence. Thus, as being no title, the cost of misrep. In this purchase, title which accrues to the benefit of B. by way of estoppel, "It is unjust to impose the old stock." It is known no answer for all for the cost was before the moment it was made. The law always presumes damages. B, then, has a

right of action at the moment the cost was made, and it cannot be diverted by the moment of the covenant. The time of commencing the suit can make no difference of it in other words, the damages, however, would be mitigated by the subsequent acquisition of title for as towns in the benefit of B, he can recover one actual damm.

5 John 41 § 4 East. 508. 3 T. Rep. 186. 2 Simm. 171.

If an action of ejectment against a grantor by one claiming under higher title, the covenant
or grantor equity for his own security to notify the covenantor that the latter may appear before he pleases. This notification is called, when the interest in question is not furthered, "every thing in the greater or covenantor." and when this view

suaral, the

a
was not upon the commoner must defend as well as the commoner. 3 Ab. 300. The vouching in you, &c., must, therefore, be to the commoner a party to the record which enable him to defend to the commoner at the commoner's 2 Bell 396. Gilt 28 V. 28.

I assume that the commoner ought to be in his own security to vouch in the quarter; he is however under no obligation to do so, and he is in effect for defending the whole as his quarter. But if the commoner is not vouch in, he is not conclusively by the judge given against the debt. For the question of the judge shall give the same force from it in himself notwithstanding the necessity, 606 if he inserted in. Whether he appears or not he is to be conclusively by the judge. Gilt 28 V. 22. 1 Bac. 532. Bell 396. Duke's Ev 39.

In case of notice of suit or service upon suit as well as a complaint and as well when the credit in question is a chattel as a personal. I have no reason why the rule should be limited to personal as in Eng. 1 Part 165. a. 1 Bac. 523. Prince's Ev 39.

The particular form of giving notice in Eng. practice I am not acquainted with, but ours, which is substantially the same, is by a species of summons giving from the court called a writ of summons giving notice of the existence of the suit and notifying the commoner to appear if he please & defend.
Dread claimants derived on as they are now usually called in law, contains nothing of their covenants of which I have been treating. In short, claimants within this, sufficiently or substantially, do not a quiet claim.

It has been said determined in 1 Cor. that the quitclaimant might be more liable in an action of quiet possession than in a suit to quiet title. (Salman v. Sherwood) in 1 St. Tr. 278, it was determined that it would not lie except in case of a conspiracy for the purpose of depriving. 2 T. 254. 128.

in 1 Cor. the rule is the same in effect, i.e. it is said that a purchaser of land or other estate must protect himself by suit. In it is said any purchaser must not to the title deed, for on that he is only only, with right, insurance to title or quality or must exist in covenants. It not only in an action of ejectment for fraudulent representation as in the case of person al chattels. Sci. 1 Cor. 118. Ap. 10. 196 380 3 T. 30 Report 51

It is seen, however, that the rule is not fully to that in 1 Cor. for by St. Branden the contrary doctrine in Holden, i.e. that action will lie for a fraudulent misrepresentation which the warranty or suit was not not made at it never done in quiet claims) when the seller concealed the instrument or fact which occasioned the default in case can in encumbrance to which the estate is subject. 1 Inst. 384 a note. No. 34 1 Cor. Dig. tit. 38. Chad. 5 sec. 5.
1 F. 366. no obligation. 393. The authorities
go to show that an action on the case in nature of an action of ejectment may be maintained in such case.

During the

age for land speculation in our country some years since

this was a great deal of fraud practiced. Parties went over

titles when they had none & to induce purchasers to take

their words made many frauds. But misrepresentation

to the value & situation of the land, I draw

maps of house, streams, etc. that were run in fas-

tice, carefully drawn avoiding covenants which

would subject them.

Now admitting that the Eng

is correct, I am inclined to think that such

an action ought to be maintainable here. In Eng-

a man must not be deceived unless he shows it. But

the values of our farms cannot be explained by any purchaser

the survey of information is so few that opportunities
to dispute so summary that in my opinion

good policy requires that such actions should be ref-

ported, unless we cultivated land or continually in

market and it seems to me that such rules should lay

the foundation of action for precise as well as titles

of any other property. The situation of Eng is clearly
different in this respect & the rule may meanfully
be different.

Then is another sphere of covenants that requires some
trust covenanted viz. C00 to pay money

by installments

On this condition for the life
of an aggregate sum of money by installment debt lines when a breach in any payment of the first installment of the debt occurs, the whole penalty. 1 Alb. 113, 1 Me. 80, Gla. 518, 814. Co. 3, 558. Co. Dig. 205.

Le Cote lays down a rule directly to the contrary in 1 Inst. 476, 297, 10 Co. 23. 6 or 128. 6. When however the words are used, and it is to understand or referring to a single bill 1 Mile Bl. 548. Co. Dig. 205. Bull. 111, 668.

Indeed the very structure of the bond shows the rule to be correct. The bond runs thus. 'I, A. B. acknowledge myself jointly bound to pay to C. D. in the sum of $1,000 or thereabouts, an absolute debt, payable instantly, in the condition it is provided that if A. B. shall pay to C. D. $100 at the end of one year, $200 at the end of two years, &c. then the debt is to be void, and under another condition than pay &c. accordingly to the terms of the condition con the obligation to void. If then A. B. cannot to pay &c. the penalty is forfeited, &c. &c. in the grounds on which an action of debt lies for the first payment.

But with regard to a single bill the rule is self evident, for upon that debt which is the appropriate act to the money that is to be paid, the whole installment has become payable. 1 Bull. 601. 1 Inst. 476, 297, 10 Co. 28. Co. Dig. 205.

Thus, 'I, A. B. acknowledge myself jointly bound to C. D. in the sum of $1,000 to be paid, the $100 in one year, &c.' for two successive years. Then the aggregate debt of $1,000 is con-
ten times indivisible since there cannot be the action of
writ in this contract, the agreement is to pay $1,000 and
this is no condition annexed to accelerate the payment or
to create a forfeiture of it. If there was it would of come
within the first rule as to penal bonds.

By our statute
as to suits on penal bonds, conditioned for the payment
of a debt at several times or by instalments, the court of
courts are allowed to change the penalty, so that the
Duffy means only his actual damage. Thus, if Duffy
for the first instalment, he loses it, but in no case that
alone. He may then bring some process on that part
whereas execution for the other instalments as they become
payable. This however is a new statute regulating is
contrary to C. & L. 40. Con. 35. 6.

But on the other hand
if rent is reserved at so much in advance, payable known
by quarterly instalments, an action of debt in for
each respective payment, in other words, an action
will lie at the end of each quarter. How it
may be taxed what rent, there is nothing the difference between
paying 100 of rent by instalments, of a single in the
same sum annually, an aggregate pay 100 of a partition
plan seems to be completed on each at the end of
the year.

The difference is this, the aggregate sum in the
single bill constitutes an entire indivisible debt and
is plaintiff, but rent is considered on the ascertainment
of a part of the issue of the land, which shall have
been received at the day appointed for pay. The year is

only a measure furnishing a ratio or proportion. But
the great leading difference is, that the quarterly re-
vision, as in the nature of distinct debts, do not all
logically constitute an entire debt as in the case of a sin-
gle bill. Indeed, if such payables quarterly could not
be collected when due, that which is payable yearly
by a term of years could not be collected yearly,
but the whole must be collected at once at the end of
the term, which would be extremely inconvenient to
shippers. 3 Co. 22a. 106. 128.

On a court or note for the pay-
of an aggregate sum by installments, an action of court
bond or art. will lie when the first installment be-
comes due. 40. fol. this quarter. But on the other
hand a suit on the court or note will not be quitted
the last installment becomes due. Co. Eliz. 175. 77
(6). Co. 24. 105. 3 Co. 22a. 24. 160. 8 ib. 153. Hall. 165
Gib. et al. 166. 1 Hen. 3. 5 7. cont. the front hand-
ele of the note. Co. Eliz. 118.

The rule you perceive is different
as to suit on formal bond or single bill $ in notes or cov-
arranties. On this subject there is a great deal of con-
parison in the books arising from want of judge
language, thus appears to be no discrimination
between bonds & single bills or between court
notes & single bills. no way peculiar to claims.

To repeat the rule thus. On a formal bond condition
for the pay $ of an aggregate sum by installments,
action will lie on failure of pay $ of the first in-

Statement and the whole penalty will be recovered. On a single bill, debt will not be until the whole bond or all the installments have become payable. In such a case, an action of assumpsit or suit on a bond will lie when the first installment begins payable. The same rule is applied in each action that which is due at the time. But debt will not lie until all become payable.

The difference in these cases arises from the form of the action at law in different provinces. [Assumpsit] is brought to recover damages or the loss actually sustained at first sight. But debt to recover certain sums in money. Assumpsit is brought in the case of a personal bond when suit lies on a suit in assumpsit only for the recovery of the whole debt. But debt will lie only for the recovery of the whole debt. Not until all the installments are due. When issued in the case of a period bond when suit lies on a suit in assumpsit to pay the first installment and the whole interest. [Assumpsit] at that discretion would be clear and would amount. An action of debt on period bond was done in an action for the recovery of the penalty of the bond which became due if the failure of payment.

If there is a date note to pay some sums at different times, then being no aggregate in the case it is clear that an action of assumpsit will lie for the first payment so long as. Thus, I can claim that suit would lie for such successive pay! the 3 years of our suit action. Thus, I cannot claim to pay 13. 100.
1 Jan. 1818. 8 $100 on the 1st Jan. 1819. etc. Now these are not proper installments of the same suit, that is, no aggregate suit. They are in the nature of an independent suit. That contract would be affected only from the formal suit you may set down. Bull v. R. 168. Cor. C10. 746. 807. 118. 1 Penn. 370. 557. 1 Penn. D92. 15.

Thus being no aggregate in the one it cannot make no difference whether the obligation to pay the one whole sum or in an instrument or in two or ten. The difference between the two cases is that in the first suit in the former, an aggregate suit divided up into several payments, each sum in that suit constituted an independent suit, whereas the case is precisely like that in which a covenant to pay $1,000 per annum or $100 on each 1st of January that is to follow for ten or ten years. For this reason, I think that clausula in this case for each payment it becomes distinct for this as I before stated. I have no authority.

A clause in a covenant that on non-payment of any one installment the whole suit shall immediately become payable, is not. E.g. a suit to pay $1,000 in ten annual installments, with one附加 stipulation that if per annum fails to pay the first or any subsequent installment at the time appointed, the whole sum shall immediately become payable. Chut. Bills 412. 213. In Co. Litt. 505. this appears to be a different opinion without that the rule I have given to be correct,
Of the rights, liabilities, of the representatives of the original parties in the covenant.

In the language of the C.K. the personal representative of the estate of the deceased must be an implied in himself, the meaning of the rule is that they are bound as matter of course, without being answerable by them after suits by which he himself is bound. This rule however is not continuous. 1 Read 549, 14 a, 211, 177 1 Port 6, 125.

Fiduciary contracts are exceptions to this general rule, e.g. when there is a personal confidence reposed in the original or party contracting, as in case of an instance of a trust in the matter of the contract to instruct the agent of the master in any day, the representative is not bound to instruct the agent for he may not be capable of doing it. The personal confidence was imparted to the master as to his capability which is not transmissible. Co. 3d, 553, 1 Sis 216, 2nd Dig, Co. C. 1, Dells 269.

But the personal representative of Co., is liable even in case of fiduciary contracts if the contract were broken in the lifetime of covenantor, for immediately on the breach of the contract a right of action accrued to the Co., this claim is an against the personal funds, even as the represents the interest of the assignation of the estate in the covenantor or even of the administrator of his estate, manufacturer or liable person can be held liable even in a suit chattel. Co. Dig 31.
As an ancestor exists on the day that the heir sold it by a court. 
Thus it at the court must to money loan take at a given time it dies before that time. 
Cf. 213. The court will compel the heir to perform the covenant. In such the case, 
money will go to the Ex 34.20.33.213.

Indeed it is a quit rent that court real kind the heir 
of court. For on the other hand deliver to the heir 
of covenant. As in the last case if covenant shall 
die before the time of performance. His heir must 
perform the court. Deut. 14.31.15.2.11. 47.50.2. 33.83
Ex 12.19.4.7.4.

But the heir of the covenant may sue 
upon a cord and the not money in the court of the 
court. Moses with the term was intended to continue 
after the covenant broken after covenant death. 
This is our law covenant with liver that he will have 
the bond discharged in reins before the expiration 
of the term the liver dies now if at the expiration 
of the time the performer sue out of pay 
the heir of liver may continue swear on the court 
up to liver. For as the breed a happens after liver 
death, the heir is the person injured Lev 25.2.3.
30. 1 Sam. 14.1. Ex 12.4.5.

Again. If of court.

with Lev 25.4.7.3. The liver is for quiet enjoyment even in a 
court, and as of our inheritance. The court is 
holding the life times of liver. The 25.5.7.3. The liver of liver 
hath no end in the court since this is the ear even the live 
25.4.7.3. was not named in the court. For differences.
between the two cases last stated is this. In the former the
estate was not broken until after the death of the
coT, so that
the heir alone was injured. But in the latter case
the life B became entitled to damages during his
life, which damages if unaverted would have gone
to the personal fund to increase that part fund
given to the C by virtue of the action done to recover it,
and the question is as to whether A had any
right to sue under the title of C as the land. is one.

The law of
court, the next named is always liable for breach
of the contract during the life time of the court.
the rule here without the court is a real one as a con-
trary distinguished from a personal court. Thus allow-
ed conveyance to B with court of oven estate, it afterward
it is discovered that he had no title, now how the
breach of court had taken during his life for it is taken
so instantly it is made. This B is liable or may be
liable for the claim of damages accruing to the
court (B) which was apt his personal fund if the
claim been enforced it would have eliminated
the personal fund, which by the death of the
owned into the hands of his heirs the action on the court
rights therefore lie apt the B. In some cases this action may
be brought on the heir at law.
Now the court cannot reach the suit as such, but not otherwise. For by the first part of the first proposition of cost, an implied lien upon himself. This is on the principle of priority of suit, the cost being required. 1 Pet 5:17. Com. Dig. 68 c. 651. Eli. 553.

But on the other hand, on a suit in law, it can extend not. The Equ is not liable if brought after the commonalty statute; e.g. for a breach of the contract. From there, the court can give great damages to. He is not liable the commonalty court. He would be liable. For in this last one, there is a priority of contract extending to the suit, as such, in the former a priority suit. The right of recovery upon does not a priority of estate, but the right has more the commonalty suit to the suit at law. It follows then that the Equ is not liable for the extensibility follows the suit into the hands of the suit. Co. Eli. 157. 1 Pet. 5:33. Eli. 257.

If an Equ or any come into pot of a lower time
in years in his suit, he may be considered to be grants of the time, it may be similar in such produce, but in the suit. For he is virtually as any by that.

If law, and is liable for breach occurring during his continuance in pot, on the ground of priority of estate. 1 Pet. 5:17. 1 Peth. 3:9. Est. Dig. 296.

Of the extensibility, the suit of the Commonalty. It is a great rule that if the suit is named in the court, has not affect by another, he is in liable for breach of suit within before or after suit, affect to the suit.
of those acts but no further. 1 Tert. 357. 1 Post. 365. 370 
373. 384. 2 Be. 378. Esth Dig. 294.

I would here observe that it is a rule of practice only that to an action ag it the him 
at law for a breach of contract of his ancestor, infancy is no bar for the son is not sued upon any contract 
of his own, but when that of his ancestor who was 
sui juris the account to make personally liable, but only as to the property which was 
rendered to him, I on that account 4 T. 457.

In horn the 
it makes a difference as to the liability of the son, and 
it is one of those determining many years since, that the 
son at law as much is liable as law on his ancestor 
cost of unwritten in the contract it has expressly 
presented. The principle of this seems to me ques 
tionable. It is a good old rule, the law is controlling 
from 1 1 T. 457, may sue him on the right at 
this election. But it is contrary to the genius of our 
statutory law. As the cost of unwritten is broken during the 
life of the ancestor I should think the law could 
be liable, for it is the duty the inclusion duty of 
the personal right to satisfy all outstanding claims 
against the deceased. The law points out the que 
mates. It is to be done since in the case of the court of 
Probate. If the law is made liable it changes the 
whole system. I submit that at 1 T. 457 the law shall 
that it makes no difference whether the breach be 
found before or after the death of a son. But here that 
makes it the duty of first notice & afterward on the
for that the decision cannot be correct.

As to breaching of the estate of community when the breach happens after the death of one, there can be no doubt but the heir at law is as much liable to the rent as if he had lived, for he is estopped, as does not interpose, but leaves it as at his life.

Of rents, which run with the land as collateral rent.

A rent is said to run with the land as collateral rent when the obligation created by the tenant is the right of the interest as to exercise upon thereof the rights or in other words, it passes with the title.

On the other hand, those rents which do not run with the land, we do not help with the interest in called

collective.

Out of this distinction there arises a diversity as to the liability of the assignees upon rents and in conveyances.

The first point here is that the assignee of a lease is liable for the breach happening during his own relief or time even the not named provide the covenant with the land. But if the covenant collective the assignee of not named is not bound.

1 Fance 345.

In exercising this power in what case, the obligation helps with the interest being what not of this it is essential should be understood.

This first to
be observed, that when the thing committed to be done, or concerning which something is committed to be done, was committed at the time of making the contract, out of the subject committed about the contract with the land. This is done in some court, where a contract runs with the land, or house, for material to something in effect at the time of making the lease by the house. And if the above statement to be done would be liable for all breaches occurring during the time of the rule holds the thing committed to be not committed in the court.

(Not shown)

According to the statement, it is not in effect at the time of making the lease, still in legal language it is explicitly in effect for the land out of which the rent is to flow, practically in such a way, so that a person is liable for what rent occurs during the time, by Col. 3:23, More 357, Bull. et P. 157.

But on the other hand, if the thing committed to be done or concerning which something is to be done was not in effect at the time of making the lease, or was not part of the subject leased, the contract is null and void of course according to the distinction above, the assignee is not bound by such contract unless moral or in some case of nouns. Thus suppose B to the same

contract to be done or house the same by a certain time it is the same time the assignee to B. Even

(Not shown)
liable in law named for the contumacious to different to a thing not in app at the time of the land but to be created afterwards. 5 60 16 2 Run. 12 71 3 T. 123 P. 7 P. 552 1 Bae 5 34

On the other hand a court which goes to the support or preservation of the thing does not runs with the bond or the assignee is bound of the not named of this description is the court to have, but not a court to raise a new binding.

So it like should con

sent to have any one or many cases of bond un

titled, the court would run with the bond for its

power to its preservation. In that should assigner

though a greater security than was stipulated

his would be liable. 3 H. 233 5 60 17 18 22 4

Cru. 26 125 Papy. 303 2 Vint. 228 232

In laying

above the two first great sub jects Hobart

1 that the assignee of a land is liable for breach occurring during his possession whereas an not have

voided the court runs with the lease 2d But if the

covenant is collateral we do not run with the

land if the assignee is not named he is not bond

for such breach

3 When assignees are named they are

obliged to quit and to perform all the covenants within

they run with the land or not. 5 60 16 6 1 Bae. 534

This it was 13 13 covenants for himself of assignee

he will build a wall within 15 years. and Baker
such breach, only as accrue during his own shop or continuance of his title. If the breach has occurred before he is in no case liable at law to be removed but must be had to the original lease, the assignee not having had at the time of the breach any title or interest. 2 East 575. Nott. 60. 177. Godt 179. 3 Bun 177. 2 Doug. 386. 1 Torr. 356. Doug. 242.

The obligation of the assignee is founded in hurt of estate and he is bound because in title, the interest to which the covenant was attached of course his habitation can be continuous only with his interest it cannot commence before nor continue after that interest.

Since if his corvée to build a house within 10 years, the term having passed since the corvée not reenforced if he assigns, the assignee is not liable at law to remove the breach had occurred or the right of action was complete before the assignee's interest commenced if one.

Again an assignee is not liable at law for breaches which accrue after he has assigned or transferred his interest to a subsequent assignee. And so far is the rule carried that if the assignee the very day before the rent became due he is liable for no part of the rent. Cowte 179. Doug. 735. 6 Co. 22. 1 Tall. 81. 31 Dow. 159. Bell. 159. 24 H. 74.

The reason is that no part of the rent is due until the pay day arrives, the whole aggregate assessment accrues on that day I trust the
minute, justice is due before. They are known and not affect the lesser. For it is liable on its own
promises to hang until it is not paid by the assignee
at any distance of time.

The rule that the assignee must liable for as much of the rent occurring after an
assignee to a subsequent assignee is so strict that
been so rigidly construed that he is not liable to
he assignee in insolvent, because due to some opinion
allows even for the very promisor of assignee and the
assignee, the principle is opposed to our understanding
that if by assignee is a dog, you by a known consequen-
ces, it would still be considered as the principal
subrogated at least in the weight of an entire known
I think is the other way. ibid. 485. Sta. 1221, Rev.
12, 166. / B K. Bull. 22. / The contrary is true that
by personal will not protect an assignee ibid. 329, 331.
by the assignee may be reduced to satisfaction
would be just. It seems however to be questionable
how could guide them to a continuance of
prefer to a new convey

And if assignee should

begs to a firm court, who cannot bind himself
to the pay of until the rule is precisely the same.
ibid. 485. 485. —

The reason is that the assignee
is liable on the ground of honor of state only, but none
its of continuance and these are liable as if your appli-
cation attains it sometimes lose the bond once.

It seems

known that a sort of will enable the assignee...
to account for the rent during the time that he was in possession so that if the subsequent assignee is insolvent the assignee may be compelled to pay the rent.

1 Tint. 351. 6. 1 Am. 87. 5. 165

Whether a court of law can in any circumstances restrain a lessee by injunction from assigning to an insolvent person has been deemed but not settled. Whether the assignee could after a court subject it to another assignee, it seems difficult to discover a principle for such an application, it would be strange to say that a man should not assign his interest as he pleases because it might be injurious to a third person deriving from the assignee in the books, or from a doublet with Ch. may not do it. 2 Tint. 119. 1 Tint. 351

If the assignee be entitled to half of the premises or subjects, denied the may be compelled at law to pay rent for the residue of which he remains benefited. For this purpose the rent may be apportioned. 2 East. 575

Why then it may be necessary the rent be apportioned or rent is payable annually to the like assignee at the end of 11 months, he be compelled to pay 1/2 if the rent the person is before given no part of the rent remains until after assignment, but in the last case when the assignee is entitled to half, he remains in the right of the residue until the day of payment, and therefore the rent may be apportioned in a court of law.
So also if the owner be entitled to a half of the
income derived as of 50 acres out of 100, since
he may be compelled to pay rent for $250 per
acre of estate, the court cannot in equity
hear 360 22 a 16. 2 20 575

The nature of this diversity is that debt for rent against lease is assigned
is found on privity of estate, whereas in the case
of assignee continuing as to $1000, whereas cost
herein is found on privity of contract merely. I am
entirely convinced; for as a personal contract cannot
be apportioned, but in debt the party may be sub-
ject to no trouble.

It was formerly decided whether a cost, by a lease not to assign even in form bind-
ing upon him, it being supported upon a purchase
the nature of incidents of such an estate. That
doubt is now removed for it has been frequently
decided that such a cost is binding if the instru-
ment be properly formed the estate is perfected on
the breach of it it reverts to lessor. 2 Eq. 60. 108.
3 Mils 237. Corp. 133 805. 8 T. R. 57. 60. 800.

Such

a covenant known is taken only by a voluntary
assignment on the part of the lessor, if then
the interest is taken upon execution by lessor
creditor, the cost is not taken. This is the con-
struction universally given to such covenants.

the law acting in reversion. 2 Eq. 60. 108. 7

85. 8 T. R. 57. Stolz 282. 3 Mils 237.
In such a case, broken by an eventuous clause of part of the term, i.e. of the unexpected event of the term for that is not in legal language an assignment.

Neither is it broken by a devise of the term to take effect from the death of the devisee, although it is voluntary for it must necessarily go to the left.

or legacy, though such devise is no violation of the cost. 2 Bl. Rep. 766. 3 McIre. 234. 8 F. Rep. 59.

Indeed it may safely be laid down as a general rule that such covenants are not broken by any assignment, effected by mere operation of law as when the party commits an act of bankruptcy, felony or treason or becomes an alien enemy. For the court is considered as contemplating voluntary assignment only.

I have considered the cases in which an assignment is liable to be void, and I have further to show that the lessor continues always liable on his re-assignments, even after an assignment, the liability of the assignee notwithstanding. You perceive that that assigns the lessor can create a relation which may subject the assignee, yet he cannot exempt himself from his own re-assignments, as when he stipulates that part shall be paid or repairs made at all events. 360. 22. 3 Rep. 120.


But if the lessor has accepted the
as his tenant as he may do so by accepting suit of him &c. he cannot afterwards maintain suit for rent ag. the assignee. Upon because suit for rent is ground upon privity of estate with his tenant, concurrence with that of the lessee to determine the privity of estate between themselves. As R. 334 360 U. S. 181 S. 182 U. 239 444.

But when there is no repos session or to, the lessee for payment of rent he is liable in court, whether for rent or for the lessee has accepted the assignee for his tenant; for him the cost being repossession the privity of contract remains, and to the privity of estate is determined by the acceptance. As. Sec. 304 522. Civ. Code 188 1 Sec. 4102 407 1 Sec. 237. Bull v. R. 157 1 Pont. 354.

But when there is no repossession or suit the lessee can maintain an action ag. the assignee lessee for any claim of failure whatever after he has accepted the assignee as his tenant.

If then he has accepted him he cannot suget the assignee lessee in any form of action whatever, either cost, motion or otherwise the implied cost for this suit is founded in privity of estate which the lessee joined with the lessee to determine. I am speaking here you will observe with reference to subsequent branches as to that which occurred before the act. In must remain as he was liable. As R. 552 144 315 243 137 1457 note. 360 22 1 Pont. 354 1 Sec. 324 1 444 241 6.
I should have sworn by way of explanation of terms that the lessor may accept the assignee as a tenant not only by receiving rent of him, but by expressly appointing to accept him or by any act which shows such an intent. 1 Term. 136, 1108, 1158.

When the court, for rent is refused so that the lessor's liability continues after assignation, the lessor may recover his money on the court, agt. the lessor & the assignee at the same time in one action, i.e. he may sue either or both, but he can enforce only one execution or both so as to recover more than one satisfaction to the amount of the rent, wth costs of both suits. And if after satisfaction on one execution the lessor, the assignee, receive for costs, the party may be relieved by another execution and discharged in pay to a twelve of costs only. Co. L. c. 323.

I would further observe that by Stat. 3 Will. & Mar. 3 which is an abolition statute, primus facie binding him, the grantee of the lessor or of the reversion or reversionary called the freehold interest in the terms, running with the land, in the origin, lessor himself had a conveying to the distinction above taken, for being placed mainly in the lessor situation. At b. & it was supposed he had

This right.

And by the same Stat the lessor shall have the same remedy agt. the grantee of lessor as he had agt. the lessor himself according to the distinction above taken. i.e. precisely the same
In explaining the liability of the assignee of a lease I supposed that the rules subjecting him did not return to a derivative lease or subtenant. The difference between them I do not explain.

An under tenant or a derivative lessor is one who takes a conveyance of only a part of the underpinn estate for term, by mere consideration as an assignee. They suppose it lease to 13 for 20 years, at the end of 10 years 13 assigns to the whole to 16, then 16 comes in the place of 13, it is an assignee, but if after 10 years 13 has made a lease to 16 for 5 years or any other time short of the whole underlease would have been a derivative lessor in that assignment. And a derivative lessor may take the whole underlease of the term it still retains the character of a true lessor, provided it takes as tenant to lessor, not to lessor. So that the definition of a derivative lessor should be amended to take a conveyance of only a part of the underpinn estate of a term to the whole as tenant to lessor. Doug. 174, 5 Bl. Com. 234, N.Y. 736, N.Y. Rep. 766.

I again observe that such a derivative lessor or under tenant is not bound by the rent in the estate base as an assignee would be according to the rules above laid down.
The reason is that as between him & the lessee this is no priority; now of contract because he was not a party to the original covenant, now if estate because he holds under lessee who is his reversioner from him. 

The rule was formerly

h Bengal to the same as to the mortgage of the whole residue of the term unless he took lessor, i.e., that he was not liable upon the covenant of lessee who was his mortgagor because he took only as an instrument to act as a purchaser. But it has since been decided that the mortgage of the whole residue is liable on the covenant strictly as a purchaser, whether he be in possession or not.

For the old rule see Doug. 438, 1 Nev's Eq. 114, 1 Earl 502, 31 Vtg. 235, on the trust of leasehold.

From what I have observed you will perceive that the difference between an assignment for value so called & an under lease is that an assign is a sale of the whole of lessee's interest, but an under lease is the creation of a tenancy under the lessee. The assignee is a tenant of lessee of them in a priority of estate between them, but the under lessee has no such priority with the lessee. Of course he is not bound by the court in his favor but the lessee might be. See 205 3 McI. 234, 2 McI. 760.

The assignee so called is liable according to the distinguishing statute later.
whether the act be by word, devise, sale under 6 1/2 or as it would seem by any other mode of transfer by operation of law. Thus if life or becomes a tenant under his lease is also facto transferee, so if he dies it is assignee by law to the 6 1/2 or act. It seems to make no difference whether the transfer be by operation of law or the act of the parties. Doug.

It has been made a question whether an assignee of part of the subject of a lease (not of the term) is liable for rent on any part of it, as in other words whether the rent can be thus apportioned. Thus a lease 12 1/2 acres. 11 acres 6 1/2 acres. Can it come upon b. for part of the rent? Co. Blis. 633. 766. From analogy to a recent decision it would seem that it might be thus apportioned. For it has been decided that when an assignee is vested with part of the premises he may be compelled to pay rent for tenants in this way the rent may be apportioned. (N. 577) The analogy between the two cases is so strict that I should think the rent might be apportioned in both.

If life or is himself a assignee as long as they shall be in possession or his assignee continues in possession after the expiration of term. He is liable on the estate at that time not strictly life or assignee yet being so the fact is liable as such in the covenant thought to be subject to the same rule and to be allowed to assume the character of
...speak of persons to receive all the benefit thereof unless it to avoid the disability. Plato 287, 2 com Dig 564.

This for of these courts which do the same which do not run with the land.

This is another species of courts which require a distinct consideration. Convent or bonds for they sufficiently in form) to save harmless.

A court to save harmless may. Must, be defined to be one by which the court, compacts to secure or indemnify the covenantor against some loss, damage or change to which the covenantor may be exposed as a court by a principal debtor with his, surety or in a bond of indemnity or counter court.

Secondly then first that these courts are not broken by the tortious acts of another; they appear to be somewhat in the nature of a court for quiet enjoyment which you will produce an not broken by tortious entries and trespasses.

So if the court should falsely imprison the security of covenantor, the court is not of course broken the a lawful enforcement of the claim against the security would be a breach.

So if an aspersion court to save the life of harmless from any claim for rent of the lessee illegally distain, it is not a breach Rule 430. 1 Co 80. 2 co 80. 3 Co 80. bk 443 1 Mod. 274.

In a court to save harmless the covenantor may in
some cases maintain an action aqt. cost. on the ground of his own liability, to a suit, because the cost has suffered him to become liable, and this is usually the ease when the contract liability occurs after the cost of indemnity was executed.

Thus a sheriff takes a bond or cost to save himself harmless aqt. the escape of a prisoner having the liberty of the good graces. If the prisoner escapes the sheriff may bring his action immediately after he has not yet been subject, for he was immediately liable over to the cost whether actually indemnified or not. For this ground the sheriff may sue, the liability being demand in contravention of the cost. 5 Co 24. a. 1 Post 567. 2 Cen. Ref. 55.

So also if a surety for a debt is bound to pay the debt, he takes a cost or bond of indemnity from the principal debtor. If the debtor failed to discharge the debt at the time appointed the surety may sue on the bond immediately, because this liability is a breach. Thus a debtor & his surety give an obligation to pay 1000 pounds in 1 year hence, at the same time the surety is bound if indemnity or to save harmless to B. now if it does not pay the debt at the end of the year according to the terms of it, B may immediately bring his action upon the bond without he has not been compelled or called on to pay the debt. 2 Bulst. 234. Salt. 196.

This subject occasioned a deal of confusion in some years since

---
But suppose that after the morty has recovered the principal, the court also orders the sale of the plant so that the morty is not called on at all the principal only morty is by belief in Eq't. stating the two pay? in at once circumstances that the morty ought not in conscience to retain the money. The court of Eq't. will consider him as a trustee of the money & accountable repayment.

It has been made a question whether int. could not be for the money of the morty. I am clearly of opinion that it would not. For the principle of the 1st, there is no case in which an action will lie when the object of enforcing effect of a morty will be to impinge on former judg. The case falls under none of Chanc. v. Burn 1005. But not apply, there is no case that has been questioned. See 7 T. Rep. 269. I have thought differently. I believe the most question.

The support to which these cases in Burn v. prosecution, is conclusive, but the authority of the decision has been much questioned. See 2 New 424. 1116. What is clearly decided. 7 T. Rep. 269. 1 Decy. 138. 1 New 496. 65. 1 T. Rep. 182. This case you see the simple conceptions that it is not clear. (vid. 3 Burn 135.)

If one having obligated himself as morty takes a bond in uncertainty of his liability as morty has attached the book of evidence on the court until he has been actually shown in fact, this is former case (ibid. page). If it is left to the bond of uncertainty, it is only part of the bond has become due. So too if the debt is owed by single time by any bond by statute or by promissory
note payable on demand. The surety must have been actually conscious before he brings his action, other wise there is an evident absurdity in the law. The object of the bond clearly being to assure against claims that are to arise in futuro by some act of the principal. For if the sureties in the bond could sue on the ground of mere liability, the surety must be considered as having co-instantly that it is made to the sureties in immediate liability which is not the intention of the parties. As &c. 53.123. The situation is clearly laid down in 1 Ball 196. 5 Co.121. 2 Bull. 236. Kent 370.

If the surety having no bond of indemnity is obliged to pay the debt in immediate having main tained Indebit. 24th, against the principal as for money paid out tendered for his use. Kent 370.

And if he has taken a bond, the implied contract of indemnity is requisite in 52. 57. 2 T. & R. 102. 1 T. & R. 579. 3 Mcy. 13. 262. 340.

When there is no speciality taken by way of indemnity, the money of the surety, &c. the principal is upon the implied promise of indemnity arising out of the transaction &c. right of actions in his favour out of right of surety or what is equivalent to it being taken in 24. 1 Mcy. 13.

The same remedy when an implied contract rests to twin sureties &c. contribution when he has paid.
the whole or more than his proportion being
indebted to him and under this condition the
law renders a mutual receivable in civil agreement
that if one is compelled to pay the other the other
contributes that he may receive of each his aliquot
part. 7 10 175 268 270 2 10 233 2 1 day 492 1 17 156

If however that one more than two concur in the only
cause between him is in 8 of 4 because the action
is so complicated it innumerable that the concern
could not be adjusted at least 2 18 22 17 156

You are the rules in regard to releasing of such that
require mentioning. In the case of choses in action gent
as lien after assignment is in some cases good effectual
and in others it is not i.e. in some cases it will discharge
or a discharge in others not.

On this subject the general
rule of discrimination is, that if the instrument
creating a duty is not assignable at law or clean
the mode of assignment will be effectual to dis
charge it.

But, when it is assignable or strictly negoti-
able as lien after object will not discharge it.
Thus if assigning a note not assignable. It assigns it
then gives of a where the note is discharged because
not being assignable the action upon it must be in
his name of course a lien from him must bear
the action.

If however the note were negotiable such a
relinquish could have no effect. For the legal title is
transferred to the assignee or vendee before the
release is given. So that B had no interest at the time
the whole is in C, who is bringing the action in his
own name.

In pursuance of this principle if A, after an
assignment of his revision releases to B, all the cost
in the cause still the assignee of the revision can
recover for all the breach occurring after the A's
interest becoming the release. For the revision is as-
assignable so that the assignee has the legal title so
the action is to lit. in his name. 2 Leav. 205. Co. 6th 333
1 Park. 345.

It has been held determined that a
lessee can suffer his assignee of all benefit in
the remnants in the lease by a release to the lessee
given after his, provided it be given before action
but, by assignee, but not if given after action
but, for by commencing suit a right of recovery
is stricken.

Why such a release should ever be effec-
tive. It cannot convey the lease to the assignee
in the lease, by a release to the lessee
given after it, provided it be given before action
but, by assignee, but not if given after action
but, for by commencing suit a right of recover-
y is stricken.
It is a good rule in relation tocourt as great that
a release from certain to accomplish all that
was good time or of all other demands, such ac-
tions be given before the court, is broken is no basis
for an action on the court, because at the time of the
release there is no demand existing. This rule
such a release given from a life to life or who have
entered a covenant of warranty that the life is after
ward voided.

So too of a covenant to build a house for
within 12 mos. from month after Receipt to at
which all demands, it does not affect the court.

But a release of all demands, or in being equally good.
changes the damages in the breach
after it is actually broken, and if one claim contains
avariety of costs, some of which is at the time es-ten-
the same and some not, the discharge will be effective
as to the former only. Bull. Am. 78 p. 166. 1 Cent. 292. 5
Co. 10. 49. Salk. 17. 64. 38. D How. 90

But the goods rules before boat down viz. that a release of all
closing demands, yet before court broken does not affect
the court; cannot as I can ever return to absolute
complaints for the future pay of money, because they
create a debition in present and thus actually is
something to be said of something in the nature
of a demand. Here is no difference in this respect between
single bills hand bills & costs. Wherein debt will be
thought the rule does not hold and a release of all de-
mands will clearly release all in conditional engagements.
or absolute instruments to keep money in future.

A return of all costs the receipts before a breach of
sum will do charge a cost of covenants to do
not in spirit or any other cost than all actions
above them.

You will observe that there is a manifest
difference between a release of this kind viz. of all
cost and a release of all demands, according
to the terms of this release in which costs arise directly on the
court. "Release to you all costs" such a release utterly
extinguishes the costs and of course takes away all liability
that cost could occasion upon them. 2 May 518.
Dig. 57. 1 "Cor. Dig. 307.

Of Pleading in Court before. Under this head I
shall write to you the rules that are exclusively ap-
pliesable or at least appropriate to this action.

The deed

be the nature of cost, before must always state
that the Deft's covenanted. By deed. This is an ins-
dispensable covenant because at b. a cost cannot
exist except by deed or a writing under seal: if
there without such an instrument the deed would
be ill.

And this is the distinction to be observed that
when the instrument is under seal, cost before
lies; it is the appropriate action but case or aft
will not lie. On the other hand an instrument
in writing without seal, case or aft. will lie but
In an action of contract, breach is due after settling out the time of the contract, must allege a breach. For without a breach there is no cause of action. Part of the rule in this point of our subject relates to the assignment of breach.

The first rule is that when the contract is good, a good assignment of a breach is sufficient: on the assignment of a breach may be good. This rule will hold as to pleading. Performing. Thus if grantor covenant'd that he was will and it is sufficient for covenantor to allege laying of breach that such act at the time was not will but void, in the words of the covenant, with a negligence.

So if our contract to buy or sell certain articles within a certain place time, simply saying that the time had passed to succeed persons at divers times within the period stipulated is sufficient, without specifying to whom. Oct. 176
2 Ray 478. Salt. 139. Esp. Dig. 298.

The most general way of a breach is in the words of the court. (This is great is the most easy and better manner of doing.) or in the case of a court of assize, the most general way is that court was not well served, merely negligence of the court. Co. Sce. 369. q 60. 68. Esp. Dig. 299.

The breach must always
be so disguised as to appear upon the face of the record to be clearly manifest within the very words when inter compared with other acts to cut more timber than was necessary for repairs an act that 126 and 245 and to the value of £100 was both not more than twenty bushels talking nothing of the quantity necessary for repairs that is a question of fact the value of timber necessary for repairs might have been £1000 or it does not appear on the face of the record that the cost was certain there is no case of action against the amount should have been that 126 and 245 and twenty bushels necessary value than was necessary for repairs viz. £100 1 Co. Eliz. 348. St. 5. Sorg. 243. 8 Eliz. Dig. 299.

If the plaintiff alleging a guilty breach narrower or qualifying it by subsequent words he is confined to it or this qualified must so confine his proof thus when an act occurs it must be proved in an habitual manner the act for a breach occurring that act had not been the found in any habituous manner the act for a breach occurring that act had not been the found in any habitual manner but had committed waste. If the words after "but" in the act it has been left out of so no qualification is, leaving the last guilt. Differ from a shewn any misconduct a neglect which amounted to a breach but by that qualification he is considered as limiting the breach to that particular mode of using hands in an habitual manner and Differ from waste so here his action. For to this the issue is confined to the only 126 245 supposed he found the act would have
amount. Puff, suppose much bittier if it had been
"def. has not be for he has committed or not."

When this is a proviso in a deed or
ing a tort in a certain event, the Puff must notice
out that it was intuagion it, for it is in the nature of a
defense, of which the def. may avail himself by way
of defense. This def. commuted that he would aline
certain goals by a certain time, but in a clause, provided
he was not prevented by the scangers of the sea. It was de-
termmed that a simple sort of non-existing act in the tim-
place without more was suff. (What the scanger of the
above was no variances. On yes the def. may plead that
the case contains a certain proviso to know that he has
been prevented by the scangers of the sea. For a subject
the case of pleading the proviso is precisely like the condition
of a parcel, it is a defense which the Puff must notice.
time in his deal. No. 65. E.B. Dig. 300.

"But the is not differ-
ent to an exception in the body of a con. For the exception
must be set out it in every. A proviso commuted to a con. is
properly a defense, intended as a defense for the
def. But an exception is a part of the con. it itself en-
tering into the description of the subject matter def-
mitted the def. would be in an dem. This about
to convey to 13. excepting the interest of 3. this is not a
con to convey a good title, without more. It did not intend
to convey the interest of 3. the exception then is only
a constituent part of the con. an omission of it thre-
form would work a variances. If the def. might be dem."
E.B. Dig. 300.
If a cow is in the alternation as to do one of two things the breach must be asigned to in both; otherwise the deck will be ill. Thus when a lessee ass agreed to cut wood without the agent as assigned. If he

so, an agreement in a deed but by lesse, that the

lessee cut wood without his agent, was held in

suff. for the lessee might have cut with his as-

sistent agent that was no agent. A proof of cutting

without agent is perfectly consistent with cut-

ting by lessee agent. Him is so breach upon the next

1 Sem. 230. Esp. Dig. 300

That comments which virtu-

ally aim to ass in the alternation are not always so in legal effect. & in such cases the last sect would not apply. Thus when one court to pay or to cause to be paid, it is suff. to ass that that court was not

paid; without saying nor caused to be paid. For cour-

sing to be paid is in effect paying it may be said

in accordance with the maxim qui posit de

se eviden. that such had caused to be paid would

support a plea that he himself had paid. 1 The 229

Esp. Dig. 300. 301

Again when one court to pay on one

of two contingencies whichever shall first hap-

pen, one ass that one of them has happened

is suff. without assigning it to be the first. This

at court to pay 12 5.45 on the death or marriage of

which shall first happen such an agent would be

suff. because whether it was the first or not is im-

material, so the first must have happened. 2 Kyn. 132. Esp. 2 301.
Once it's established that an act shall be done by court or
his assignee, if an action be brought against assignee the
breach must be made in the assignee. Thus, that
it was not done by the court, nor by his assignee
for the court ought have done it all to the assignee
had not.

But if the act was done, if it were
be sufficient to allege that he had not done it without
for when the act is this sort, it is presumed that there
has been no default of the assignee
there is no such presumption. Talk 139, 23. 22.

The first rule then that the breach must be found in
the assignee is confined to actions against the assignee
Thus a spear cost that he or his assignee will build
a house within 10 y. upon certain premises if the land
is assigned. If after 10 y. action be not, ag. assignee
the court, must be in the assignee. But if against
Spear merely assuming that the cause has not done it is
enough. The next rule that a party ought not to be
obliged to shew anything more than a prima
facie right to require. In not an immediate every

| proposed ground of defense, this court be not pleasing if he were bound to make it contain "to any
| intent in every particular" in the words of Coke

So if an act to make an act to a man & his assignee
to make a conveyance, it is suffit for convnence to
soon that cost has not made the conveyance to him
self. an act is not known & it does not appear.
But on the other hand if the action were not brought by
an assignee, it would be necessary to show that the
conveyance has not been made to covenantors
for an assignee. The devil states the case & of course
our allegation would be consistent with performance,
1 Tulk. 139. 3 Wri. 440. 5 Cr. 133.

In a case for the hire
of a sum certain there can be no apportionment of
demand if the breach must be for a sum certain.
Then when the weight of a ship covenanted to pay
£10 10s. 6d. per ton. the Def. alleges more pay 10s. 11d.
per ton, or 10 1/2 in ton, now the court contains
no stipulation to pay for a fraction of a ton, and
the above allegation is perfectly consistent with the
fact that Def. has paid for every ton. It can
be no remedy without obliging him to pay for
the weight of a fraction of a ton. What if
the court had been to pay after the rate of so
much per ton the allegation would have been good
in the court would have reversed the practice. Phil.
174. 9th Ed. 17. Esp. Dig. 300.

This sort of a breach would
be idle as a matter of fact. But if Def. pleaded to if we intend
of determining damages for £100 he would state a
sum in words the weight in practice he might
in this particular instance take 10s. 11d. for the
result as the amount or rate & quantity of duty in
the court. 1 Tulk. 658. 1 Root. 66. Esp. Dig. 300.
Yesterday explained to you the general rules in relation to the pleadings on the part of the Deft. something remained to be said as to the pleadings on the part of Deft.

"The most usual plea to an action of cor. is that of performance. It has been customary in bar 1st, unusual in the Long practice for Deft to plead that he has not been his own his own. It is intended as a plea of performance or what is equivalent to it that he has kept his own.

I think shown that such a plea cannot be good in any case whatever. I suppose it refers to the very very point of law which may be involved in the question of performance. And if it was competent for Deft. to plead, Deft might reply that the Deft. has not been his own. No direct issue would be joined. It appears to me to be an irregular and inadmissible mode of pleading performance.

2 Vern. 15 b. 2 Mod. 33. 2 F. N. 1512.

The particular facts on which Deft. rely should appear if there was any if more than can be no performance. It seems to have been made a question by eminent counsel in the United States of concluding this act of breach. Deft. says "so Deft. has not been his own." Deft. pleads that he has not been his own. it is said that it is a good plea because it is a direct negation of the act. Upon a complete issue. & T. P. 278. 281. But this pleading is certainly bad on the summons it is not possible it can be a mere conclusion from the facts as to all the facts. 281.

P. 1512.
It is laid down as a rule that when the court in a suit in the affirmation it is competent for the party in whose favor the positive stipulation to do an act or omit an act, and not negative, as to abstain from doing them. Carter v. Epp. Dig. 305. 272. 2d. 71.

This rule however must relate to cases in which the things conspire to be done in some measure indefinite or multifarious or as a case by a sheriff to return all writs, or by a sheriff to discharge all the duties of his office, but such faint pleading is only allowed since allowed in such cases only. Comp. 575. 272. 2d. 71.

But on the other hand, 2d 195 has concerning affirming to do certain specific acts if he pleads performance he must do it by alleging specially performance of each specific act. As if I had sued to impound all the lands of which I was seized on that day. If I sue on that act, it is not enough for me to say that I have impounded him of all the lands I impounded and was seized of at that time, nor that I have kept my costs, but I must plead that I have impounded him of such part of lands I was seized that they are all of which I was seized.

So we see that n. e. cannot plead that he has kept my costs nor that he has seized all the lands, but
that he has paid such a legacy to 13, such an other to the 14th sum that there are all that the will contains. Cro. 88, 74, G. 1 Sav. 117, unt. 1 T. Rep. 152, Cro. Sac. 359, 360, 1 Lem. 303, Litt. 298, 1 Pint. 215.

The general rule then really is that when costs are affirmed there must be placed specially. The other rule first laid down that fees may follow a performance is but an exception to it, general pleading being allowed for the purpose of avoiding prejudice or in the words of the 6th book of avoiding impropriety since unnecessarily tending to the record.

Thus it is obvious that, after a C.P. affidavit has been made, it would be surprising if there were a moral impossibility to say that he shall allege specially all the official acts which he has sworn to the performance of his duty.

Since then are other cases which are similar, thus when a brent error is action with grain thrown out of his heavy, he was allowed to plead it. From necessity in such cases that kind of pleading is allowed. Comp. 575, 1 T. Rep. 753, Civ. Lib. 749. 916. 1134, 1176, 625. Exp. Dig. 385.

And a plea of performance whether a special, otherwise than in the words of the cost, i.e. not corresponding with the words of the cost, is ill or good? Sum. The reason of this rule is that if the plea does not confess to the rule it of course discloses no suit. 1174, 1175.
This suppose an act to be 50%, in a court, to pay off the debts in a will. The phrase, that he has paid such a legacy to B, such as one to B for an, with but more it would be ill, for it is in fact that you may in all the debts given, yet it does not so appear he should now that the specific one all the will contained, which would be nullifying the words of the will.

I show this for a reason of affirmative comments. When on the other hand, some of this court in a case our negative shift cannot perform one specifically as to them. When all our negative shift it cannot perform one specifically as to any of them. But when some our affirmative shift negative, he must plead as to the negative shift that he has not done the acts comments against due to the affirmative. He must plead according to the rule above laid down, for them is a scheme in saying that one has performed a negative shift performance presupposing an act.

If someone shift should plead that he has performed it. Doubtly means that he has kept his comment, since as the shift is effective only in form, not in substantial advantage can be taken of it only by special duenna. Cor. 84, 523. 691. 1 Inst. 503. 6. Court 576. Comm. Dig. 71. 25-6. 84. Dig. 305.

If someone shows some court in a suit an negative shift some affirmative shift negative one in court, shift may plead as if they did not.
exist, do without noticing them many plead for non-rescission properly so to the affirmative ones. As if a suit. When among other stipulations you can't come to court must be inserted a particular kind of breach. By the rule laid down in 44th. Goate you will not set such a suit as illegal without it is a suit not to be done Dudley [1 Sam. 6:11] note 5. Mor. 8:56. 8th 13.

When one court is in the dispensative a defendant must show in his plea which of the two things he has performed as if he had commanded to convey a certain tract of land or to pay a certain sum of money. In much allegian in the plea whether of the two he has performed. [1 Sam. 30:6. Co. Lec. 6:59. 8:56:133. 1 Sam. 117]

And it is said that if the plea is put in without the specific allegations the plea is disbarred. [Note: 8th 5:46:133] 8:25:6. 9:111

This rule does not appear to me correct on principle. For the court is not in the substance of the plea, if it has been performed the court is performed the plea then should be void only on spec's diminution. 4:5 says Macrston who becomes into the best authority. 41 Mac. 91.

When one court to do one act which consists of what is termed matter of law or to make a conveyance or assign a discharge. So must place your mode if not only that he has made or assigned the conveyance or discharge but also in what manner that the court may know whether it is subject in law for the construction of such court.
acquiescence or discharge is mandatory to make all good deeds conveyances etc. Whether it is so, should appear on record. 2 Jno. 305. 107.

On the same principle if one covenants to do an act which cannot be done as to buy, sell, or suffer a common necessity, he must allege performance with quia modo. In this is stated of Low. Lew. 204. Co. 40. 309. 6.

Thus are some rules of pleading which apply exclusively to bonds or acts of indemnity on the part of deft.

But such costs as those to which the deft. may resorting plead non clamamificatio by way of performance, that is, that deft. has not performed in fact. In other cases the move of pleading to costs is not enough, for deft. must plead not only that the plff. has not been clamamificato but also the quia modo in which he has prevented it. On this subject the first

Gen'l rule is if the cost is to discharge or acquit the covenant from any particular thing as contained in the instrument in and as if of a debt in kind or duty de nondone is not a good plea. He must plead that he has acquitted or discharged the plff. according to the terms of the cost, and allege the quia modo can be proved, 1 Plow. 374. 2 Co. 25. 105. 12. 123a. 117. a 1841. 63.

The reason is that as the deft. has covenanted to do a certain act, he has performed or as performance specially according to the rules already given, if thing a no constit. note of


covenants or discharge is mandatory to make all good deeds conveyances etc. Whether it is so, should appear on record. 2 Jno. 305. 107.

On the same principle if one covenants to do an act which cannot be done as to buy, sell, or suffer a common necessity, he must allege performance with quia modo. In this is stated of Low. Lew. 204. Co. 40. 309. 6.

Thus are some rules of pleading which apply exclusively to bonds or acts of indemnity on the part of deft. 

But such costs as those to which the deft. may resorting plead non clamamificatio by way of performance, that is, that deft. has not performed in fact. In other cases the move of pleading to costs is not enough, for deft. must plead not only that the plff. has not been clamamificato but also the quia modo in which he has prevented it. On this subject the first

Gen'l rule is if the cost is to discharge or acquit the covenant from any particular thing as contained in the instrument in and as if of a debt in kind or duty de nondone is not a good plea. He must plead that he has acquitted or discharged the plff. according to the terms of the cost, and allege the quia modo can be proved, 1 Plow. 374. 2 Co. 25. 105. 12. 123a. 117. a 1841. 63.

The reason is that as the deft. has covenanted to do a certain act, he has performed or as performance specially according to the rules already given, if thing a no constit. note of
But whether the cost is general to save honorably or acquit or particular as to discharging a negotiable commodity of any thing not contained in the instrument, not specific as of the damage costs whereby that may occur in such as is not done in particular in good faith. The distinction depends on the circumstances of the thing not being or contained in the instrument sec. 916. 37th. 3, 85. 252. 108. 3, 639. note 384.

The reason why non-damages is a good plan in both those cases is that as the damages costs to change from which the commodity is to be discharged is not contained in the instrument, it is in both cases virtually and costs to save honorably or if insolvency because no exist that any damages costs to change have ever occurred in such a suit. Now how have a plain diversity between the 1st. former case of a cost to acquit or discharge of a tenor or debt or contained in the suit, in which it is clear that I am to acquit you of a certain witting claim but I cost to acquit you of all damages that may occur, do not oppose that any damage have ac-
and others can be no acquittance of that which has no existence. I cannot think for plod performances as make or specially act. Than perfectly fulfilled any code. I should be entrapped by the use of pleading if they require it. I am desirous in things you regard place for it is in effect saying no more than that the Deity has not been demonstrated by that which I engage should not injure him. and as this if any damage has in fact occurred it may be alleged in the application. 1 Samuel. 117. note. Smith. 375. 1 Cor. 1. 363. 4. 2 Lo. 4. 21 Mal. 136.

When now dam! is a good plea if it will please affirmatively so that he has acquitted I discharge Deity must do it specifically i.e. point to the act by which he has done it. because his affirmation allegation implets that he has done some specific act she must thus show what it is. So that tis will not be to plead that he has said! Deity has not been demonstrated 71. Lo. 3 4. 1 Cor. 1. 363. 634. 2 Cor. Eliz. 316.

If however Deity plead in the affirmation generally that he has found Deity has not been demonstrated without showing how the plea is its only effectual claim. In it is defective in form only as in substance. 1 1 Cor. 194. 1 Samuel. 117. note.

ton demonstration is not a good plea to an action on a breach in court? For the layman if money at a day certain
Of joint V joint & Several Covenants.

If any number of persons are jointly bound jointly, they must all be joined as defendants in an action on the case. If two persons are jointly bound jointly, they may be joined as defendants in the same suit or may be sued separately, because they could severally as well as jointly if they may be sued in such actions at the same time.

But if there are more persons bound jointly, they may be all sued jointly or one单独 ruled for two or three without joining all the rest; because this case must be treated as altogether joint and altogether several, and if two can sue without the third, the case is treated just as to them alone as to the third. This is the great rule of distinction applying to all joint & joint & several contracts whatever: no written contract obligations in many cases.
If there are two or more joint commanturns, all must join in one suit in an act or the instrument for if each consents a separate action commanturns necessarily be subjects to as many actions as there are commanturns. 2 Com. 482.

And if in such case one of two or more commanturns sues alone, the non-joint may interplead the non-joined in abatement or upon a joint receipt at law. 2 Com. 1166. 5 Co. 186.

If one of two joint commanturns die, his estate or personal right can neither own alone nor join with the survivor in an act, upon the cost, the entire rights of surviving survivor to the survivor. He is liable however to account with the right for the estate. This rule is common-law action on contracts. Co. 8 B. 729, 1 East 467 1 Bl. N. 125.

In some cases where one commanturn with two or more jointly, personally, one may sue alone, in others, all must join. On this subject the rule is that if the estate of the commanturn appears to be several they may sue separately but if the interest is joint they must sue jointly. Thus if a man by one title owns and have held men to eat which were to B. L. Smith, both to each of them as to the whole that man, good title, each may sue alone. Because the interest appears distinct. Provided it is not a share of one entire but to each as and if separate from the same being separate to hold alone it is no injury to B. 5 Co. 818. 19 Ch. Lem. 47. 3 Co. 168. Bell 1 D. 18.
So also in a suit to pay $100 to be equally divided between them each may maintain a separate action, i.e. each may sue for his $100. And each may declare upon the costs as having been made to himself without meaning the other for in legal effect it is a distinct suit to each for $100. For att'hs both co'ts in this same suit up to the subsequent words make their several bills may be so declared as to each may stand on the costs as it is w'rn for his pret'ion. C. & S. 729, 76. 519, 532.

That att'hs the costs can both in one st & subject to be assessed as well as joint, still if the interest of the co'ts' affords to be joint they must all y'rs in the action, as if $100 w't $20 to pay to them or to each or either of them $50 without the words to be equally divided between them.

$20 must sue jointly, for they take jointly in purs' of law. So then if an binds himself to two co'tes jointly he su'y in an st & if their int'rest affords in the instrument to be joint they must sue jointly notwithstanding the introduction of the words of severalty. (You observe the suit is suit as it relates to Cost & co'ss'mator, 729, 16. 19. 519, 262. 18. 532. 1 & 299.)

From the rule already laid down it follows as a corollary that the co'ts'g'rs, ten. may in all themselves severally take so much. For the same thing yet co'ts'g'rs or co'ts cannot have suit eight, if any, for the same thing. For att'hs two persons may in suit in suit, action for the same thing yet the policy of
of the law will not suffer, as it ought not, and form to be made twice for the same thing; * * * 19.

If two or

more persons commit jointly and severally each may be sued alone for the default or neglect of the other, at the same suit; and not for both, because each is in the nature of a security for the other. Thus, if two be bound by themselves jointly and severally to pay debt, and one of them fails in security, the other may be sued alone for the debt as if he had nothing. So, the other may be subjected by mortgage upon the land. So, if it should come that it should be a certain debt, he may be subjected by the default of

That in that case, when one of two persons jointly

severally bound is sued, if the receiver of the other, in the suit, shall, in answer, say, that the other is not liable until the debt is performed or pay made, the court shall, in such case, take an O. & T. of the matter, and is responsible at all times that pay shall be made to all proceedings not terminating in payment, or sati

faction one no-bail to future purposes. & 6, 14, 16 Geo. 1, c. 73, 84, 3 Stat. 257, 5 & 60, 86, Chit. N.Y. 124, 182.

I have already observed that if one of two joint obligors or creditors the E. of a debt of the deceased cannot bring an action nor join with the survivor. So, if one of two joint obligors or co-def. due the other surviving, the liability of the survivor, though of the demand, is not at all liable for as before he had no right to have him, nor liability, but if he is sued
t compelled to pay the whole, he may allege that right to contribute.

On the other hand if the coors be joined to personal or to them bound by it it can dis the other sur
riving the right of the avert are liable at law not jointly but as upon a new est contract by whom av
on in the characteristic of two separate contracts. 1 East 1044.

If two persons are "jointly or
ecially" or thế who of the one person is considered and or the other is considered as a party of the e
if the other is not allowed any form of action the 76 Conn. 83 6 New. Biles. 185 6.

If one of two joint debtors be made to the avert the obligation is at
same united in tota as to both. If one of the debtors by virtue of his right is liable for the debt the avert is considere
ar of himself. The law will not allow him to sue in his capacity 8 Co. 136. Fall 80 1 East 114 6.

That act is an order. In this case however a court of 51 will compel pay a performance in favo
or of an debtor to a creditor of avert is, but not in favor of his own right or voluntary claimi
owing under the state of distribution. but this pay is compulsory only when the debt is large or cannot be paid without it. 1 21 40. 9 160. Co. 64 37 3
2 Pom. Cm 254 5. 9 Mod 62.

The reason why 51 will
But if a court or other instrument begin that, I must or promise it is signified by the, it is sent as well as points,
whereas if it begin with 'the' without 'of' secondly, it can, point only. When I am sent it must be taken distribu-
tively, indeed it is impossible to consider it point morally.
Comp. 832. Prakt. ed. 130. Ch. Ch. 175. Item 71, 809. 2\textsuperscript{nd} Aug. 1544. 5 Prun. 2611.
Action of Account

When there are counts of Chms this action is in quittance of use in
bom known as it is still at the receipt

The action of ass't is founded on express or implied contract that one who
has use of the property of another to ass't for will answer
his account for it. If he does not answer it this account
for.

If his ass't C.L only say "guard" in S.Bails, Baits,
thereby & thy being received for each other between
persons c. Merchants. Mat. 4; 11 Car. 16. Co. Lit. 17 10 & 20
Act. 117 61. Mat. 25; 8 1 Law. at 13. at 1 2. 1 Com. Acct. 16.
By st. 4 above the ass't is re-issued in favours of one
perpetual & t. in cases & every other as Baits before
this st. The action lay not in these cases. 1 Bar. 17. 1 Inst. 171.

At st. 6. if the ass't lay between the same parties only
not for a court & then recover'd upon former or such
justice as one party was subject against the
other disbursements. 1 Com. 12. 1 Inst. 59. 90
2 Id. 114. 3 Id. 117. 1 Bar. 17. 1 Com. 88.
There

There

There

There

There

There

There

They by the laws recover'd.

4' Writ 2 c. 13 Ed. 1 & 25 Ed.

5' of 31 Ed. 3 which are material to show that
they to Ext: in case of Baits. Guard. & Ext: to the Ext of
Ed 3 to same 1 Bar. 17. 54 Ed. 89.
And when it amounts to, say, 20% of goods, Biff, etc., or also say that it is in 20% of goods, or ten in bond, as well as to the goods to themselves. 1 Boc. 17, 360. 166
So that it now lies goods 20%, say, 1 Boc, 166, the right party.

The action is established by Stat. 6 & 7 Tit. 8, &c., to 1 Boc, 166, the contract of goods, to 1 Boc, 166, also in favour of Biff, &c., where the article is assigned to 1 Boc, 166, to render 1 Boc, 166, goods, to 1 Boc, 166, does it lie in bond, to 1 Boc, 166, of Biff, &c., to say by usage, as for the cases of these where Biff, etc., have not amounted. 1 Boc. 116.

In every case of goods, Biff is chargeable in debt, as Biff in debt, or both. Conv. Act. 2 & 3, 1 Boc. 116. Distinction between Biff & debt. Biff is an agent or servant who has received the property (of any kind) of another to inform for the same or account to who is entitled to an allowance or wages, for his reasonable services & charges. 1 Boc. 172 a.

Biff must account to his master which he has made. His debts might have been made by reasonable industry. 6 Boc. 172 a. Conv. Dig. Act. 2 & 3. 1 Boc. 119. 1 Boc. 219.

A master or one who has received money for the use of another to render an account to who has no allowance for his trouble. 1 Boc. 172 a. 1 Boc. 117. 1 Boc. Dig. Act. 2 a. 4. That is sent this against one who is employed to receive the rent or duty of another, right. A reason may be given in bond to Biff.

Goods a week with no allowance for his
not bound to act for profit. But as between partners, each partner has allowance of profit for profits. 1. 1 Cor. 9. 2. 1 Cor. 13. a. e. 113.

Therefore Bluff cannot be changed at all if he were not to lose his allowance. 2. 1 Cor. 17. 3. 1 C. a. 119. 1 B. a. 19.

This act being performed in reality, his not in any of the
acts. 1 Cor. 17. 9. 1. 1 Cor. 2. 1. 1 Cor. 8. 9. 1. 1 Cor. 8.
1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor. 8. 1. 1 Cor.
of such will lie it seems for the money c. d. 6th 1720
1 Boc. 201. 2 mod 101. 1 bom. acc. p. 5. Pel B. 116. 1 Roll. 14. 1716

1st if money is delivered to be returned on a certain event
1 bom acc. p. 5. Pel B. 116. 8. Roll. 116. 3. 42. 22. decided by
Pel B. 116. 9. that such will lie in a certain event. Pel B. 116. 10
1st money has been paid by B. to the use of A. acc. p. 5. by
Pel B. 116. 11. must declare of whom the money was paid.
1st 1721. 8. Roll. 118. 2. Pel B. 118. 1 bom acc. p. 5. 1 st
Indeed if I deliver money to E. to deliver to B. for my use I do
deliver it, I cannot have such acc. p. 5. For he is not being
1 bom acc. 8. 1 Roll. 118. 5

Of the third of goods en
en per to deliver them acc. p. 5. will not lie but from
such. 1 bom acc. 8. 1 Boc. 17. 1 Roll. at 116. For in his
not acc. p. 5. them to in sooner or acc. p. 5. So its
is not acc. p. 5. discharge for the profits (earn of thing in point except
the event) but takes which is done in the nature of such acc.
1 bom. acc. 8. 3 Bom. 24

Of the third of goods en
en per to deliver the acc. p. 5. is not acc. p. 5. for want of privity but the
Bom acc. 8. 1 Roll. 118. 5. Pel B. 119

The lift

may in 8. 5. thence for later if made. Lifts are not
liable to acc. p. 5. For he cannot contract he is incapable
of accounting. 1 bom. acc. 8. 1 Boc. 17. 1 Roll. 118.
Pel B. 118. 2. Pel B. 1720

Of he who receives property of another
1 bom acc. p. 5. an interest for that acc. p. 5. this acc. p. 5. or a stock
acc. p. 5. the promissory will lie. 1 Boc. 21. 1 Roll. 9. Bom 37. 1749
[Handwritten text from page 47 of a document, containing legal and procedural information.]

Froth 166 354. Lom. 4.2. Exp. 96.7. "Contract." But in 96.7.

by L. Nott. Peff. it is not more true in the particular lot.

[Continued text discussing legal and procedural matters, including references to statutes and cases.]
If deff. find a balance in favour of deft. in bmn. they
may amend by deft. go for him to recover damages as
well as cont. 5 Dec. 155. Not so in Eng. receipt in 6 B. 1 B. 16. B. 1

As to what deft. may plead in bmn. there has been much
contradiction 3 M. 113. It is competent for deft.
to plead in bmn. the act. anything which shows that
he is not bound to act. It is a good plea. This for that
the reason was 12 B. 1 B. 20. 11 B. 19. 121. This in the good
if his. So a release of a defence is
a good plea in bmn. 1 12 B. 15. 2 M. 116. 5. 1 B. 20

Somewhere it is stated that deft. should be acquitted in a good bmn.
Co. Eliz. 52. it operates as a release. This that deft.
the money to deliver to def. that he delivered it, is said
to be good 3 B. 1 B. 25. 17 12 B. 10 30. 10 B. 7. Co.
Eliz. 13 3 M. 114 5. This shows that he was not liable to
act. 12 B. 15. 5. 1 B. 20. This then are go to show deft. is not liable
to act. I think for go in bmn. to the action.

But plea that deft.
has made, pays or satisfaction. or nothing in a mn. if the mo-
cy is not good in bmn. 1 B. 20. 1 12 B. 34. If he was
bound to act. deft. this plea one true his liability is not
relieved. But such a plea is good before and 15 B. 155
2 B. 65. 6 30. 7 it is accounting

On the plea in bmn. deft.
cannot go into the act. but must from the fact that 3 B. 33.
But if deft. shows that he has been once liable to act. no
sight of plea in bmn. if the action is good receipt fully accounts
of a release or something equivalent to it as an accept
a release in discharge, see 1 com. 92. 3 Mill. 73. 113. 14. The things must be pleaded before and in the action. See 1 com. 93. 1 com. 18. 2 Mill. 189. 190.

"Fully accounted" release to must be specially pleaded, it cannot be given in evidence under the rules. See 3 Mill. 113. 4. 2 Mill. 189. 190.

Before the action is closed, any person may join issue in law or fact. The issue is then to be carried back to the contract itself. 1 com. 93. 1 com. 18. 2 Mill. 99. 110. 479. 480. 106. 110. 221.

This rule as to issue, in fact, not adopted in b. c.

What claim can be pleaded in law to the action must be so pleaded first before and in the action. See 1 Mill. 93. 1 com. 93. 3 Mill. 93. 181. 183. 479. 480. 116. This is to avoid trouble or change to the parties. Stil. 411. 3 Mill. 113. 2 Mill. 101. 116. And nothing can be pleaded before and in the action contrary to what has been pleaded in b. c. See 1 Mill. 114. Nothing which infringes the judge's good conscience.

Then for the claim more. See 230. i. release. fully accounted it appears in discharge, it is not good to for the claim. See 230. i. Mill. 112. 2 Mill. 116. They are contrary to the judge's good conscience. For they deny the liability to act.

But it is a good discharge for instance (or as it is sometimes useful, a good accounting) before the amount. To show anything which could not be paid in law to the act, but which discloses that he ought not to be eventually liable. E.g. that the property was lost at sea, or carried abroad from the estate, etc. 1 Mill. 124. 1 Mill. 21.
2. Oct. 37. So that the goods were taken by robbery without his fault or by the enemy. 1 Com. 91. Ch. 6. 688. Ch. 9. sect. 6. ch. 111. 1 ch. 682. sect. 11. sect. 1.

Was it not the plan that the goods were taken by the enemy in Ch. 682, or (as in)

Can to the action? 1 Com. 91.

That the property was finished to be in danger to that he therefore sold it on credit, but
good accounting for he had no right even in this case to sell on credit without a special commission to that if

1. Com. 21. 2. El. 3d. 150.

Dlsf: in accounting is allowed


Dlsf is allowed his reasonable profits. 1. Com. sect. 612. sect.

89. sect. of Dlsf in his own wrong, as defendant of Dlsf.

When the answer is returned to the court for a final judgment in the same case. This act: the 6th sect. on a part of the bill of costs, but not the

part at the time of rendering the answer by the supreme

but party. 1. Com. 37. 2. Com. 150. sect.

Judges cannot appoint

in Com., in actions before single minutes of the laws, he takes the sect. himself. It does not authorize him to

appoint another. On that suppose.

In actions of book debt or

more than 617. the 12th in book, may appoint another to

proceed as in actions of debt. 1. Com. 37. sect. phil.
judge, given in 26th on the award of Aud. in boc. 14. 37.

In Eng. the act of audit is not in such use. The common
process is in 1689. For in 1671, law in Eng. It is not enti-
ted to discovery of book, paper, &c., nor to 26th oath. 1 Bac
16. 3 Bl. 237, 381. 2 Lea. Matr. 228.

The 26th has, virtually given

an award all the powers of Aud. in this respect. If either
party is dissatisfied with the award, he may apply for re-

lief to the court. 1 Bac. 28.

An award may be set aside if Aud.

made their committ or mistake in their own

prerogatives (26. 241) or if they mistake the law or given facts. 2 Day 116.

So in case of corrupt or misbehaviour.

In both objections to the

award are made by way of remonstrance in writing. The

court will not bow as much enquirs into the facts, but for

mistakes in law (not only of framing on the face of the award,

or from the examination of the award) in 16. the award


But as to mistakes,

the court will enquirs of the award only not of other persons, seen

in case of misbehaviour or corruption in auditors.

In a writ of

account the first judgment is good sufficient, and on such account all

articles of account, though incurred since the writ shall be included in

the whole brought to this time when the auditor make an cor of their

account. Durr. 1086. So in the antient writ of assumpsit because a

new action cannot be brought for them.
Action of Debt

The legal acceptance of the word "debt" is a sum of money due by certain contract, Ex. by a bond for a determinate sum noted, Sched. 4. Wood's 7 Bl. 151. 7 Bl. 173.

Debt lies for a sum capable of being ascertained by a certain goods (Long. 6 1st Bl. 550) even in some cases on implied contract, post, 26th June 13.

Debt lies in some cases on contracts implied - but not it is said an ent for implies to pay an uncertain sum. Ex. If a seller gives sugars by parcel for a fixed price, debt lies, q. e. d. But if no fixed price debt lies not. (Per. post) 3 Bl. 158. 1 Bl. 78. 2 Bl. 550. It then says it will lie in each case the standard being the market price, i.e. certain to.

That debt lies on an implied promise to pay an uncertain sum, i.e it seems to be so because lastly one has been allowed to recover a half sum than he sought for.

Debt on simple ent claimed in Eng. by reason 15th of the wages of labor 3 Bl. 155. Ex. 219. Wages of labor, what? Gibb 155. 3 Bl. 321. Ex. Def. reasoning that he owes nothing to complainant reasoning that they believe him, wages of labor equivalent to interest on Deb. 3 Bl. 343. 15th Because the whole sum demanded must be recovered if any, according to the 35th rule 3 Bl. 115. Ex. 219. 2 Bl. 706. 2 Bl. Ap. 1521. Long. 6 715. 1 Bl. Bl. 249. 553. Interesse cito. Ex. 13 219. i.e. debt on simple contract, but there was no security for it.

In some cases, debt lies not on rep. simple cont? Ex. q.d. or 2 Bl. Bl. 152.
1820, Ch. 249. No indubitable resi.on his part. Act should be
care for, for Tiv. 2 might have evaded his own, but 8. 13. 64.
Ex. 17. 9. 60. 87. Ch. 18. 187. 35. [This reason was earlier to visit]
debt lies, on from 17. note (agt. anek, sern). Ch. 221. 169. 24. 8. 13.
 Een. 23. 8. 221. 13. 3. 195. Bay. 94. s. Ch. 17. 3. It seems to
be in matter of incurring the debt. Ex. 17. 3. On principle
it will not be agt. him, no priority.

If one promises to pay
a sum certain for property delivered to his own use, or for
serving mankind to himself, debt lies, even if he promised for
another. Case of 1821. Ex. 17. Promise is lien in unmistakably
Min. s. 22. 1821. Ch. 221. 169. 24. 8. 13. 8. 12. 21. 22. 22. 221.
Then he must be paid. Ex. 17. 3. Ch. 187. 40. 93. It will lie when the person for whom
writte is sure liable to. L. 21. 844. Ch. 221. 13. 221. 13. 221.
(a) debt lies
not for being agt. a citizen of a bill of Ex. 1821. 12. 12. 22. 221.
(this is rather in ma-
tion of a security or guarantee. drew, in the debtor liable in
debt. Ex. 17. 3. Ch. 13. 221. 13. 221. 13. 221. 13. 221.

I. But says, that any endorse

The debtor in C. that 12. 11. 9. 41. 21. 12. 12. 22. 221. Can of
no sure the devise in debt. Priority is the prin-
ciple.

Rule in C. that 221. 11. 9. 41. 21. 12. 12. 22. 221. Can of
no sure the devise in debt. Priority is the prin-
ciple.

E.g. Ch. 221. 12. 12. 22. 221. Can of

Debt lies

And sometimes where there is nothing like a long or curt in other commercial transaction from which to imply a contract. Ex. on a final st. When the penalty is certain. [This is the common practice in Eng. 65. it is a civil action. 4 T. R. 756. 7 & 8. 2 S. 257. 9. 3 & 4. 36. 3. 443 comp. 882. 41 of 179. To debt on final st. not guilty is a good plea. Cant. 361. 1 T. R. 160. 2. owing out. not good on himself. 2d May, 1809.

The debt has not to be received damages yet after damages are recovered debt lies in judg. for the demand is by judg. in the common. 2 B. C. 14. 1 Holt. 600. 1 T. 465. Holt. 206. To upon on and if debt? to pay a sum certain. 12. 9. 3. in nature of a debt?

When debt is in judg. in a county, on the 6th debt on judg. lies not. 2 Barn. 249. 2 Ser. 176. 1 T. Rep. 557. 6 & 8. 20. 8 & 12. 3. So if having been in county, is discharged with 3/4% of current. Taking in 3/4% satisfaction as law. 30th. 13. 7 T. R. 421. 3 Barn. 2482.

So it goes to the suit of the 6th, on 12 Barn. 323. 2 Mad. 214. 2 Barn. 335. 1 Holt. 551. But it lies if only part of the suit has been levied. Esp. 196. 1 Dug. 2

As to the proper time of bringing debt on judg. in Eng. 6th barn. In Eng. judg. Ex. cannot suing after a year & a day. 2 B. C. 361. 2 Barn. 36. 1 Holt. 357. and in this case 9 & 10. corn. at 6th, even by debt on judg. by might suit (after such a time pay 5% was presumed.

But it must give st. in the case to show some why it should not issue sooner after a year & a
day Puff cannot take it without a s. p. except when it has been suspended from the court. 3 Term. 362. 6 Ex. 364. 1 Roll. 399. 6 McF. 288. Co unt. 283. 4.

It has been questioned in Eng. whether debt will not lie within a year & a day. 1 Roll. 601. that it lies after a year. 1 Term. 35. p. 637. So in 2 Term 12 that debt is allowed on judg. to punishing debt for not paying & brought without it. - that Puff may not be put to the expense of bringing it by it. It is therefore that the act will lie within a year & a day. Vide S. c. 3 Term. 431. 1 Term. 637. judg. in debt. i.e. debt on that judge in the most exact. i.e. the next term within a year. In case no term is limited for taking & then in some folly from lapse of time to bring debt on judge after a year he or in Eng. Since it seems to be quite agreed that in law debt on judge will not lie while such case can be taken the full benefit of judge be obtained by it. Herein 6 term would be creatives to sue.

But on the other hand where it cannot be taken out debt on judge will lie. Ex. Justice &c. before whom the debt is made before it is granted or satisfaction of judge. Puff may have a debt on judge within 5 years. If debt does not exceed $35 it may be before another justice. or before County 6. 6 Term. 38.

So when great length of time has elapsed court will not grant as debt or see p. & will lie. So when full benefit of the judge cannot be obtained by taking it. Ex. If Puff in exact wisdom obtaining debt a Puff wishes to prosecute. Hint. 311. 421.

So if judge was removed in another state or when satisfactory
cannot be obtained. Def. has removed into this state. 1st. 177.

So suits when Def. wishes to obtain int. on his jurid. data, decided in favor of the action. But if no time is fixed, what means this rule?

An erroneous rule more subject to abuse. Art. 48. For such suits, is available to all persons until 1785. 2 Dall. 91. 7 Cr. 488. 3 Meade 348. Book 176. 865. 114. 2 2d.

By the constitution of the U.S. suits evidence must be given by courts in one state to pend in other. How shall be subject to this case, and the right cause of action? Art. 4. Sec. 2. 2 Dall. 91. 7 Cr. 488. 3 Meade 348. Book 176. 865. 114. 2 2d.

The constitution in concious is to be clearly expressed. 38. It has been decided in 2 Dall. that there may be such suits. See 2 Dall. 91. 7 Cr. 488. 3 Meade 348. Book 176. 865. 114. 2 2d. Pennsylvania 1785. ibid. 188. 261. 2 ib. 302. Ewing 260. Book 176. 865. 114. 2 2d.

According to the decision in 2 Dall. it is that the place of the same footing or foreign judge. There are not cases according to 2 Dall. 91. There are only prima facie evidence of a right demand. Yet think, or we say. 2 Dall. 91. 7 Cr. 488. 3 Meade 348. Book 176. 865. 114. 2 2d.

Formerly held that debt would not lie in a foreign judge. 2 Dall. 91. Now known settled that debt will lie. But they are treated as simple contracts not for facts or they can examine. The judge knows itself implies a suit or suit. 2 Dall. 91. 7 Cr. 488. 3 Meade 348. Book 176. 865. 114. 2 2d.
affirm declaring and not show the right cause of action. 503, 495.

The proof of a foreign court is unnervible him only when he who claims the benefit of it applies to have it enforced: 653, 611, 2 How. 232. Ray, 173, 491. 54. For it is then voluntarily submitted to the judge of our courts, even when pleaded in bar.

To debt on such a record, "must be read" is a

word free yet declaring an judge as a record does not activate the facts from prior for records in the judge. Doug. 6.

The laws of foreign countries are provable as matters of fact: Doug. 174, 5, 6 & 173, 2 How. 483. 210. In such cases like

sc. 3 East. 221.

Before the present constitution the 65, 65, according

on proof send in other states holds that the evidence was to prove

by the time that the right cause of action must appear in the judge. 173, 5.

They treat such judge therefore as left

depend on foreign judge. 65, 6 Doug. 3. Proving the right

cause of action was not necessary on principle. The judge

alone was sufficient (cont.)

The debt, after came without

suit on foreign judge. Doug. 173, 5, 6. In not allowed on such

judge to sue in a judge without lien. 1 East. 238.

Said Doug. 173, 5, 6 that

when in debt, 2d, 2d, it shall also lie not so in all cases.

If money paid by mistake - obtained by trust, or paid by

sale of property converted to a person not the owner. 3 How. 1153.

This rule is to be understood in part of 1 (conceiv) of an unjustic e

by the promise to pay money left them invalid from an actual con-

tract. Ex. Sale of goods without an express promise. 3 How.
A bond to pay the goods in no time of a day being paid is payable on the day of the date. 7 T.R. 1764. When the court was that the bond in void if P.P. did not pay. 6. It does not
ought a breach, clear mistake. Doug. 569. The bond is given in conditions for the performance of a collateral act, thus is sometimes a remedy in Ch. It being accord as evidence of an agreement to do the act. But the bond remedy is an act of debt for the penalty.

In debt on bond, damages may be given restricting the penalty in certain cases. Ex. principal with sum of principal. Doug. 358. Doug. 49. Bur. 620. 282. 8 Pr. 432. Bockel. Mort. 148. Bum. 232. D'Amour 102. 3 Bac. 691. 5 T. Rep. 303. 1 Scott 432 con. 1 Stc. 75. 3 Bac. 66. 118. 96. 2 Bl. 177. 1 Er. 339. 5 Scott 502. 4 Doug. 30.

I should think it not competent for a court of law to give damages exceeding the penalty, according to the principle of the old 6 L., but it is otherwise, since that penalties may be examined. Court of B. in bow. bore determined when it appears that the sum due exceeds the penalty, interest may be allowed on the penalty.

An act to pay a sum contemplates debt lies, 1087. 1 Pol. 591. If the condition of the bond is that obliger agrees to pay a sum of money received, no part of the sum received is a breach. Doug. 367. 2 T. Rep. 388.

If this is an act, with a penalty, obliger has his election to sue for damages on cost, last, time or that for the penalty. Pou. 136. 3 Bum. 136. Unless it appears that community was to have the election to do the act or to pay the penalty. In such cases, non-performance of the act attires lies for the penalty only. 3 Stc. 371. Stc. 533. 2 11th. 193. 2 86. 523. 1 Bac. 680. 418.

Debt lies against officer who has collection.
For 6th in Ex. (2 Tsa. 14. Mo. 886. Chit. 238) an order may
butt to pay it own, for buying it implies a contract or law.
2 Ch. 31. 257. Act. 146. By this, the original
indebtedness is transmitted to the 6th as it exists on the part
of the debtor.

It lies for rent reserved as a lien for the usual
appropriate action, the in some cases cost is an eminent. S4.
Dig. 188. Act. 8. 6. 72. Not a quit, a tenant at suffering by
the 6th, as he is a wrong cause. S4. Dig. 188. Not in privity
with the lessee.

But it will not be for collegiate interest,
limited hurt rods, for want of firm shares. 2 Tsa. 14. Act. 206
Ch. 14. 375. Debt being a sum of money debt.

But if he

sheds return collegiate articles, taken the tenant then in
his return at a sum suffice to pay the debt be not needing
test to sell them, it would seem that credit his credit will,
for his own return shows that the 6th in ss ought to
344. The rule is not very well settled. If they had
been used, the rule would have been the same as
2 Round. 344.

The 6th of Comm. limiting sections as if 6th.
to 47. 5 for neglect, or default, or to allow to
recover from him what he has need for reason not a
 neglect, or default within the state. 1st Com. 260.
Action of Detinue.

This action lies for the recovery of a specific personal chattel. It is on the
eminent of a bill in bds. It the prof. is for the reformation of the
thing detained as part of a certain sum (which is in the nature of a fine 
in a certain case) Judge Story (in the dam-
ages of detention usually. 60 U.S. 286, 3 B.R. 152. 62 N.Y. 386.
O'Faree. 25

It is the only action at law in which one gets spe-
cific relief. It is of use when another gets part of something which
money will not replace as a personal fixture.

There would be an inadequate remedy, because in
that action damages are said for why are supposed ac-
cording to the market value of the article, & the judge
est the property in the D.P.

Definite lien to recover any,
personal chattel which can be identified. not for money can
be recovered in a bag &c. 74 U.S. 286, 180, here (between 54. 2, 1826, by
60 U.S. 286. It lies for a price of gold of such a value.
It lies in those cases only in which the defendant

has lawfully, as by delivery or finding. Com. Dig. 25-1 Roll 607, 2 Jr. 20.

The action seems to be founded

on contract & debt. & it is may be joined in one suit.

1 Mere. St. E. L. 17, 4 Bae. 11, 1 Bae. 25, 2 Thw. 40 vs. Gen. motion of this action seems a debt. 3 P. 156 debt to recover goods in deceit. & deceit lies not for money had &

owed must sue on the contract. 2 Pae. 47, 6 Roll 600

Thorn

lies in all cases when deceit is lies. falsely holds not common

for treason lies when the taking was tortious. 6th dig.

Reason why deceit lies not when the taking was tortious

seems to be that might a tortious taking was considered as dispos-

ing the same of his property. arose in deceit. Different for

the property of thing demanded. Com. Dig. 25. So that deceit

is no remedy in such case. (But as that remedy is done away. I think this action would now lie within the taking my

tortious says T. Snow) But the reason says. I agree. Is that

this action is founded in contract relate to or implies

(How you) is there any contract in the case of finding? 26th 30

The action is directed by reason of the wrong of law & the certainty

required in assuring the thing demanded. From his

taken the place of it under the 6th of the state of Mass. 3

2 Pae. 45, 10 60 57 vs. Mod. 131. As 2d Ed. 246 p. 178.
Evidence

The admissibility of evidence is always matter of law before it can be settled by the court, the admissibility of evidence after it is admitted is in great part to be settled by the jury. For whether evidence is admissible, if it is admissible, what weight it is to have in proving the issue is matter of fact strictly within the province of the jury. V.C. Bl. 205. Doug. 360. Park. 82. 3. Thus if in the jury in a public peace for a brutal act, this question was whether the person accused prior to prison that is it is to be decided by the court. But after the evidence is admitted whether it is sufficient to establish the fact in issue, is for the jury to determine. Indeed this position is illustrated in every case when testimony is of fact, its admissibility being the preliminary question. Thus you observe in the grand jury.

When however a record is put directly in issue by a party of one's test or record, the weight of the record as well as its admissibility is to be determined by the court, in this case the issue is to the court, they must determine it. For a record of too high a nature to be true by anything but itself. 3 Bl. 338. 6 Co. 53. 1 Inst. 117. 260. Dawns. 314. 63. 226.

Thus I would remark to you that in proof of laws, the court tried every issue as well of fact as of law, that it may be done by the intervention of an instrument, hence we know of trials by battle, of marriage by
certificate enquired by inspection — by copy of law or record by jury &c. &c. by bill &c. the jury can mostly the instrument of the court. This rule that a record is only to be tried by itself becomes intelligible.

When an abstract record is introduced incidentally or collaterally on an issue to the jury, it is to be used to them in evidence that it may be conclusion of the facts which it imports to establish, as if Peff in evidence shows what is there mentioned (here) an evidence of his title. Thejudge

The question then whether the record is to be treated as an evidence to be determined by the form of the issue, i.e. whether the record is put directly in issue or incidentally. Part 2: 73.

Within party is bound to prove those facts in the case which are not denied by the other party. For such one of cause admitted to be true. Thus if a fact is stated any indefinite number of facts, if all except one appear in evidence it alone he admits the rest, equivalent to a subjection, admitting, estoppeling to all traversable allegations. 4 Dec. 2: 73. 8 U.S. 132. 5: 102. 298.

And an admission an record by one party of any allegations by the other precludes the party making the admissions from denying the allegations or trial, a party on trial cannot deny that which is not admitted on the record in his pleadings. So as one is not obliged to prove what is admitted, the other is not permitted to retract his admission or deny the allegations, in evidence. Laws 3d 48. 3 St. P. 249. 2 Mc3d 5. 1 Dec. 9.
The burden of proof lies regularly in guilt upon that party who takes the affirmative of the issue, because it is not susceptible of direct or positive proof, it may be in some cases, but in common presumption it is not. Pr. at 5: 8; Ex. 22: 29; 2 Pet. 1: 15; Rom. 14: 4; 2 Cor. 13: 3. 35. Phil. 1: 26.

This is an exception to this rule, where one is prosecuted for not doing an act which by law he is bound to do. Then the party prosecuting, alleging a negative, i.e., an omission, takes the burden of proof. For to prove the negative would be to prove guilt, which the law never does. This exception holds as well in civil as criminal cases. This is the same as the rule: where duty it is to repair a bridge or highway is indictable for not doing it; the defendant is bound to prove that repairs have been made. Prosecution must prove that they have not. The negative is here easily proved, but the facility of proof in this case makes no odds. And it is true in all cases that where one is charged with the omission of a legal duty, the prosecuting party is bound to prove it. Gill. 230, 3 East. 192. 1 Ed. 216. 2 Bl. 881. 2 Hen. 654. Phil. 157.

You will perceive a manifest difference between this last case, in which the affirmative is charged of a positive wrong or of theft or robbery. Here the party taking the affirmative, takes the burden of proof. Here the party charged is not bound to prove himself innocent, so that the great rule applies.

If issue is taken on the life or death of a party on an existing cause, the onus lies on the party alleging his death. Otherwise the rule does not
defend on the main form of the issue, but upon the substance of the issue being an assertion, the law presumes him to be so unless clear, direct, or presumptive evidence of the contrary appears. This is established by the law. If it does not show the contrary to be absent, it is for the person to prove him absent. This being the nomen of the rule, it can make no difference what form the issue is in, i.e., whether affirmative or negative, "I am dead," or negation as "I am not now living." This is a nomen juris and I think the rule as laid down is universal, Eccles. 3:19; 1 Pet. 4:161; 2 Cor. 3:12. Phil. 152.

Certain however as person once existing has been absent, awareness of the law presuming him to be absent. This was introduced as a positive rule by the state relating to infancy, but it has been extended by analogy to all cases to which it is applicable. So that the fact that I was an infant and that he has been absent for an hour or two after birth, it places the onus on the other party who wishes to prove him living. The presumption of death being, once raised, remains conclusive unless rebutted to Eccles. 3:10, 55; 2 Cor. 3:113. Phil. 152.

So also when an alleged marriage is proved between two parties, the issue of the mother born during wedlock or without, is consistent with either, and deemed to be legitimate. The presumption is conclusive unless rebutted. Those two facts showing, the issue is thrown upon the party who contests the legitimacy, who in the negative of the question, Phil. 112, 152.
No other evidence can be received upon the trial of an issue than such as is pertinent to the issue or matter of fact in dispute. Any other evidence than this is calumny, irrelevant, i.e., inapplicable. I think it unsuitable for it does not tend to prove or disprove the matter in dispute. 

Plead. 6 24 18 205.

Hence the character of either party in a civil action cannot be called in question until it be put in issue by the proceeding itself. The books do not tell us what is meant by putting the character in issue, leaving that to be inferred from the meaning for the meaning of the rule to be, that the character cannot be called in question until the proof of it would conduce to prove a disproof some matter of fact involved in the issue. and when such evidence would this conduce to, it is admissible; the character then being in issue. 

Plead. 6 206 8  Phil 139. Plead. 6.

Thus in an act for fraud, Phip. is not at liberty to prove that def. is reputed or known to the court as a fraud in an act for slander that he is accused of defamation, because these facts if proved would be perfectly immaterial as they would not conduce to prove the particular fact involved in issue; the evidence is irrelevant.

For it is the def. in such cases allowed to support his character by proving the contrary. Thus if 1 know As in def. or 2 cannot prove that he is personally dishonest or if not in slander, could he prove that he is not subject to slovenliness, for after he might be able to prove that, still he might have shown the word sloven...
The evidence then was not in any degree which the law regarded, evidence to prove the matter of fact in issue.

Ex., Tit. 2. 296. Law Ex. 140. Book 6. Phil. 139. 2 Cor. 11. 522. 3 Bar. 20.

But then our civil cases in which the character of a person may be in question because the suit itself puts it in issue. Thus in an act of civil law, if it is permitted in mitigation of damage, to impeach the good character of the wife also to prove particular instances of her incontinency, with other persons with she is not party to the suit.

The reason of this diversity is, that the wife, by changing the wife with specification into the wife and the husband for the wife as well as the good character in issue, it would be an abuse of language to say that one was accused or prostitute. 1 Pet. 3. 1296. 1 Silo. 8. 320. 31. 2 Thes. 3. 657. 2 Pet. 8. 118. Phil. 139. 3 Tho. 1. 239. 6. 522.

But in the case last mentioned the wife is not admitted to prove instances of the wife's misconduct elsewhere, to have continued with himself; it would be taking an advantage of his own wrong, incurred on his own previous misconduct which I probably did incur it. 2 Esr. 6. 562. 1 Silo. 31. Phil. 139.

So also in our action for the breach of marriage promise, it is allowed to impeach the good character of wife for charity to prove instances of her kind and licentious conduct. For the wife is considered as being in character and conduct in issue by instituting the action.
...and the evidence is adduced on the same ground that it is in the case of Crime. 1 Sam. 31:1. 3 Map. B. 189. 3 Esp. cap. 236. 1 John. cap. 116.

In this state of case, it has been held when self-interest did destroy self-interest, that evidence as to the condition of a character cannot be a warranty in respect to the time between the making of the loan in the breach or the breach of it. 3 Map. Bp. 189. Also, in the several cases, particular instances of mischiefs, in delivering or prostitution might be. In 1 John. cap. 116, the distinction appears to have been overlooked.

So also in our act, by a statute for suppressing sin, in the baptism of a daughter or female servant, the self-interest or mutual consent of the parties, in respect to the condition of the daughter or servant for chastity or from an amount to demand licitation. 1 Bost. 172. 3 Map. 19.

But how it may be as to how this affect the issue, the gist of the action is the loss of service, to this I answer that self-interest of the loss of service is the gist of the action, still it is not the rule of the principal...
ground of damages, a loss of service (no matter how small) is truly insensible, but the real ground of damages is the wounded reputation of offices of the Pillar; and the most aggravated damages are often given when the loss of service is merely nominal. 8th, 645. 3 Mif. 117.

Law. 67. 11 East. 23. 5. 2 Selw. 1087. 2 Lew. 63.

In an action of slander it is constant practice in law to permit the party in mitigation to produce the good character of the plaintiff to the evidence of the fact or species of crime charged by the words laid, as when the change was of injury, evidence respecting the defendant's character was admitted for the plaintiff to produce his character to be good. The evidence goes to the point of damages, 1 East. 354. So if the change were of theft, the plaintiff may produce the defendant's reputation to be that of a thief, even to his ipse dixit. In an action of libel, the plaintiff generally requisite to be a bankrupt. This question in any court, (2 Inde.,) was equally decided in 1 Johns. 46. the question being as to admission of evidence on good name or to the defendant's character. A notable English case in 25.

There is a positive rule in practice in the Eng. books, which is a case and so

writ, where Pillar having laid his great damage by libel, Pillar is at liberty to show that his great reputation was such that his party was left him, letting show that it was not in consequence of the slander that the election took place. 2 Camp. 271. Phil. 140.

In an action of slander the pill may give in evidence his conduct towards others in life.
for the purpose of aggravating the damage, the claimant
abbreviated the adoption of this rule in terms in Eng. yet it
appears to me to be obviously correct. 1 Mays, A. 531. Phil.
140.

And in the other words, Deft. may exhibit evidence of
the same kind for the purpose of mitigating damage when
such proof-will tend to mitigate than its case.

In an act of mendacity, prosecution Deft. may thus
prove guilt. Character to be bad by way of showing probable
cause, the action lies if in the existent action there was
manifest fault of probable cause, and in this particular case
of action probable cause in justification, the guilt inference
of Deft. is bad admits the presumption of another to
prove in a high degree to prove probable cause. The
character is put directly in issue in that respect in which
it is attached. Vesp. 620. Phil. 139.

In criminal acts also when Deft. character is put in issue by the
prosecution, the prosecution may attack his character guilty
proof of particular facts, for otherwise it would be
impossible to prove the charge or support the process.

But which, it may
be asked in those cases in which Deftl. character is not
in issue, that is no definition or description given in
the books by which this question can be answered,
from the example, I should think, that a criminal pros-
secution facts Deft. character in issue within the mean-
ing of the rule, when it changes a habit a course of
criminal conduct or entails distinguished from individual or specific acts. In such cases, the prosecute may attach the guilt characterized by proof of particular facts not alleged in such. As, when one is indicted under a guilt charge of being a common barber, his guilt character is put in issue within the meaning of the rule. To support the indictment, which is a guilt charge of particular instance may be proved. To of the U.S. Office of being a common barber, an instance of which occurred in Boston a year or two ago.

But on the other hand, an indictment for forgery, theft, or swindling does not put the guilt character of the guilt charged in issue. The prosecution cannot prove any other instance of theft or theft than that alleged, or that guilty reputation is that of a thief or (the charge being of a specific act), unless in fact, the first introduced evidence of his guilty reputation (such fact).

But then, an ease of this sort, in which the prosecute is not allowed to be examined as to particular facts, without giving previous notice of them, viz., when one is indicted for being a common barber. This rule is founded in the presumed difficulty of disproving such acts without such notice, as the indictment is most usually age, barbers, whose legal business it is to carry on such. 83 N.J. 296 (1874).
But in other criminal cases (i.e., cases in which character of defendant is not put in issue) the prosecution cannot examine into defendant's character either in relation to particular acts or his general reputation, unless the defendant himself commences the inquiry, as when one is charged with theft, forgery, etc., this charge does not put the character in issue. B.C.R. 296. 1 Molloy, 324. A particular fact merely is put in issue, but the general character, course of conduct or habit of defendant.

And even if defendant has formed the inquiry on his part by exhibiting evidence in favor of support of his character, the prosecution cannot examine on to particular facts not alleged, but as to the general character only, because it is not to be presumed that defendant is prepared to meet particular charge not put in issue, without notice. Thus it is incumbent for defendant to influence the verdict by producing evidence of his character; the prosecution may then demand evidence to prove that it has the general reputation of being a thief, but not that he has stolen on every other occasion. And when his character is not put in issue, there is no proof of having no notion. 1 Molloy, 324. B.C.R. 296. Real. 7. 8. Inv. 131.

And in criminal cases when the defendant's character is put in issue by the prosecution, he is in duty bound proving his own character good. It is obvious that such evidence no more concerns to prove the issue than that which is offered in the first instance by the prosecution to prove defendant's character bad. Where the strict principles of evidence there is clearly no difference. This involves...
This indulgence was formerly allowed only in certain cases, but it is now extended to cases not capital or misdemeanors, provided the principal object of the prosecution is to punish an offense not only to collect a penalty. 1 Mclay 320. 317. 353. in Peake's statute.

But this is not

this indulgence in action for minor offenses inflicted by personal statutes. This action, a information not being regarded as family court proceedings or direct process for crimes, but as suits to collect a sum of money, is proper for a penalty he cannot in such a suit be punished to prove his guilt; his character good, but if he were indicted at law for the purpose of punishment, for a similar offense, he would receive that indulgence.

As Peake says in

indeed, that this indulgence is intended to prevention for the offense, only which in an executive punishment his authority, however, 2 Bkt 353. does not support him, and I am sure it to be inapplicable, unless the punishment be executive a suit, if the prosecutor is com-

mmenced directly for the purpose of punishing the of

So also on an indictment for a rape, the prisoner may give in evidence that the woman's character for chastity was notoriously bad, and that he had previous illicit intercourse with her. For these facts go to diminish the probability of violence. But he cannot prove intercourse with other persons, particularly because this would not have the same bearing on the issue.

Phil. 110.

Evidence in support of the defendant's character as a criminal prosecution may be particular as well as guilt, i.e. a witness may not only testify in favour of defendant's character, but he may also testify in the life and conduct of the defendant for his good opinion, as particular instances of honesty and integrity that have occurred within his own knowledge.

But the evidence against the character of deft. must be guilt only. Particular facts cannot be adduced for the same reason given viz. that he is not supposed to be presumed to answer any specific charge of which the prosecution does not give him notice. 1 MCH. 372 to 5. B. at P. 276.

It may be observed however, that when the evidence of guilt is weak or nearly presumptive, such evidence of defendant's character may be very important; yet in opposition to the direct evidence of a credible witness it can have but little effect. It might be of consequence also when the evidence was much, or quite in evidence.

We have now considered the great rules relating to the admissibility of evidence.

It is a good rule applicable to all cases that the best evidence which the nature of the case admits must regularly be produced, and that exhibiting evidence of an inferior or secondary sort of facts, presumption, that the person who wishes to support the party producing or offering the latter ‘secondary evidence’ is therefore not to be admitted when it appears that there is better evidence within the power of the party. I McEy. 342. Peake 8. 102. Sw. 187.

Thus if a party wishes to prove the contents of a written instrument in his custody, the instrument itself must be produced, and it is not competent for him to prove the contents of it either by proof or evidence or by copy. In must prove it or fail in his suit. 10 Co. 92. I McEy. 836.7360 2 Jit. 1468. Peake 9. (As to instruments lost or in possession of adverse party, see post.)

So also if a deed or instrument is attested by a subscribing witness the attestation of the instrument can regularly be proved by no other evidence than this, for being attested by the parties, it is considered the best evidence. This comes within the rule requiring the best probative evidence in all cases. (For an explanation see post.) 1 Esp. 257. 3 Doug. 205 a 216. 4 East. 52. 2 Jit. 183. 1 Esp. 128. Sw. 95 a 216. 1 Black. 86. 1 Chit. 874. 2 East. 183.

But the law does not require that all the evidence which might be obtained should be produced.
Since the evidence of one of two or more subscribing witnesses may be sufficient to prove the existence of an instrument. Peak. 9. Sec. 27.8.

In regard to the number of witnesses it was shown at B. 2. to establish a fact, the general rule is that such evidence is satisfying the trier is sufficient to support any issue. Of course, any credible evidence is in quod all that the law requires to prove any fact, this rule however is not universal. [Pratt 6.]

Badd. 144. 1 Show 158. 1 McEy. 16. Phil 107. Sec. 142.

Thus, in a prosecution for perjury, two witnesses are necessary to a conviction. For if there is but one witness, there will be only one oath of one person against that person, and at the time of taking the oath in question, the person in question was not competent to testify against the witness and he continued to until convicted. The case is precisely the same as if both had appeared upon the trial of the same cause, and contradicted each other so that we have only two oaths against the witness of the oath of the witness might be sufficient to satisfy the trier, still the law from this danger which might ensue is inapplicable in requiring two. 1 McEy. 57. 10 N.Y. 194. 1 McEy. 37. Phil. 107.

Phil. 9.

The rule however does not absolutely require that there shall be two witnesses testifying to merely the same fact, but it requires, now understood, that there shall be some independent evidence in addition to the testimony of one witness. Phil. 108.
In high treason also & petit treason & misprision of theft two witnesses are required by our laws, every one of which is that of 6 Del. 6. These statutes however do not extend to every species of treason or delinquency. The Statute of 4 & 5 Will. 3 356. 7 Por. 243. 244. 1 McEy. 157 to 21. Phil. 84. m. 108. That such was not the rule of the 6 Del. see 2 Knowl. Ph. L. ch. 25 sec. 129 3 Hitt. 62. 1 McEy. 16.31. Phil. 108. La Bota says it is a rule of 6 Del. 3 Inst. 26. But the weight of authority is apt to him. This may be a question of moment in some of the states.

...and in cases of treason it is required by Stat. 7 Wm. 3 that both witnesses testify to the same overt act or one of them testify to one overt act & the other to another i.e. that each testify to an overt act otherwise the prisoner cannot by conviction be found upon evidence in open court. 4 B. 357. 1026 N.Y. 21. 342.

But by the constitution of the States, not only two witnesses are required, but both must testify to the same overt act, or they can in no conviction except on evidence in open court. See act 352.

The rule requiring two witnesses in cases of treason consists only to overt acts of treason. Collected facts i.e. facts not constituting no tendency to prove the act may be established by one witness like any other fact. Thus that this theft is a material fact perhaps when he first did, 20. 6. 20. 5. 7 H. 354. 1 McEy. 345. 268.
...and a similar distinction obtains as to the rule of evidence in the case of jury, collateral facts that do not constitute the finding must go to prove it may be established by one witness. As to the taking of the oath, cases in which the crime is alleged to have been committed. 1 Metc. 27.

It is also a rule in California on the same principle as that which governs in the case of jury, that if both answers are contradicted by an unsworn only, the Plaintiff cannot have a sworn for the answer being unsworn oath, there is only oath, in the answer being unsworn oath, there is only oath, 1 Vem. 161. 1 Vey. 66. 95. 9 Metc. 191. 2 Pow. Com. 216. 3 Cal. P. 285. 6 Cal. 614. 2 Vey. Suits 243. 7 Cal. 282. 3. 7 Cal. Supp. 166.

But as in our civil practice the answer is not sworn oath, the rule cannot hold in civil or, principle. I have never known it apply.

...and by the statute of law, no person can be convicted of any capital crime but upon "the testimony of two or three witnesses or that which is equivalent," 4 Vey. 685. Sec. 142. The last phrase, "or that which is," is very vague. It is known established in construction, that under this, it is not necessary that two witnesses should testify to the same fact or facts, one may testify to one part of the transaction, another to another part of the transaction of one may be direct and that of the other circumstantial or presumptive, one may testify to facts by circumstantial and in either of these cases if the testimony be satisfactory these witnesses, exhaust the
Scurvy may consist under the statute, —

All testimony
in a court of justice is regularly given under oath; the
declaration of a witness is not only to the court and
gerullary, no evidence unless they are made in court and
under oath. Since even if a charge or issue is acquainted
with any of the facts in issue, he cannot give his
knowledge unless he is sworn and testifies like any other

It follows also from
the same general principle that hearsay evidence is in
great inadmissible. By hearsay evidence, is meant
testimony by one person of what the has heard and
other say. This is inadmissible for two reasons.

1. The witness does not testify respecting the fact in
question, but to the declaration of another person res-
thpecting that fact, not made in court nor under oath.

2. There can be no cross-examination as to the facts in issue. This witness has no knowledge
of that, it is only the swear that he testifies to, and this
impossibility of cross-examination is objection suffit to inadmit
Evidence generally. Gill. Cro. 197. 2 & 3 Will.
1 & 2. 289.

The great rule as to hearsay evidence consists
of exceptions where the fact in question is in its nature
or in common presumption incapable of positive direc-
ct proof. As in questions of custom, prescription, infer-
gence, the exception is matter of necessity, for these facts
cannot be refuted to be proved otherwise than by common


Thus on a question of custom or prescription which can be proved only by usage, great importance may be placed by hearsay evidence. E.g. a witness may state he has heard from whom persons respecting the prescription of the right on what was the common belief or opinion respecting it. But not what such persons have said relative to fact, showing the existence of that right, they may state that they always understood there was such a right. What such persons have said concerning the existence of it, but not what they have said as to the existence of that. 1 T. Rep. 466. 5 ib. 263. 2 Ky. 512.

Thereon a question respecting

extent, limits, or boundaries, a witness may testify what was formerly respecting the limits of the farm or town etc. What such persons have said respecting the But not what such persons have said relative to the former existence of a monument, building or wall in such a place for this would be evidence of a particular fact not of great reputations. 2 T. Rep. 53. 14 East 83. n

Evidence of reputation is upon the same principle admissible in questions respecting a right of way. Peek 12. Bul. 295. On an the death of deceased tenants, e. e. in relation to the existence of the right but not of any specific owners of that right such as are cognizable by the courts. Bul. 295.

So also on a question
whether such a piece of land was formerly part of such estate, the acts of a deed claim an evidence on to the generally accepted opinion. 

To this is added of such parishioners, unless when no dispute existed may be proved to show what was intended to be the parish limits. *Thistleton*, 41* C.R. 346.

And it is a rule of daily practice that the acts of such owners, establishing those limits claimed by persons holding under him may always be given in evidence. 41* C.R. 346. extending such limits cannot. This rule is founded on the principle that a man conceiving may be improved quite. Since it extends to granting of ancestors in rep*5* or while owners.

5* C.R. 346.

our question, of probate, the great rule that hearsay evidence is not admissible is never bound upon any subject whatever. In this case, the acts of such a person who from his situation would be likely to know the fact in question, may be given in evidence, as facts of this kind can properly be proved in no other way. 41* C.R. 346. parents when a question of legitimacy, whether a child was born before or during marriage, i.e., whether it was or was not legitimate.


But this act of such a relation can admissible in those cases only where they are supposed to have been made without any intent or bias in the person who made them, just
he has made a dust respecting the pedagogy of another, whom
that was a suit pending or in contemplation of which he
is or is reflected to be a hostile, the one & cannot be proved.
On this subject however there is certainty of opinion.
Some saying that such a circumstantial evidence only go to
the probability of the dust: the other opinion seems to
be that it goes to its compelling evidence resolve it.
1 Siv. et "A" 681. 3 Com. p. 244.

But the dust of parents
are not admitted to prove more effectually wherein
this is forbidden by consideration of morality, decency
in policy. By ch. parents cannot thus be considered

Dust of men strangers, as of ch. neighbours, are not
admissible in questions of pedagogy, for they are not
supposed to have the best means of knowledge on the
subject. 3 T. Ref. 213. 1 Mcby. 312. 13 T. Siv. 147, 514.
14 East. 331.

But it seems that the dust of a minister, as
in the time of a bishop, which he attested in his profes-
sional character, may be given in evidence as many
matters and even more by him, and the evidence worth
of great consequence, Phil. 181. 10 East 120. Ven. et "et" 91.

Att the dust of a stranger are not admissible in evi-
dence upon a question of pedagogy, yet the good reputation
of the might suspect a place to which one belongs in do
mifible ... the general reputation of a family (as to the legitimacy of a child) is admissible. Peak. 11.

In all these cases, however, the door of a relative cannot be admitted if the party who made the oath is living it can be produced in court, he should appear personally, so that in the above exceptions to the great rule relating to hearsay evidence, the oath should and to be admissible was supposed to be used or in a situation not to be produced in court.


But to prove the state of a family or to marry by birth, I doubt, the question of legitimacy not being involved, the oath of any person likely to know the facts, other than belief of the family is good evidence, as to the question when men married, what children were born, etc.

But to prove the existence of a certain in a deed, a special deed between members of the family stating purchase, monumental inscription, family books, family bills in books, or will make an ancestor's cancelled accounts in a book in Philippians or rings in India, all permanent family memorials, are good evidence to prove pedigrees. B. 12. 945. Esph. 1738. Phil. 175. 6. 13 Vsp. 144.

But although

hence may be good evidence of pedigrees, it is mere evidence of the place of any truth in that does not present a question of pedigrees, but a simple proof of locality to be proved from data any other ordinary facts. 8 Cast. 539. 3 Ver. 797. Phil. 182.
Ex. 27: 52

In some cases, a memorandum is an useful record of the transaction in question, or such, from the ordinary course of business is, with other circumstances admitted in evidence. This is not strictly hearsay evidence as it is derived from the act rather than the word of the person making it. Thus a mere

be a bill in agent of good and by the principal is good evidence to prove the document. Book 14. Rule 285. 690. 690. 11729.

But cases of this kind turn on their own peculiar circumstances that it is difficult to lay down

guidelines respecting them. For example, you may see further. B.J. 282. 3. Salk 245. 280.

The point is that such a memorandum is mere admission in evidence if itself unless the person who made it was there at the time it was made and was of the mind of Joseph and Elie. Phil. 1945. 1 Esq. ed. 1. 91. 15.

But a mere book entry made by a party himself is mere in itself evidence that it may be so in evidence with other evidence that such an entry was admitted to confirm the testimony of a witness who says he saw the entry to that. He had seen the entry, the mere entry was not evidence of the fact in question but to contradict the testimony of the witness. If the entry was not made in his testimony, it would have been admissible. 1 Esq. ed. 348. 91. 91. 15.

Also books

are admitted in many of the states as evidence of goods sold and delivered.
of work & labour, now far they are competent witnesses. 

4 id. 455. 1 C. 31. 2. 1 Opens. 182. 1 Dal. 232. 272. 75. 5 id. 153.
1 Binn. 234. 1 Opens. 30. 2 id. 172. 8 Johns. 213. 11 Stam. Rep.
2146. 12 id. 461.

In criminal cases the rule admitting hearsay evidence appears to be somewhat more strict than in civil, but it may be admitted by way of impeachment or to illustrate the nature of the offense or to illustrate the truth of certain事宜 respecting his guilt or in relating his conversation with the prisoner or to state what the witness was that his testimony may be intelligible to the jury. 1 Ellery 368. 182. 297. 299.
301. 344. 294.

But this is an important exception to the rule relating to hearsay evidence. In fact, in cases of murder or as I suppose, in cases of homicide, etc., that the safety of the state must be secured, the admission of evidence relating to the commission of the offense, as accusing an interrogating some one, is admissible, evidence for this situation is considered as creating a presumption equal to that of one oath. 1 Scho. 699. 565. 567. Stat. 499. 1 Bent 21id.
223. 1 Mait. 331. 2 Scho. 192. Beale 15. 16.

To which there may be a human legally infamous, or our attendant fear, or not admissible. Indeed, indeed, made by a party in entencing or men to be admitted, can be his oath if he was in a situation to take one, would be used in a court of justice, the same
time arising from the consciousness of approaching death.

being only equivocally so in the case of death. 626. 1 Mc.

Nally 387. 1st 16. 1st 15.

The death of a person mentally wound

but not at the time under the apprehension of death are not

irreducible, for him the sanction is wanting. 634. 1st 362-97,

563. 1st 583-5.

It is not necessary for the purpose

of making such due admissible, that the party making the

due should actually have received any apprehension of the

approaching death. If it can be inferred a conclusion from the

circumstances of the case, that he was under such an ap-

prehension, they are evidence. 1st 583. 1st 363. 1st 563.

563. 1st 583. 1st 174.

It seems then that the question whether

such apprehension did exist or not must in the first insta-

re decided by the court, for the purpose of ascertaining

whether the due is admissible. If they are not admissible,

this decision is conclusive, but if they are, the question

is still open to the jury to determine, according to the opinion of the

court, if they are finally of opinion that the party was

not under the apprehension of death they are not to regard

this evidence at all. 626. 1st 363-364. 37. 583. 1st 175.

This is analogous to the case of an declaring when one is

not or destroyed. He cannot form by secondary evidence the

contents of the instrument unless he has satisfied the

court that the instrument is actually lost or destroyed. If after

the secondary evidence is admitted if the jury are satisfied

that the instrument is not lost or destroyed they need not require this
secondary evidence at all. It seems then that in these cases the competency as well as the credibility of the evidence is to be determined by the usage in the case.

The dying executors of a person dead ante nem concur in the same limitations submitted in civil cases. Thus upon a question as to the genuineness of a man's last will, the death of a witness made on his death bed, that the testator had made a former will but that he had destroyed it and forged the one in question, were admitted. 3 Nels. 1244; 1255. 6 Sim. 188. 1 Mell. 381. Lea. 125.

To also what a dead person has sworn in open on a trial between the same parties may always be proved. Even if the parties are alive, so if the parties are alive and another suit under the same parties, within the same if such is the reason of difficulty is immaterial. The existence in this case is known to the parties even by reason of the decree in open. 1 Mell. 283. 5 T. R. 373. Lea. 125. 6 Sim. 337. 2 H 23. 605. B. 20. 60. Ibid. 289. in Phil. 199.

And what an absent

-ing witness has sworn in court of enquiry may be proved; the prisoner if it appears that he prevented the witness to attend for it is the prisoner own fault that the witness is not there in person. 2 T. R. 605. 1 Mell. 285. T. R. 55. 1 Sim. 373. 1 H 28.

What one of the parties to a suit has said in relation to the matter in issue may always be proved against him by the other, a person confining being always good evidence of himself. 7 T. R. 663. B. 16. Phil. 71.

Such confession by a party known
is not constraining at his time, or he may prove that the station
in question was incorrect, whether it was made by design
or mistake, it does not differ like a word between the parties
for Intent, it may be disposed like any other evidence,
1 Bot. Phil. 49, 16 Masp. Bap. 39, Phil. 74, 78 to 80, 7 Masp. 297

But when the compulsion of a party is thus to be proved, all that
he said on the subject at the same time is to be given in
evidence, not the mere compulsion by itself. But he is not
intended to the benefit of any qualifying check. He may have
made at a different time for this would be making evidence
for himself. 1 Bent. 462. 3 Com. 215. 1st. 439. Phil. 79, 80.
Vin. at 15, 16. 53.

And a party is never allowed to introduce his own check as evidence for himself except when
they constitute a part of the record, or matter of fact
or transaction in issue, or when they accompany an
out of his own. Thus, the terms of a bond contract
may be explained if better understood from the previous check, made
at the time by the parties, which went into the very essence
of the contract.

Supposing the question is on which obligor a ten-
der was made, the debtor may prove that he said at the time,
that he intended the money to apply on 1st. 461. But if
he made no such check at this time, a subsequent check that he in-
 tended it should apply on that must will not aid him.

So when one said with cause is come in hand, if it was not at
the time he would strike, or in actual fighting, but may give
indemnies to mitigate damages that he said at the time, it was,
an accident, when the deed accompanied the act. But not if it
were subsequent. 6 Sumt. 187. 1 John. 59. 1 Mod. 3. Esp. 5:312,
1 McRy. 373. 5. 1 Stark. 135.

The same rule applies as well to crim-
inal as to civil cases. The deed accompanying the act may
be heard, but will not always avail. Thus a man may com-
mitten robbery by only the language of a by-gone. Other lan-
guage on is at liberty to prove in the trial, but the acts of vio-
lence accompanying the language may prevent the jury
from convicting in his sincerity, or from acting a weapon
which occasions pain.

Once there is a case in which what a
honest or his wife has sworn in a former trial may be re-
used in his own favor. There is no rule for a malicious
proof. A deft may prove what he or his wife knew in the said
trial, i.e. the civil proof, instituted by him. This rule is
based in public policy & private justice, mostประธาน
consulted on the information of an individual. This might
be said of the victim. But the evidence was not admitted
the present deft would be wholly unproductive. This present
must of course have grounding in the mind, because they
didn’t believe him. The proposition is now admitted to the evid-
ability of it if submitted to the jury with the other evidence.

So also the conspiring
out of court of the party wall, in which the note or party on
record, may give no evidence cast the party who receives
him. Thus if a case is lost on a bond conditioned to pay mony
to 13 the conspiring of 13 out of court, that the money had been
paid to him is as good as if it was made by all who is the
man
And what has been spoken by a stranger in the party's presence as his intent and contradicted by him is evidence for it may content in the case may be into a silent confession this is not a confession but it is good evidence to go to the jury who can make what use of it they please. Part. 16, Ch. 127, 129.

But if the wife, or any of the party's son, child or wife in the party's absence, are regularly vouchsafed by him as in case of a contract in toto, the wife should speak in her husband's absence that he was guilty as indicted 7 star 1896, 6 T. Rep. 680 as if a wife acknowledges having said words heard by herself 7 star. 1896, Miller 577.

So in an act by the wife in behalf of the wife v. 8th. 1st confession after marriage will not be admitted for during this continuance her right to act is suspended 6 T. Rep. 688

So in sim. can cons. no doubt of the wife's voice affects the husband. The injury in his act as is for his benefit & she cannot do away his right by her confession. Miller 577.

So says Mr. T. South-Dev. 205.2. when it is said. Dick of wife at time of departure as to the reason of the departure or that she died from immediate fear of punishment. Violence could be admissible. The death respecting a coroner's matter that happened at another time would not be. And in a case where defence was Puff. & evidence admissible evidence was not. a part of Puff of the wife, one as to the intention of person in going the question being in effect whether the puff. Hence she was about to depo or whether he believed her in
In an action to which an aggregate corporation is a party, the confession of any individual member of the corporation is no evidence. It cannot be proved, for an individual in such case is not regarded as all the corporation is the only object of the law. Phil. 24. 3 Pet. 293, not brought in as in the Renewal of any corporate duty.

But in transactions usually regulated by usage, if the wife makes a contract with the husband, or authority, her word may be proved as evidence against him. Thus when an act was lost for causing a false evidence of the wife and that a contract was made to pay a certain penalty sum was admitted. The words of the wife appear to be quite good sense a little too much so. I know of no other instance of this kind. Stat. 527. 3 P. B. 4. 149, Exp. Dig. 791.

The duty of the confirmation of a contract or agent, if made at the time of transacting the principal business in relation to or an evidence of him, they are regarded as part of the transaction. Thus the delivery of a deed to a third person by or as agent, or evidence of the deed, of the deed at the time of delivery are good evidence. So if a second receipt of the receipt, of an article, or at the time of payment, this receipt might be evidence of the master in our suit for damages. Stat. 455. 2 Meas. 10 20, 6126. Phil. 12. 41 10 5. Jay. 127.

But the acknowledgment of an agent, or agent, made after the transaction to which it relates, is no evidence of the principal, for the act not from part
The same distinction attaches as to the death of one insurantly between two parties on for the same reason.

11 St. Tn. 171. Phil. 77. he is the accused agent of the policy.

The death of a bankrupt as to his motion for absconding if man at the time of absconding an evidence on an act of bankruptcy for they are a part of the us gesture 5 T. Rep. 512.

But to the goods in that the death of third person can not evidence unless man at the time; there is an exception, viz in case of an insurance effected by the husband on the life of his wife, how the insurant death of the wife as to the state of health at the time of the policy effected is evidence as to the bankrupt. This is a case sui generis standing on its own peculiar reasons, for frequently the existence of even the nature of bodily complaints cannot be known but by the death of the subject of them. 6 East. 185. 11th 402. Phil. 181.

Upon the same principles in point of either civil or criminal for or batting for personal violence of any being the death of the party injured respecting the bodily pain occasioned by it whether made it the time of the act or not. if we are seeking the suffering even insensible existence, it this even in an act or not by the party himself, for it contains what the most skilful mechanic cannot so the rule appears indiscernible what if it be provided that they were made for the purpose of being given in evidence
on the trial they are admissible - the jury are to judge of their credibility. 1 Rest. 89. Sec. 139.

When a party to an suit represents an issue in the place of another person, the confession of the latter on evidence agst. such rep. - t. conf. of Tostato on evidence agst. &c. - if an ancestor agst. his heir, when sitting in suit as heir, Sec. 128. For in the confession of Tostato he could have been evidence agst. himself, if living, they ought to be such agst. his representatives.

So also, in an action agst. a Def. for an escape or massa prefura, the confession of the person that he owed the Def. such a duty is evidence agst. the Def., (there can ordinarily be no mind of such evidence in case of prior bonds.) For you will observe, that in an act agst. Def. Def. must prove that the escape occurred; and he should not be deprived of his evidence for this purpose by the wrong act of the Def. 4 T.C. 436. Perk. Sec. 45.

The rule is the same wherein an action is lost agst. a Def. by Def. in a breach for a false return. Then observe, 73 in a. Def. returns now not inventory, by which Def. in default of his action, can not: his agst. this Def. at the question is, has Def. sustained any damages - to prove in default of Def.'s confession, can admitted at the bar is no party to the suit. Perk. Sec. 65. 1 Esp. Dig. 159. 4 T.G. 436.

And if, in the case of escape above stated, the escape was suffered by an ancestor of the Def., his confession of the fact of escape would be evidence agst. the Def. 2 Ry. 190. Perk. 17. 18. Sec. 128. The reason is, the same branches of official duty, the under Def. stands
in his place, and as far as such civil liability may be said
to injunction him.

By the latest authorities however
the evidence in this case is limited to confessing a murder at the
time of the escape or not introduced to their mind after
1 Cor. 15.31. Acta 65. 10 John 478. Phil. 16.

In an action by the assignees of a trust, his acknowledging
before the court of bankruptcy, that he was indebted to the
trusting creditors, in good faith in support of the connexion,
since his confession would have been good evidence to obtain
the connexion, & the assignees exonerate him. 1 Ed. 6. 168
2 Tor. R. 65.

When the same principle, in a suit for an ag. or
 garnishee, it may prove a suit of the absconding debtor
that garnishee could not collect. Foreign attachment is
Rev. 138.

As when a debt is a suit against a partner by virtue
of something which the debtor of the latter, as to the latter an
assignment of the funds or proceeds, for by his debt he is his self.
Swine.

It is a good rule that when two men suit for a suit
the suit of one will be evidence agt himself only, not agt
his ex-debt, for an man cannot confess the right of another.

In an action ag.

one of two joint & several obligors, the confession of the other is not
admissible to prove the existence of the contract or instrument
his confession will not from the transaction out of which &
liability arising. Part 62. 174. 263.
But this is an exception to this rule in the case of partners in trade, if one is sued alone for a company debt the debt not subject to the action by a plea of non-joinder in abatement, but subject to the action to go down to trial on the merits; the confession of the other partner the not as party on record may be given in evidence; the partnership having previously been proved, for each co-partner is the agent for both, if either of either is the act of both of even the acknowledgment of either signifies the act of both. 

Pit. 2. 13. 203. Chit. 13. 204. 
Gilb. 2. 57. Phil. 3. 23. 11 East. 589. 1 Esp. 1. 169. n.

And this rule has been carried so far as to allow the acknowledgment of one partner, the not sue himself, to be given in evidence of the other, tho' it was made after the dissolution of the partnership. Phil. 72. 1 Term. 104. Contra 3 John. 536.

This which is carrying the rule too far, the ground taken to be that even after the dissolution of the joint partnership, as to all previous contracts, the partnership still remains.

The confession of one of two joint & several obligors, not being partner is not evidence in an action agst. the other to prove the contract, yet the contract being established, such confession may be proved agst. the other to take the can out of the stock, or for any other purpose except to prove the existence of the note itself. For in this case, the personal hco. partner besides in legal effect that confession is not strictly a confession, but a part or act that has the effect of a new promise or ratification of the old one, this being to be the principle. 3 Day. 309. Doug. 617. 15 Ec. Whitehead & Whitney 
Pit. 6. 15. 203. Phil. 72. 3. 6 John. 267.
This rule however does not hold of prosecutions for crimes or
forks, it is not in terms practicable of either. The confession
of one does not prove the other guilty, if it was admitted it
would be permitting one to subject another to his own
wrong, I think for it is wholly insupportable.

But it holds to be particularly noted that in the case of an illegal
combination, the combination being proved, the deed of one
may be traced to the time of doing the illegal act, or to the notion
of doing it, our evidence agst. himself of the others also, as
in case of a riot, when the combination is established evidence
in context of plan is established & a deed made at the time
is part of the act guite, it is the very act of all the accused
by one it will be evidence agst. all unless the other opposes
it at the time. But a deed made afterwards, is not
evidence agst. any except the maker. 6 T. Rep. 527 Phil. 126

If one of two deft. in one act, suffers a sufficient other than to
prove, the deed of the former may be proved on the time of the
issue for the purpose of showing the amount of damage, or
the assailant cannot show the damage agst. both, the defendant
is a mere confessor of guilt. If both are subjected then
one can be but one assignment of damage, so that this is the
only way in which deft. can avail himself of the confes-
sion even agst. the confessor himself. Acts 15. 2 Mark 604;
1 Mcp. 42. 3 61. Phil. 71 81. 1 Pe. 19. 2 Sm. 390.

And it now seems to be that
those that prove of deft. confessions unconfirmed by any
other evidence whatever, may warrants this jury in pursuing
them guilty even of a capital offence. Thus see. 1 Mcp. 51 71.
But a confession out of court admitted by torture or violence of any kind, or by threats or inducement by promising of pardon or favour is not admissible in any case, for this would be putting the prisoner at the mercy of the instigator, designing a false, 2 Habe. 2 C. 280. 2 Stewk. 204. 231. 1 Mety. 42-4. Leach 173. 126 2 18. Hely (contra 18. committed).

And since a confession made by a prisoner out of court in expectation of being admitted as a witness for the King or public is not admissible evidence, to allow such evidence would be passing this 35 to return again, they might be saved the danger of a trial. Indeed the humanity of the laws will not allow evidence to be admitted in such cases which has been procured by promises of pardon or violence. Leach 636.

On the other hand, the denial of a material fact resulting from a confession that was or is good evidence, and the confession itself obtained by forcible treating or violence so that the court itself could not be admitted. Thus if one charged with theft is induced by fear or treating to confess guilt, it will when the stolen goods are, if they should be found, the denial of subsequent promising would be good and admissible evidence against him. 1 Mety. 147. 8. Peck 200
Leach 10 6. 299 301.

I have observed to you that the confessions of a party may always be proved against himself, but this is distinction to be observed between the confession of a party.
and an offer of a compromise made by him, for this cannot
be given in evidence against him, for if a man is threatened
with a suit for $100, he may decline from paying $20, than costs
& expenses, even if he was certain of winning. In which case, offer
it to avoid the long & trouble of a suit. I Thomson says,
"a man must be permitted to try his cause without paying
"to his cause;" such offer is no evidence of liability, it is irrele-
vant. 1 Esp. 6a. 143. Ch. Bill. 208. B. & C. 256. Phil. 739. Peck
18. Sec. 126.

But the acquiescence of one of two parties is evidence of the party
acquiescing. Peck. 19. 1 Esp. 6a. 143. 2 ib. 475. 3 ib. 173. Peck. 6a. 5 Bull. M. 236.

In some cases, the acts of a party amount to an admission
which is conclusive upon him, which he cannot retract an either.
This, if an act can be shown to be void, proceedings or such. It cannot deny it. He has lawfully an evidence; for as he
holds himself out in that character, to avoid himself of the
benefit of it, he cannot avoid its duties. Otherwise individual
acts might be expanded. So whatever character a man may
assume. 3 Trep. 637. 7 Peck. 70. Sec. 129.

So if a man lives
with a woman as his wife, and she is not so, she may bind
him by contracts, as a lawful wife may also. His acts amounting
to an admission that she is his lawful wife. Peck. 20
2 Esp. 6a. 637. Sec. 129. "This 146."

So also in some cases if one law-
men torts with another as being a particular entitation
bility arises to himself, he is not permitted of his
words to deny the facts. E.g. 4. with gibe...
In an action for real occupation, the court not allowed to dispute B's title by proof of conveyance. Deed 24. 6 T.R. 113. and 63. 1 ib. 701. 2 ib. 87. 4 ib. 26.

All evidence may be considered as direct or presumptive. Direct evidence goes immediately to prove the point in issue.

Presumption in law is an inference from circumstances proved or admitted of the existence of some other fact or facts.

Presumption evidence is that which, in evidence, is proved to prove consequentially, the particular facts by directly proving another.

Thus if one change of chaff one says he saw it clear.

Then this is direct evidence. If, on the other hand, he says he saw it in sport of the goods that were stolen, it is presumption between the circumstances, but does not decide the issue. I.e., it may be submitted. 1 Bla. 6. 122. 21. 21. 21.

peremptory presumption of fact is always liable to be submitted. In 21.

Long unsuspected enjoyment or proof of ownership right of property affords a presumption that it had a legitimate status, and in such case even the existence of notice may be presumed. The fact to be presumed is submitted under the direction of the court to the jury. That rule of evidence is subject to consequence. When manifestly raises that the court will direct the jury to presume as to every thing to every thing for quitting the titles enjoyed for a just length of time, even the courts cannot believe that they really was any legal commenced of

pro". This is a question as to the right to collect from debts.
a charter from the crown was presented by direction of this
affirmed in 33, &.c. We know no more valid case in
law. In this county, a deed to another was presumed to
have existed & been lost. The time before 1st after the
time was in question. In 3d, 6th the whole course of
proceedings on an intestate estate in a court of probate
was presumed. 3d. 68. 216. 217. 1 3d. 399, 366.
2d. 68. 3d. 399. 9th. 212. Bush & 9th. 212. 

This rule is founded in principle, as for its object, the quelling of title under proof of
long standing. Thus in a case where the court directed the
jury to presume a deed, merely, to have been lost by a
liability in trust. 3d. 399. 2d. 1066. & where our
joint tenants had been in possession for 364 & the
court directed the jury to presume our actual owner
that the estate might serve. 2d. 217.

And not only
criminal facts, but actual, necessarily, accident, or circumstances
in newspapers, or any other species of facts that can be
mentioned which it necessary to consummate a letting
be presumed. 3d. 3d. 99. 399.

And it seems that an un-
disturbed right is an enjoyment for 209, in Eng. 215 in law,
may in analogy to the State of New. Be left to the jury as
a ground of presumption, to hold out similar in case for
obstructing rights of 209 enjoyment. 399. 69.

On the same
principle when a bond has lain dormant for 209 without
proof of force a suit a without suit the court will direct the
the day to perform pay's unless indeed the obligor can act
for the obligee by virtue of disability, or theft. Proceeding involving
a by proof of recognition of the statute within the time.
and now the rule is laid down in more inclusive language
for 184 207. In both the rule cannot apply where
have a statute of time applying to bond. 1 Bl. Op. 352
24. 20. 138. loco. 216. The same obtains therein
the case on Diff. 4th. 82. 6. 2d Ky. 1370.

And as an example,

seems by the obligor if made before the time when
the presumption might more arise. If good evidence made
by? At any rate good evidence to rebut the presumption
of full proof? Penn. 24. 20. 82. 6. 2d Ky. 1370. T. R. 2
82. 6. 2d Ky. 1370.

If a credit entitled to a debt payable by instalments, gives a note for one installment, it furnishes
strong presumption that the preceding installment
have been paid. — So is the rule as to pay of

And since length of time short of the period prescribed by the law
of limitations (in cases to which the statute applies) is not a suffi-
ground for presuming the extinguishment of a right.
Conf. 214. Penn's 22. 6.
Evidence is of two kinds. I. Written. II. Unwritten or parole.

Written evidence is divided into three kinds. 1st. Records. 2nd. Public writings or documents which are not records. 3rd. Private writings. Dec. 26.
Sec. 52.

A RECORD is a written memorial of the laws of the state or nation, or a person of justice according to the laws and customs of the state. Hence the written memorials of the acts of the legislature, of judicial proceedings of courts of record are designated RECORDS in the Parliament Rolls etc. Gilb. 7. 28. Bull. N. P. 231. 232. Dec. 52. Sec. 2.

A record can never be contradicted for in the language of Lord Coke "it imports absolute and uncontrovertible evidence". This rule is founded in the great solemnity of such writings. Dec. 9. 221. Dec. 27.

The rule does not mean that nothing introduced in the form of a record can be contradicted; for if a record is made erroneous by any unauthorized alteration, that fact may be proved by parol evidence; it may be proved to be a forgery to so much.

On the other hand evidence is more admitted to prove that an alteration by proper authority to make the record correct was indifferent. e. g. 1 Bl. 264. 2 Bl. 3267. Dec. 28. 1 Shaw 210

And equally parol evidence may be admitted to prove that a writing implying to be a record is a mere forgery, this is not damaging a fact.
The public acts of the legislature require no proof of any kind for being the laws of the land they are supposed to be known by all persons in the community, especially by the judges who are bound to notice them as officers. The printed statute book is not evidence, but is used merely to aid the memory of those who made it, and no one of foreign legislating the rule is stiff. Gent. 10. B. ch. 26. 22. Sec. 4. 2

But private acts not being a branch of the general law of the land are not supposed to be known to the public nor even to the courts, hence they can be proved on proof like other records which relate to private rights i.e. by copy. They can be proved on much as much as any other by copy. Gent. 12. 13. By 239. 10. Stat. 12. B. ch. 18. 22. Stat. 27.

And the printed statute book is no evidence of private state. To be in it, come to light, and by John S. Parker. Gent. 13. Sec. 27. 25 since begins to be law, for it is no more than a private opinion, not verified by oath or any official sanction. Stat. 27. B. ch. 1. 25.

But if the legislature declare that a statute in its nature private, shall be deemed public, the statute book is sufficient evidence of it, as readily there is no need of proof the judge being bound to notice it officially as a general law. Stat. 27. 29.

I would state that no means are not invariable, they must be proved by copy. Proc. 25. 76. Sec. 2. The copies of the means of the Legislature are to be certified by the Clerk of State, as in case of a private state. The means of the courts of justice by the
proper officer of these courts, or by the clerk or Prothonotary, if there be one, if not by the Judge himself. In both cases, the copy is to be authenticated by the seal of the court if there be one. (Our justices of peace having no seal, no seal, sign the certificate on mere their selves, without seal) And courts are presumed to know the seals of the Legislatures of the several counties of all the states in the union, however the facts may be. See 8 U.S. 153. For analogous rules in Eng. Gill's 19. 1 Salk. 146. Psa. 30. 31.

Copies of records under seal are called exemplifications, and it is a rule of 64 that seal of public records are full evidence in themselves without oath or other authentication. If the court of record would have to resort to a lower species of evidence, a seal of justice which only by its seal to the judgment of that record can afford only by the seal which is the establishment again or symbol by which one court certifies to another. 10 Salk. 125 b. Gill's 19. 1 Salk. 111. a, Sand. 113. 19. 1 Salk. 146.

As to the transfer of certifying records from one of the United States to another, the State of the U.S. directs, that if an exemplification be attested by a seal of a court, it must be evidence in another State, to be accompanied with a certificate of the seal. As presiding justice, the great seal of State or Chancellor, that the attestation is in due form and made by the proper office. 7 St. U.S. 158.

By the same law copies of records in office books, as they are called, kept in an office not appertaining to a court of justice, as Town or County records of lands, etc, are to be attested by the Mayor of the officer, under seal of office.
Copies of the records of courts of justice are of four kinds, usually divided into these 1. Exemplifications under the great seal. (Irrit by the 6d. in Eng.) Under our law copies are not exemplified by the great seal. 2. Exemplifications under the seal of the court to which the record belongs. 3. Office copies, i.e. copies certified by the attestation of an officer appointed for that purpose, but not under seal. 4. Sworn copies, that are copies, made under the oath, by an extrajudicial sworn to in court by him. Gilb. 21. 2. Peak. 28. 9. B. 17 P. 228.

Copies under the great seal are, therefore, sworn records, not copies, from that great solemnity, and that in Eng are the only description of evidence of the existence of a record upon plans of their records pleaded in a court of equal or inferior jurisdiction to the one whose record is in question, and of superior jurisdiction in the record proceedings may be removed by continuance for other purposes, other copies may be supplied. 21. 31 11, a. Gilb. 17. 19. Peak. 28. 9. 12, 2.

Exemplifications under the great seal, as to cases of courts, bring unknown law, those certified by the seal of the court are the highest evidence in our courts, and are regularly the only dependable evidence on an issue of such title record. This rule applies however, you will perceive only to those cases in which the existence of a record is in question in another court than that to which the record belongs. Sec. 2. B. 17 P. 226. Peak. 28. 9. 30.
To if a record of the same event in which the issue of
and the record is joined in address, the court will inspect the
original, so that it cannot be used for the evidence in the hands
of the court. Hence the replication affixing the name of
the record makes no profit of amplification, but
prays the court to inspect the record, sect. 29.

An issue of
and that record always concludes to the court, for it is
matters of law which the jury are incapable to determine.
Lawm. 11. App.

But when a record is only matters of inculpation
and is not to be examined, and the issue cannot be heard
to it, for matter of inculpation is not admissible, sect. 330
Gibb. 26. 1 Salk. 145. 6. Lawm. 11. Sect. 2. 2 Term. 68. 81.

In such
cases the issue being tried by the jury, the evidence of the inculpation of the record is to be submitted to them. In some
cases as well as an amplification is admissible, sect. 330

In debt or judgment, the
is the point. If it put the existence of the record directly
in question, the evidence of the matter, but an amplification un-
der the great seal is long, as the record itself passed for ins-
pection, or an amplification under the seal of that court when
record is in question, in this.

Suppose that in omissions there
are issues, which in Eng is not guilty, in law, no wrong
no silemia" and clearing under a record of court. But
the record is mere matter of inculpation for the
whole is the gist of the action, and a sworn copy is nee
good evidence.

But a copy of a sworn copy is no evidence at all either to the day or court, however it may be evidenced for the reasons before given. Tit. 24.

Office copies are granted only by an officer appointed by law for that purpose. A copy thus granted is in itself evidence, but of course, and without any collateral proof, as by a Town clerk, no proof that it is certified, in Med. Gill 28. Ran 110, B. T. P. 229, Pink. 5113.

But a copy certified by an officer is evidence by this law to certify it, if no error. That is, it does not mean that a sworn copy is no evidence until examined and sworn to when it becomes a sworn copy. Gill 23. 3. 36. B. T. P. 229.

But the same

and is in fact provable only by a copy of same kind, yet if it can be shown clearly that a record once existing has been destroyed or lost and that without the fault of the party claiming under it, important evidence of its contents is admissible especially when the record is only in evidence, for instance, an essay is impossible than for an hard evidence is admissible. Gill 22. 1 Kent 257. 1 Mod 117. Sach 285. B. T. P. 228. Pink 29. 3d 328.

And in such case a copy if sworn to be the

not manuscript and sworn to be true is admissible. It being proved by some kind of evidence to be substantially a copy of the

contents of a deed. This is allowed from the necessity of the case. ib. ib. ib. ib. Tit. 291.

But this inferior species of evidence is never

only admitted in those cases only in which contentions or
For if a written lease is lost & its contents can not be ascertained, the court will permit one to be made de novo. 3 Pacific 723. 1 Md. 117. Gill 223. Pink 30. Phil. 292. Hawk 496.

Generally, a salutary precaution in copying a record must be submitted evidence by the whole statute, or any part exclusively. For a detached part may bear a construction different quite different from the grand import of the whole. (Gill 17. 23. Anst. 36.) And this rule is the same as to copies of other instruments of evidential, 3 Inst. 172. B. c. P. 337. 8. Phil. 290.

For v. q. t., whom a Record in a civil suit is evidence. In q. t. a record or copy in a civil suit is evidence only as between the parties to it & their privies, this a record between A & B is no evidence between C & D. Pink 16. 36. Pink 232. Part. 225. 7. Phil. 113. 1 Mcq. 624. A. q. t. 730. A. c. 462. Phil. 322.

V. q. t. is recognized by the law courts in four cases,
1st. V. q. t. in blood. as between ancestor & heir at law. 1 Inst. 352. 2 East. 353.
2d. V. q. t. in estate as between jesses of a estate. Jessup & Jessup. 5. Turn. 6. 10 & 11. Inst. 369.
3d. V. q. t. remains in name by the same only. Particular case to remain in name etc. 1 Inst. 352. B. c. P. 232. Gill 81. 10 B. c. 923. Co. 23. Pink 29. 30. Inst. 267.

3d. V. q. t. in law as between
Lord & Tenant (sometimes called `v. q. t. in tenure) 260. 242.
which is held by the estate. The bond a tenant in demesne. 1 Inst. 352.
II. 

Priority in representation or between Vizilato 1 

This if there were a need between A & B. as containing little. A should sell to B. and would be good evidence in a dispute between A & B respecting the land. So if B had been to sell or Chose or Bin to B. or any tenant in common or by the county of. In all this case the venue has the same sense effect as it would have had in a subsequent action between the origin parties.

The next inquiry is as to the effect of such venue when as admitted as evidence.

It is an established rule that a proof of a court having competent jurisdiction, directly on the question, is conclusive evidence in aid against the parties and their privies. Thus if A sue B as in suit or both A & B desire them and afterwards it was argued B may plead the former proof in bar. So if A's 5 or 6th suit, the second time. C. 16, 2. 206. 308. C. E. 668. W. Rich, 16, 1. 150. 2. 355. Arl. 61. 761. Peck. 34. 36. & B. 114. 4. 110. 7. 32. 2. 232

Hence if a final proof 3 has been given in a suit, it can be impeached or called in question only in due course of law as by writ of error appeal bill in bold directly praying relief or in bar, by a petition for a new trial which is a motion unknown to bold. for by bold, motion is granted often final proof. 3 A final proof 3 cannot be impeached in any collateral way. i.e. by any right action. Peck. 36. 4. 9. 1. 10. 1. Day. 170

The reason of this latter rule is that a final proof 3 deciding any
legal right must determine the controversy or litigation would be endless.

The rule is the same as to orders in chancery and awards of arbitrators, for they can conclusive until set aside in some course of law. 1 Day, 130, 3 Ch. 30, 68, 10. 68, 10.

If this judgment has been given for right on a claim or a plea to the action or in any way so that the right in question is decided, the defendant while that judgment remains in force, maintaining any similar or concurrent actions for the same cause. This if first chatted on possible taking, trouble from any concurrent actions. 2 if they are issues in fact for its amount, in concurrent with them, now if final judgment determining these might be rendered an either of these actions it is an absolute bar to this maintaining another action for the same reason or either of the other actions for the same injury 3 Wils. 302, 200, 2 Bl. Rep. 394, 3 Bent. 346, 352, 36. 6 Bv. 6 B. 20.

But the rule does not hold if the first action was misconceived or failed for the want of some of the essential allegations supplied in the second as in each case the right claimed in the second motion was not could be decided in the first. The grounds absconded in the two being different. Of course the first may become the concurrent which right in pleading the word of the former party must make that the cause of action in the second suit in the same as was alleged in the first. As if right should omit to allege conversion in terms or manner in London 2 Week. 169, 12 Bistr. 116, 129, 96. 8. Ray. 472, 2 B. 318, 36. 1 B. 37, 11.
And on the other hand a jury33 for Diffs for the recovery of a debt or other demand is conclusive of the existence of that debt or demand on ease. Diffs to his suit. Once the rule holds, whether there is by contract or assignment, or by statute.

Since the

Diffs cannot recover back the money paid under this process, they cannot show by the present evidence that he paid it, for jury34 on that it was more done. And this is not all he cannot in such a case maintain an action for pounds any of the Diffs in obtaining the first jury35 for this would be collaterally impeaching that jury36 by 1 P.C. 130, 3 H. 30. Dech. 50, 7. 12. 14. 4. D. Dech. 129, 7. Dech. 129, 9. 9. 9.

The same rule holds when in 6th a summons of arbitrator. Pro. 68. 75. 1 P.C. 130, 3 H. 30.

There is one case (Mors v. G. Farther 12 P.C. 1009) that seems to impinge on this rule but I do not think it is that no action was back to recover back money paid under this judgment of a court of conscience it maintained on the ground that that court could not take evidence of any suit legal defense pleaded by Diffs so that Diffs in that action could not conscionably retain the money paid. The case is however much stronger. Phil. 225.

The last it has been determined that if a party on being sued pays the money on demand, the denying it to be true he cannot afterwards recover it back, because it is said the party was made in a course of legal proceedings. 1 Ex. 68. 84. 279. Dech. 35.

1. A young in introduction.
this rule on the ground that Def. is stopped by his own act, but
there is no justic: in the case and I doubt the correctness
of the rule for it is not founded in principle.

On the other
hand a Def. having recovered justic: for a part of his claim
when he attempts to prove to recover the whole, he is precluded
from maintaining another action to recover the residue,
for it is substantially a justic: in favour of Def. and that
claim which Def. failed to recover.

If, however, he did
not attempt to prove the part of an item, settle his
claim, and then (which by the way is immaterial as to event)
was long enough to cover the whole, an every bring
another action to recover the remainder of other items
for the same item or to that has more been raised, it was now

I observe yesterday that a final
justic: in an action is conclusion so as to bar another similar or
concurrent action for the same cause.

But in the application
of this rule there is this diversity to be noticed between real:
personal actions. All personal actions of equal origin of
course or bar an one purs: action is a bar by way of estoppel to
every other personal action for the same cause or thing. This
is but true to concurrent & ed things traps. eg. 13 it is
defined that brings true for the same thing the former
jud: placed in law by Def. in the item. 6 6. 7. Phil. 235.

In real actions with other cases than various degrees, some
bring of a higher nature or rank than others, sooner ag:
in a first action is no bar to a real one on the same
subject. The fact that a first action on trespass raises another
question of privilege is no bar to a subsequent action to recover the
same land for the same wrong in question in the first action are not the
same.

Now is a principle in every real action a bar to another real
action of a higher nature for the same cause for the same reason. If upon
the same subject matter, it is no bar to his bringing an action
for his rent in the former action is perfectly consistent with it
being void in the former action. 3 East 258.0

But in every species of action the final judge is as far as it respects
the immediate subject matter in issue is conclusive by way of
law to any former litigation. 3 East 357.

Hence if any prima facie
fact is directly put in issue it founds on that I'd since sued in a
first action on trespass, it is conclusive as to that fact so as to
prevent it's being disputed afterwards between the same par-
ties even in a real action. 3 East 316, 354.5, 8, 366, 641.12.

As this distinction is intricate to those who are not acquainted
with the rules of evidence I will recapitulate. A final judg-
ment in a first action on trespass is no bar to a real action
between the same parties respecting the same subject because
our rule is that the first holds to the other to the freehold.

But if any
prima facie fact is directly put in issue in the first action, the
prima facie is conclusive evidence in any subsequent action to
that fact. Phil 236.7.
To make a mesne in a former suit.

To make a mesne in a former suit.
conclusion when any matter of right or point in dispute it must appear from the record, that that point or right was directly put in issue in the former suit. This when a party having been bound in a suit upon a contract or for a debt it was shown that the same point was in issue and decided by the last judge in conclusive manner and upon the form of issue the record, cannot in question as being taken into evidence by the jury. Phil. 236-1 Esp. 423. 2 John. 2. 26. It is always however as also to show by extraneous proof that the subject in controversy was the same or different. Thus if citing B in relief for taking his horse it is sufficient, if he afterwards was him in witness for taking a horse, it would not be necessary to prove that the horse is the same one for which the former action of trespass was brought or for relief from that it is not the same horse. This must necessarily be so grounded for it cannot appear upon the records, nor can any other witnesses for twenty horse.

Thus from the record whether a given point or question of right was in issue, but whether it related to the same or a different subject or article must appear otherwise or by extraneous evidence.

To repeat them to the same if the same, if it is admitted or proved that it is the same horse, the former proof is a conclusive rule to the latter action, the record of it showing the question answered (the title) to be the same.
I observed that to make a sound conclusion it must appear from the face of it, that the same point in a different case directly in issue in the former suit. But in a suit for performing work unskilfully, the word of a former action in which defendant recovered of defendant compensation for the labour done, is not necessarily conclusive, it is no evidence at all. The reason is, that the goods on having been the plea, it does not appear that the unskilfulness of performance was used as a defence in the former action. It might have been so used. Vs. 12, 1 Esd. 4:3. v. John. 24.

It forms part of the same point to be conclusive as well when the point decided by it comes afterwards incidentally in question, or when it forms the ground of action in a subsequent suit.

Thus, in an action on a policy of insurance with warranty of mutuality, a sentence of the court of admiralty condemning the vessel to as enemy's prize is conclusive that she was not mutual. The question of mutuality arose incidentally on the trial of the act on the policy, R. v. 1 Ch. 2:44, 8 T. R. 196, 11 3:42, 2 East 268, 471, 7 T. R. 125, Doug. 552, Phil. 250, 15 59, 2 D. 201.

In Ex. the sentence of 8 Be. et al; on the subject of marriage legitimacy, in which court three persons in three cases when their actions have decision from of determination. This the question of marriage legitimacy comes incidentally in question, as when defendant in suit claims by consent. Proc. 77, 6. 13.

But on the other hand a prior judgment is no evidence of any matter that
case in question collaterally in the prior action, to make it
evident it must have some directness in itself. Note 53, 10,
Note 233, 248.

Thus in a suit between A & B, B proves B was a
witness. A proves him to be legally informing & his testimony
is rejected so that B is defeated. This point is no evidence
of the fact that B is legally informing; that point was collat-
erally, it does not appear upon the record.

And the judge of a
court upon a point, only incidentally cognizable by it, is no evidence
in another action between the same parties. Thus when a question
of nominally personal issues in a 1st suit, as of contract and or
municipality in an action in a policy of insurance, the judge
of no evidence in a subseq. action. It was not a prior upon the
record, the question being supposed to be the place, the ques-
tion more incidentally. If however it was especially
planned to distinctly formed it would come under a
former rule.

The rule is the same as to any matter merely inc
formable by argument from the former judge. Thus at suit 10
on contract, B gives informing in evidence under the judge's
view, it is not competent for A to show a former wrong ag & B on a sim-
ilar contract to rebut his evidence.

And a prior judge given upon
the same issue is, in no case what conclusions between the
parties, unless the cause of action in the same in both can
come the same issue of which the cause of action arises in
the same.

Thus at suit 10 for a given nuisance, if A has actually
owned ag 10 in a former action for the same nuisance, the any
continuance of the nuisance is a repetition of the injury, the person guilty is not an evidence. The reason is that the cause of action is not the same, the title which is the foundation of it may be, so in a second action for the distinctness of the same
right in possession. Peck. 37. 8. 34, 35. 232. 3 Galt. 365.

The same rule holds in relation to theony action of ejectment the lease and tenant being fictitious, the identity of the parties of course of action cannot appear upon the record. Ann. 29. 12. Peck 37. 8.

But in these three latter cases as well as all similar ones the verdict in the first action is evidence in the second, the not conclusion. Peck. 282. Galt. 29, 30, 35. 365. 1187. South. 79, 181.

In general, this is not conclusive unless the cause of action is the same as well as the title, but the verdict may be given in evidence when the cause of action is different, then it would not be conclusive.

If, however, the title or any facts in connection of the right had been distinctly put in your evidence in the former suit, the verdict might be blasphemed by way of estoppel, but would be conclusive. 3 East. 326. 352. 5. 355. 366.

You perceive then that a verdict may sometimes be evidence the not conclusion when the jury would be evidence at all, and this is a great difference between judge's
verdicts as to their nature and effect. This neglecting to observe this difference or sort of confusion has been introduced into the
front of the laws of evidence.

It prior judge upon a point a title
afterwards brought in question is a question of law deciding the right
A verdict is some evidence of a matter of fact, the whom plea able disputed by way of Wittful to will be conclusion.

A judge, when evidence at all is conclusion, a verdict is not necessarily so.

The office of a verdict within pleasure or given in evidence under the gift of judge is to prove some matter of fact. But the office of a judge is not to ascertain facts, but to show the right determined by it upon the facts as ascertained from the verdict or otherwise. Peak 37. 3 East 354. 1-365.

Thus it brings from act. 13 for a watch and is defective. In thin brings a second act. for a watch it brings from a evidence to be the same watch, this former judge is conclusion of the right. Therefore conclusion act of the present action.

On the other hand if in an act of trespass B. D. B. pleads a specific fact, on that I shall decide in for I demand to him, by which that fact is directly in issue if it is proved. this verdict is conclusion as to that fact in any such action, done stop a party from trying it over again, but what right follows as a consequence of this fact is left for the decision of the court.

A first judge than when evidence at all is conclusion between the parties. B. D. B. pleads to the point in tittl conclusion by it whenever a verdict may be prima facie evidence only it being conclusion of the fact but not of the right of the fact. Act. 756. 761. 1 Chr. 235. 1 Decy. 170. 2 Decy. 345, 7.

Since a prior judgment in a case in a writ must come where none one of many way except the cause of action is in both suits the same, for on the prior judge of it is to have any effect to be conclusion it only.
ought to be no evidence except when the cause of action is the same.

But in most cases, the conclusion when placed by way of stipulation, may in many cases be given in evidence when not conclusive. The
this cannot be done, unless the point in question only directly
in issue in the former suit. 3 East 365. Gill 79, 80. 6th 37

In these cases, however, to which this rule applies, i.e. where a certain may
be evidence the conclusion, one thing in which the cause of a
right or demand in question is not the same in the two cases, the
depending on the same title as same state of facts, for if the cause
over the same the judge would be conclusion, but the would be novum
of the verdict as evidence.

Thus if two suits of cause are held upon
the same title as by decree or service, a verdict in ejectment in a dif-
ferent suit, to one may may be given in evidence in a subsequent action
between the parties for the same claim for the other parties, for the rule is, in the same that
the subject matter is not. If the subject matter a cause of fact
over the same the verdict would be novum for the judge would be con-
Vast 42, 5 id 386.

A prior verdict in a suit for a new cause or
disturbance may be given in evidence in another suit for the
continuance of the same nuisance or a perpetuation of the same
disturbances. It is prima facie evidence for the cause of not a
the right or title out of which that claim arises in the cause
3 East 365. 6th 37. 8

I solemnly yestead that a verdict in an
suit might be given in evidence in another between the same
parties from prior suits. On this subject I have further to
observe that a verdict in a prior action of yeatment for a
given piece of land, may be given in evidence in a subsequent
action of yeat for the same land between the same parties
as if at any time 13 in the name of a stipulating person or brand
defendant, then 13 in the name of another stipulating
person the verdict in the first case is evidence in the sub-
sequent action. The judge in such a case is not conclusion
but evidence, because the identity of the nominal parties
the causes of action do not differ, and the record which is
necessary to constitute an estoppel. But the court will take no
notice of the real parties for the purpose of admitting the verdict

It is stated in Swift's
evidence p. 18. that verdicts can only be given in evidence as to
these facts, that on specially pressed. i.e. as to those facts only, and
on pressed on a special issue. This cannot be law pur in the
ears before mention of yeatment, unless on disturbance
the verdict was supported to be on the guilt issue. The reason
is that a verdict cannot be pleaded in bar by way of co-
trovert. verdicts formed upon a special issue, but a verdict of
the guilt issue may be evidence between the same parties
this it is not conclusion.

I have thus far treated of the ef-
facts of judgment verdicts when admitted in evidence of
the court to evidence.

For 1 against whom a record is evidence.

In guilt the record in a former civil suit is evidence in
a subsequent suit the facts in right which it imparts to es-
establish, except in between those who are parties to it, their pri-

rises. Thus a notice of a suit between A & B is no evidence as be-
tween A & C.

The principle is that third persons are not in guilt to be bound or in any way affected by judgments between other persons, unless the cause of suit in the time came out of the same suit, because the latter had no opportunity to cross ex-
amine witnesses, to continu the cause, to bring a suit for an instructing error, now to set it aside for motion for any irregularity, being a stranger to the record. Gถ offre 29, 32, 33.


Phil. 232, 248.

A case is the benefit of the rule ought to be mutual. Third persons cannot in guilt take advantage of the notice of a suit between other parties even as against one of those parties. It is laid down by 6 Bl Brow. Gill: "nobody can take benefit by a vindict, who has not been prejudiced by it, but you are contrary." It is therefore a sufficient objection when a vindict is given in evidence with for example the former party that the objection in the former suit was to third par-
ties as in the above act. Gill 316, 323, 3 B. & P. 232, 3 Mont. 141, 322, Phil. 230. 1.

This is included an exception to this to the general

A rule that the benefit of the rule that the benefit to be derived from the record evidence must be mutual, but the state of facts on which they are founded is so complex that I must refer you to the books. Pick. 38, 9. Gill 23, 5. 2 Ray 730. 3 B. & P. 232.

But the pr

ove rule that evidence is no evidence except as between the parties; if that fairness is not universal. Thus when one uses for his own
benefit the name of another as party to a suit, the verdict will be conclusive for or against the former as the party was the otherwise the not conclusive. As in effect by an interlocutory紧密结合 of an errour or a vice without the name of a defendant. As in 1. Det. & Rich. Inz. the first need only, if it, will not admit of the party an dixit as well as the verdict, but the parties being parties to the suit it will notice the male opinion to admit the verdict in evidence. B. El. P. 232. Gibb. 35. Dall. 40. And in this case whatever the first verdict might be either party may introduce it in the second action.

So again if two acts be both dixit or as who justifies an the servant of J. &. the verdict in this case is evidence, the not conclusive in a subsequent action but by some 24th.

act & 18 who justifies an the servant of S. against him, for J. is virtually, the not nominally the party, or personal, & because he is not nominally on record the evidence is not conclusive, he would not be even if it win on a special issue. Dall. 40. Doug. 517.

There is one other exception to the general rule when the point in dispute is a question of public right, in such cases a verdict finding a negating the right in a given action between certain parties will be evidence in a subsequent action between different parties.

Thus ext. 15 in trespass

defenses on the ground of a public right of way it verdict is formed as to 3. 15. As afterwards says 6. who defends in the same manner. The former verdict will be evidence as to 6. as it might have been as to 7. if it had been given in time in the first action. An also it is not conclusive. Pos. R. 15. 6219. Cornt. 181. 1 East. 355.
Suppose a city or other corporate body acts, or acting, 
sueing a certain toll by virtue of a custom or prescription, 
the act found in this case was in evidence in a subsequent action.

The probable ground of the rule is that the right in question is public or common to individuals in community; And it is intended to the extent of the case, the public right, or a public right to which no individual was joined, is to be involved.

The sentence of courts, in certain cases, where proceedings are in certain courts, is, if correctly, very conclusive as to the persons, whether nominally parties or not, proceeding in said to be prior, when the sentence was, immediately, on the subject of sentence, on a ship libeled. If she is condemned, the law takes, not of the ship, but her.

Suppose it in fact, a ship in a foreign port, she is libeled, 
I am assured it is belonging to another continue, affair, 
the former just conclusion is the law makes sense.

The reason is that all matters may become parties in such proceedings, 
for that reason, an regarded as potentially parties. It is not a party, eg the ship, or any other person; the notice given to them is to all mankind. 
These proceedings, our therefore not continued in no instance, unless a man, 57 T. Rex. 195, 234, 7 85, 523, 681. 
In 255. 2 East. 258. 286. R. 974, 1172.

Whenever thinks any matter

Until this case, any matter

Until this case, any matter

Until this case, any matter
The rule is the same as to surmises of events having prior
date of the probate of a will, 12 Vin. 1, 7; for the same reason
viz. that all surmises may be proved, 1 Lev. 235. 3 Term. 102.
Rut. 70, 34; 1 Tor. 170. 2 id. 312.

And the same is
was indicated for forging a will, the court is required at once
in producing a probate of the will under the seal of the
ordinary, 1 Lev. 287. 783.

So also if it brings an action, 60 to 70 F

depn. that at some corn, 60 to 70. The probate of a will in which
it is named as 60 is conclusive. 129 cannot prove that the will is
forged. It is also found good by competent authority, 1 Lev. 285.

This proceeding in men in being done to clear the Walds, any
one may appear to claim in their name. It may not affect the
proceedings, so not in the nature of suit between
the parties. 129 being made for probate, any one may advert in
self defense or bring in a later will to contest the
affair.

You will find a case in Dineh. 6 C. 103. That on its first
impression would seem to indicate the case above of forgery, but
that cannot stand proof. The probate in such case is conclusive
for evidence of the fact of forgery can be admitted. The case
in Dineh was different, the forgery was indicated before the court in
the testator was alive, in this case a probate was produced but it
cannot be shown that the 60. We can without authority. But the
proceedings may clear some part to [re] some note. 6 C. 103.

D. McPh. 129.

That that can turn upon this distinction on 1 Lev. 78
125.

Then is another case in 2 McPh. 230 but then the probate was ob-
tailed by hand in the proceeding which used it used 2 McPh. 487. 488. 481.
In case also a sentence of guilty of an exclusiveness and in matrimonial cases as of divorce, a marriage and conclusions of the parties of marriage to, when it afterwards is incidentally questioned in every case there is always the conclusion. Thus if a divorce is made or a sentence or guilt of such a court declaring being illegitimate is conclusive of such fact. Acts 706, 702, 710, 711, 712, 711, 711, 711, 711, 711, 711.

Again in case a court: conversation with Diff. wife a prior guilty if an Eec. 5, committing his marriage with his wife and wife in conclusion evidence for the Dif. Acts 710, 710, 710, 710, 710, 710, 710, 710, 710, 710.

So also if an action is brought against a man as his bond to recover a debt due from his wife while she is a prior sentence of an Eec. 5, declaring the marriage null and void is conclusive of it. The Dif. as it shows the Dif. was never married to this woman it is the debt was contracted before marriage he could not be subjected in consequence of giving his bond as his wife. 11 F. Tr. 235, 235, 235, 235, 235, 235, 235, 235, 235, 235.

You perceive that

how the sentence is conclusive agt. a person who is not a party to it, the reason of the rule as to those persons it takes to be that the sentence is in the nature of a proceeding in rem, it having been concluded all persons with that one not can could have been parties. A proceeding in rem is on this principle to be considered in the nature of a common nuisance, which is evidence as a deed is between other parties.

Such a sentence in a woman is a conclusion upon an indictment for bigamy, thus if it is indicted for bigamy for having married & living his
from wife B. a sentence of the Cae. of declaring his mar-
riage with 6 good lawful or his marriage with B and
is no evidence in other causes. In may be convicted for
infringing such sentence. 11 St. 3502. 26a, 73.

It is difficult
to reconcile this with the decision in the case of forgery.
It alleged to. In support of its last with the marriage it is said
that the Cae. of has not cognizance of crimes. This in the
case of forgery nothing could have made himself a party, but this
he could not in the case of the marriage question.

But in other
cases individuals who were strangers to the proceedings may
then that the sentence establishing the marriage or execution
was obtained by fraud, between the parties, then being con-
tinuous facts which initiate the most solemn proceedings,
being a fraud upon the court, a stranger may sue out that it
predenial because being a stranger to the facts he could not
come in traverse it. When there is collusion there is no
ease in which one of the parties can avoid the sentence
if one of them was deceived in the court between the other.
This party can make the sentence only by affidavit sworn to and
on his own good faith. 11 St. 3502. 94. Vid. 246. 11 St. 3502.

you will know that I am now treat-
ing of the exceptions to the goods rules that a person is not to
surrender itself between those who are parties between these.

Further when an person has been compelled by suit to pay money
for another in an action for a non-maintenance he may give
in evidence the want of the former suit against himself.
not for the purpose of proving that allegations that were made to produce in the former trial, or that left, properly sue him for the money advanced, or that that money was really due from him. But that such a recovery was actually had by him touch our point, i. e., the recovery be that be 18, 2 ex being when he produces nothing 1 satisfied. The nearest this form is a part of the as gesture, the failure of proof must be proved. This being denying that he owed the estate that Deff was his necessity. Deff is entitled to prove by other testimony all other facts necessary in his case, except that he has paid.

It also when Deff has been subjected for the official acts & defaults of his lover Deff when he was the Deff. He may show the former needs for the purpose of proving that he has been subjected to such an amount as for the misconduct of his Deff without to prove Deff quits or that Deff is his Deff in their way as may act as such. That the Deff was subjected in favor of the as gesture I must be proved.

So when a master has been subjected by the misconduct of the desc. In an action by the master ag. the man, the former needs is evidence of precisely the same facts.

Again in an act, by an omission of a Bill who has been subjected ag. the receiver. Deff may give the recite of the former suit to show that he has been obliged to pay so much. But that Deff accepts the bill is liable to Deff must appear from other testimony. Peak 238

In an act, on a covenant of warranty in a deed of conveyance that Deff may give in evidence the recite of a prior suit by which he was
suit. Not for the reason that the victor have higher title, the
must be meant out by this evidence. But to show that he has
been victor for without actual victor he can receive no
earn in the cost of warranty. Gilb. 28. Yule. 22. 1Bdel. 396

that if the warranty was conceded in in the prior suit the
second is conclusive ag. him of the whole case. This is when the
Deft. in the first suit the commanter or bring sued gives no
then to his grantee by suit of some cl. for the sum of the
suit 1 gives him an opportunity to show that he denied the title
he conveyed. In such a or writin so appr., or not the need
is conclusive ag. him "Lord Justice"

So in an or. when the
warranty of title to a chattel or a horse, the Deft may give
in evidence the record of the suit ag. himself in which
the value of the horse was removed of him, for the pur-
pose of showing that he has lost the horse, or without
having that he from no damage. But not to prove that
the value has no title or that the person who removed
of Deft had. 1 Sam. 517. Dec. 15.

So also a record of a former
receive satisfaction obtained by the Deft ag. to reason for
the thing a matter demand is evidence for the Deft upon
the fact that such prior receiving satisfaction has been made, as
if an endorser should sue his endorser after he had removed
of the acceptor. The Deft may plead in bar the former receipt
satisfaction or give it in evidence or the case may be.

So if et
et 13 even brought jointly in a bond to the obligee 13,
on of whom the name of him. At that see 13. 13 might give
the records of the suit. &c. &c. or satisfactory evidence in answer to show that it has been judicious.

So also, if a trespass has been committed by A & B, the evidence of which is in evidence in favour of B. It is then for you to assess whether that person has been injured without proving satisfactory evidence, whereas, in contrast, it is no bar unless there has been evidence. "Bent on Benefactors." 6th June 73. Vol. 32.

In these cases also in which the party to a suit derives his title from a person in a prior action between himself and a stranger, he may give the previous evidence in evidence. As in an action between A & B, certain party may give in evidence a title by a person & give in evidence a cause of the suit by which it was set off to him. Law 14.

Nor can it be the case that the person is of an inter alios actus but the ground on which it is introduced is merely to show that the title does not relate to the title that A had, and is evidence as such in a common action. It is in the nature of a conveyance. The measure is by no means evidence that the title was in A, but that the title was all A's title. The same for acts indicts in civil cases.

Whichever a verdict in a prior crime can be used as evidence of the facts proved by it in a subsequent civil suit is a question not settled since the present day.

An example will explain the whole subject. Thus a committed a battery upon B, was indicted & convicted, & now sued him in a civil action for the injury & offers the record of the former prosecution & conviction as evidence of B's guilt.
If doubts had not existed in
the minds of some eminent lawyers, I could hardly
consider it a question. It appears to me extremely clear that
such evidence cannot be admitted. Why should a verdict
rendered in a criminal case be evidence in another case
or record of a civil suit? The case comes precisely within the rule
the most strictly of all, that evidence once given
cannot be added to in a subsequent action for the same thing.

The exception to this rule is furnished in several common law
cases where a record is allowed to be evidence between certain parties, as
to give the fact of a former record only for the purpose of showing
the facts which are found by the verdict in that case. But
in this case the record is offered to show not merely that the part
did have an error, but that he is actually guilty of the
bishops charged. I think it cannot be admitted. I think the
weight of authorities inclines to this opinion.

But the record of a prior civil or criminal case is admissible
to show that such a suit has existed. The burden of proving
this. As on an indict for burglary, the record of the suit in which
the burglary is said to have been committed not only may but
must be given in evidence to procure it to show that the suit
had been in the court in question, but not to prove the facts found by
the record. 168. 2 B. & C. 233. 3 Esp. 148.
...until final justice has been entered upon it. If then when it is
proven to have been entered upon, the parties forever lose any the
former part of the case, without the judgment, it is not admissible
the judgment being, in consequence, to show that the assent was
good, but that it has not arisen by motion in arrest, for a new
trial or in some other way. See 161, 162, 243, Phil. 291.

"The evidence of the fact proved by it" is an unblatant fact of
the rule, for there is no necessity for a record of the jury,
for the only object for which a protest is introduced is to
show that such a verdict has been agitated, for the possibility
of the evidence of that fact without it remaining is negligible.
To prove that such an issue has been tried, the parties
in that form of the verdict which precedes the jury in
evidence, B.C. P. 233, P. 1050.

And a verdict upon
an issue out of 6,10 with a clew in 6,10 in pursuance of its
may be also evidence of the facts proved by it, but not without
the clew is produced. Because the clew of such a court is sub-
stantially the same thing as a jury in a county of law with
same reasoning will apply to both. B.C. P. 234, P. 1062, 292.
P. 1050.

Thus are some rules of evidence mentioned for us to attend
which are not to be found in the books of law. I refer to
the manner of proving the orders of one state in the courts
of Justice in another.

And I would observe that the acts and
proceedings of Congress, since the orders of the U.S. courts, are
favorable in one state preceding an adverse act, be ours, of course
the rules already laid down apply to them, i.e., 6,10.
To also color the doctrine of Us. according to the construction given it in the Gen. courts, or judge * * in one state of the same co-

luminary in another as a domestic judge, * * and that some time a deci-

sion to that effect in Prop. both in the state U.S. court

In A.Y. such judge now formerly holden to be only prima facie

evidence of what they in justice to prove or establish, the court

was thus obliged to try the whole case oven again. The late decision,

barren again with those of Gen. & Penn. 4 U.S. 444. 5 3d. 64.

2 Ball. 301. Same case decided. 5 U.S. 1 B. 42. 1 coron. 160. 1 John. 436. 5 ib. 37. 1 Ball. 186. 219. 261. For recent deci-

sion in 4. 6 John. 86. 173.

Thus, obviating also apply to the mode of pro-

ving but to the effect of such judge, when proved.

in exemplification,

attested by the 6th of a court in one state must to be evidence in another

state, to accompany with a certificate of the 6th, or finishing portion

of the event, the true book of state or sheriff's that the attestation is in

clear form to by the proper office (vice versa) 7 Ball. 153

As to the mode

of proving legislative act of other states. By Stat. in Gen it is enacted

that the printed state books transmitted by the legislature of one state to

the Gen. court to act by him with the, the book of state

may be exemplified by him being with the to evidence, 21 Gen. 267

sec. 6. 7

This was I think a corresponding provision in many of

this neighboring states. This court is adapted toward the im-

exclusion of printing to the rectitude of the union for certi-

fied copies of a whole state. in of a part will not answer. The

method is for the exception to interchanging certificating copies

of the statute. When the book receive the books he exemplifies

the whole statute at once.
Of Public writings and Records. These are the most to be considered as a species of written evidence.

Public writings are not subject to the nature of records in so much as they are kept in a fixed place or documents or memorial, by public authority. For the use of the public. B.K.P. 234, Part. 51. Gill. 287.

These public writings are also evidence in themselves, having clearly in point of solemnity the highest species of evidence, save only the act. Gill. 47.

They are in quite proved as records, for writing is our vis by copies examined known to exist. B.K.P. 234.5. Gill. 47. 56. 7. loc. cit. 17. 590. 2. Kent. 1189. Part. 51. 35.

The acts relate to the manner of proving the documents of a state within that state, as to the mode of proving them acts of a neighboring state (see last page note).

These documents cannot be called mere acts because they are not documents of the law nor precedents of justice, according to the laws & usage of the state. Hence the evidence of high authority, they do not come strictly within the denomination of acts.


Of this sort of public writings there are several kinds: 1. The Journal of the Legislation as contained in the printed, from their acts which are strictly recorded, than are merely the history of the proceedings of that body and may be proved by copy remaining known to by a witness. Part. 53.

But a mere resolution, passed by either house of the legislature, as a provision for the proceedings is no evidence of
The facts asserted upon or resolved upon that a remissible contract exists, or that such publication is libellous & tending to prevent is no evidence that such embattled parties or that such writing is libellous 14 A. T. 39. Peak 53.

24th. The muniments of proceedings in a court of 54th. the writing of a public nature can not succeed; and that is an 67th reason why a suit of error arose lies from the source of that 67th to an appeal lies to the House of Lords. But why are they not made? the answer is that they can not amount to justice according to the strictest laws & usage of the State but muniments of alienation, secundum equum et bonum, it was found impossible that a 67th of 67th was bound to the rigor of no law or franklind, but this was mun contracts Gills. 48. Peak 511. 18. 49. P. 235.

But a bill in 64th is evidence only for the purpose of proving the fact that such a bill was filed or such other fact may be proved by new information or answer as of evidence as to them than they are on a bare voix unammonental information, formerly tolled to. But that what may have alleged in a bill is not evidence as to him in a subsequent suit, being regarded mainly in the statute of frauds to obtain an assrtion, 1 3 24 159. Peak 12. 54. Farning to one sup- pend that the facts alleged in a bill were evidence as to the party making them, without qualification, but it is not so now, 1 Case. 220. 524 & 5 235.

"But an answer in 64th is wit- s 5 the facts making it of the facts alleged in it, as well as of the facts of such an answer having been made, this is evidence of a reclaim'd being made, unless the allege.
tions in a tree cannot undo salt which constitutes the

Thus

witness. A witness is required herein not as nothing more than a confes-
sion of course is inadmissible only when a confession by the same party in
a different form would be. Hence a confession by a guardian for an in-
fant with no evidence of the infant in a suit out of court confessions
do not evidence of the guardian could not be proved, suit it can be assumed
for he has no power to confess away the rights of the infant. In the
Peake. 54. 39. 228.

But an answer by one of two parties in a suit in
Court, as by ed. 3, evidence with the other party in a suit
as by ed. 3, as such. The reason I suppose to be that the acts
meremonguing, like the acts of one partner bind the whole. Thus
when one partner pleads the suit of Limitations, it was admitted
from a confession by one partner that took the same suit of
Evw. 55. 16. 229.

So also a voluntary affidavit by one person
jointly interested with another, has been admitted in an action
against them both, it being a confession by a party in interest
in the action. Gill. 57. 67. Peake 58.

But in regard to an aver-
ance it is to be observed as a general rule that a copy of the whole con-
dument of any particular part or only is to be exhibited in the whole;
for obvious reasons must be taken together. So of any deed how the
whole must be exemplified in some way parts. The rule is the
same as to all written evidence whatever. The whole or a copy of
the whole must be produced as if a fact is to be proved by a de-
the whole case must be produced, however feeble or inconsequential the facts may be. D Mod. 10. Pec 55. Bull. 227. 237. Wint. 1936. 2. 88.

As to the party agaist whom the answer is introduced, as evidence in a subsequent suit is exclusively the assertion in it of himself, some
the other hand] the amount in it in his own favour an evidence
for him. And this as a decisive reason why the whole of the
answer must be produced. So in proving any acknowledgment
made all that was said at the time must appear. Whether
it qualifies as evidence or the whole must go to the jury for
them to examine it once. Gold. 50. That the party alle-

nation in his own favour as not conclusive. Pec. 56. If having

answer been them made to the jury. Of this other party may

Thus is however an instance in which

an interest or a part of an answer may be said as evidence
without the notice of what is given in the answer of
the subsequent suit. - For otherwise his testimony might be introduced
when the other party did not wish it. A similar case is in the first
instance introduced. His own declaration in his own favour but
if an attempt to prove the correctness of an other the other is

It is of

faintest even. Thus the parties in a former suit in evidence in
subsequent suit is similar evidence to an answer in B.C. It is
formable like it. Peak 57. 8. by copy.

Facts a voluntary affidavit

cannot be this proof not bring a writing of a public nature.

An involuntary affidavit is evidence in such a case extrajudically.
and in a former suit, it is always evidence in a subsequent suit between the same parties, provided the defendant is aware of the reach of proofs that are to be found, so if the witness might be produced his deposition given before is not the best evidence an affidavit is in writing taken by the party: a deposition is given by a witness in writing. Gill. 60.61 Peak. 58.9. Bam. 64. p. 63 (p. 63) 348. Lock. 728. 251. 266. 1 Stu. 1445. B. M. P. 259. 1 Mc. 164. 283. 285.7.

It has been said indeed, that a deposition in a former suit between the same parties is evidence when the defendant being duly informed, fails to seek by the way, but this is questionable & I think not law, it might be substantial reason to postpone the trial until he recovers, but not for the introduction of secondary evidence unless it was not granted to by the other party. 1 Mod. 263.4. B. N. C. 239. 1 St. 920. Gill. 66. Peak 59. 11

But the deposition of a witness like any other declaration of his either written a verbal may be introduced to invalidate the evidence he may give in support, even if he is absent present. It is not evidence in chief of the facts stated in it, but bears when his unavailability. Peak. 58.9.
of a witness, who at the time of giving it is an interested, but who afterwards, by operation of law becomes interested in a party, can be used in evidence, is a question which has divided the opinions of eminent men. Thus a subscribing witness is bound to sign the will of it, the oblige dies, arising upon the will, he, by the Act who now brings an action on the bond.


It has been some time since I examined these cases, but from my present recollection of them, they do apparently do not really contradict each other. The early decisions have generally been in favour of the deposition, in accordance to my understanding of the cases, the rule is the same at law. The depositions which were excluded in the cases reported by Strange 101. 1 Bn. 286 were on interrogatories in these which cannot be received in evidence until the contingency on which they were taken has happened, and as this contingency was in both cases the death of the witness (as I conceive), they could not be admitted while the party who made them was living. The depositions allowed in the other cases on the other hands were for the most part taken subsequent to the admission to support a bill of review. On principle, this affects not at all. The only objection offered is in interest. Now the rule of law is that to exclude a witness the must be proved interested at the time of enagication; and there is an abundance of cases in which witnesses interested in the event of the suit are restored to competency as a deprivation of interest. In this case no such restoration by substitution; for he then loses his life. Vellis. I may give testimony for at time view the circumstances of this case. It is precisely the same with that of the depositions. In the one the witness is interested before he testifies, in the other he becomes interested after.
Depositions on trial are, in such cases, taken provisionally, to substantiate the testimony of witnesses on acceptable evidence, when taken under the designation of a & 2. Bill they are not taken, passing my particular suit, but by way of caution in such cases. 1° When the suit is about leaving the county 2° When they reside abroad or 3° When they are in apprehension of suitor from old age or infirmity. These are obtained by filing a bill in 6th of the other party interested. They are not evidence because until the contingency in contemplation of the bill, they were taken has happened or in case of the party who was about has returned. 13 S. C. 240. 2d 318. 363. Salt. 197. Hunter. 6th. 32.

But depositions like consents are only evidence as between the parties to the prior suit or controversy, in which they were taken or their priors. All persons have no opportunity to cross examine. 15 C. C. C. 389. 411. 314. 45. 3 v. 415. 501. 2. 5 Z. 2. 3 Feb. 316.

For the purpose of introducing any interrogatory proceeding in a suit of 6th proof of the prior stage of suit in that suit into evidence, it is to introduce an answer ad litter must be proved for an answer without a bill to an things so essential it would be void in law. Gill. 35. 6. Peak 166. 66.

If however the bill has been lost or destroyed by time or accident, it may be proved by secondary evidence or copy by power & then will apply to all written instrument even number. 3 211. 211. 29 67. 1 Vint. 257. 3 C. C. 27 8. 56. 2. 7 Feb. 31.

A deponent in 6th is evidence wherein a prejudgment would be made in similar circumstances, for it is the same thing.
effect is governed by the same rules (as was) in anticipation of the facts which it imports to establish. Perk. 38, 120, 62, 69, B. act. 183, Gilt. 29, 32, 36, Doug. 222.

The proceedings in court of admiralty and in Eng. in the ecclesiastical courts are evidence of the same nature & authority as those in both of the former. Contra, sentence in a matrimonial cause or FCP in an administrative court, these are public evidence of a solemnity must to that of records. Gilt. 76, 3 T.R. 125, 21 T.R. 258, Doug. 405, 1 Doug. 357.

Further cure the sentence or decree is as conclusive as a jury. at 6, 7, it is not called a record. It is allowed common to show that the record of the court or the proceeding in Juries for this, does not contradict the sentence or decree but shows that none exists. Perk. 69, 1 T.R. 859, Doug. 405. Those proceedings also are admitted by evidence in all other public courts. Gilt. 71, 3 T.R. 154, Doug. 672.

The entry of a foreign court is also evidence him of the right to impress to establish the fact that it proceed to find. Perk. 70, as that is inadmissible to 18.

But is to the entry of a foreign or municipal court, there is this distinction to be observed, that if the party claiming the benefit of it applies to our court to inform it, it is before the foreign has evidence of his claim, the other party may then deny it, and the court can inquire what are the laws of the country where this paper was issued, whether it was issued according to those of the foreign voluntarily submits it to the record and jury of our court. But if it is used by way of defence to an act, not done in the same sense, it is of conclusion of a judge.
from own courts for the proceeding such acts as to keep as in writing in being for us to observe this 1st day 27th 1810 Douglass Peak 72. Gilm. v. Oates 328. 260. Rep.

Of course, I may be more firm
by an exemplification under the great seal of the state a thing
down in 2d. It was said that which is supposed to be known
the courts of all nations. 9 Mod 66. Pca. 73. 5 T. 8. 13.

2d By an
sworn copy, i.e. by a copy compared to the origin. This would be
writing in Court. 2 branch 187. Phil. 301. 5 Ex. 473

3d By the
attestation of the proper officer of the court with the seal of the
court annexed. But this seal you will observe is not supposed
be known to the courts of all other states or the national seal is
to exist there for it could not be a matter of the same point. 3 Cont 321
Phil. 301. Gill. 20. Peak 72. 3

To make this rule, the common practice of most established commonwealths, the
common practice of a seal offered as a seal of state the like judge
is offered it is not like the seal of B. R. to be kept to the

Foreign states may also be proved by exemplification under the
great seal or by sworn copy. 2 branch 187. Lic. 829. 1 in proving
the statutes of neighbouring states in antient 4 H. 6. 2. 87.

Alm. what foreign laws or customs cannot be proved by com-
mion ordinary proof such evidences as by copy of manuscript
like, for they are supposed to be in writing, but by the testimony
of respectable intelligent persons. who testifies includes only
lawyers & judges i.e. professional men. the it may come under
other evidence, in such case evidence un 7. 1 John 385. 384. 12 M. 331. 273.
In this country, the usual practice of proving the existence or
unwritten laws of a state is by the deposition of witnesses;
I suppose the unwritten code of such laws
will be evidence. Thus in writing to Mr. [illegible] in Penn. I
sent an affidavit of lawyers to prove that council in 64, ch.
was not enacted by 64, this not being Eng. 64.

But the nature
of a foreign court of admiralty is different distinguished from the
law of Eng. as to all subjects of their jurisdiction, an evidence of
all persons, of the rights or facts, whether it is
used to establish
whether they can be used to establish a right or a defense. The reason
is that they decide from the law of nations, which is a part of
the law of every civilized community, recognizing them as well
as them. Park. 7th. 353. 8 T.R. 142. 230.

And if a foreign court
of another state, in a suit, the evidence must be found against fact, not
can inquire into whether that evidence was sufficent to establish
that fact, the finding is conclusive, in this case because it was
evidence only of the fact found to be way of conclusion as that
the proof belonged to an uneasy state of the fact that way
of evidence, in the absence of a certain document. "Insom "
Park. 7th.

And if a foreign court of admiralty makes sentence
without assigning any cause, it is conclusive, E.g. see Eng.
or 8th. 61 of 6th. because a ship was lawful prize, it is conclusiive
that she is not entitled to the 60, 6th. 71.

But if it appears from the facts to the conclusion, formed on that
by this foreign 67. that the condemnation was not for a breach
of the law of nations but for a non-compliance with some or

in any domestic or municipal regulation, the sentence is void, to no evidence at all. 7 T.R. 535. 8 T.R. 534. 562. Dall. 71. 72. 2 F.R. 215.

And no mistake was made in that there being no direct way of evidence or otherwise unless the court was regularly established according to the laws of nations. As when Boespflurt authorized his consuls in Spain to hold such as were within the jurisdiction of matters concerning foreign. 5 T.R. 268. 2 East. 273.

Proceedings in courts of both are inviolable by copy under the seal of the court, that seal from itself, i.e. is supposed known to all. 7 Peck. 72. 73.

For the same reason the seal of a foreign court, whatever it is supposed to be known to all the world, being an officer established by the laws of nations, but by none, the rule arising from the necessity of the case, the seal of the 6th B.R. is not presumed to be known. 11 Vint. 66. 2 All. 22. 32. 2 Peck. 74.

It is hardly necessary to observe that the public seals of our own courts from themselves, but the private seals of individuals do not. 26 R. 21. 1 Esp. 53. 3 T.R. 303. Peck. 73. 46.

An award of arb is as conclusive as a judgment of a court established by law, and principles from a court created by the parties, but sometimes by law. 36. Peck. 75.

And the an arb cannot actually transfer real estate like a 6th, yet to an award a transfer on an 6th award will be as conclusive in & 74. The whole point of the rule is, that the award cannot
like a storm, not in vain to train for the proof of
contentions, but it can never determine the title as absolutely. Stat. 79, 3 East 15.

It has been a question here for a factor by a ship, blueprinting its navagery under circumstances, it has been settled herein that it is not evidence in itself for any purpose of facts stated in it, but it may be used for the purpose of invalidate
ning the testimony of the person who made it. 2 Coth. 6. 490. 641. 1 Jeff. 91. March 6. 641.

In some cases execution also con-

iments, as evidence, e.g. several entries of entries in the books of the execution office of a court, or the register of such as of the

same, 4 Stat. 2. 2. and the same is

brooks of the order the entry of corporation as if the latter

is evidence. 2 Mead. 475. Stat. 307. 4th 3d.

The courts of the minor the theft that arises out evidence, but a private writing as a letter, the

belonging to a public body cannot regularly be proved by copy

the copy must be produced. 4th 3d. 31st. 94.

The courts of an in-

dividual corporation can not evidence for any to the benefit of the debt or bond of a Bank. A corporation acts only by

majority, and not, as they are required, individuals are not regarded as

4th 3d.

For acts out of state as they can evidence, a gazette published

made the contents to reveals of the court, is sufficient evidence

as if one would avail himself of a Proclamation, as containing

provisions would not be. The reason no being under count.
The book of a [illegible] or prison an evidence to show the time of a prisoner's commitment or discharge, but not to prove the ground on which a discharge was from the order of the court. This is not for probate purposes to render the true state of him. 2 Mart. 475. Peak 79. St. & P. 188. In the Log Book of a ship, or in evidence of the time a convey sailed 1 Esr. 4:27. Peak 79.

A public history (as History) is evidence of fact, it must of a public nature, or admitted as such proof, but is no evidence of matters of a private nature, as a particular custom. 1 Mart. 281. 1 Merd. 48. 1 Vict. 149. 5 Hin. 14. 12 Mart. 243. 10 Geo. 79-82.

Surveys & inquisitions taken by authority of Govt, are evidence between individuals, as now is a boundary book of boundaries. So surveys mankind by Surveyor Genl. of U.S., so surveys of ports & harbours taken by order of Govt. Peak 84. Hot. 138. 1 Bar. 146. Peak 6a. 182. 1 Mib. 170.

But private surveys & inquisitions are evidence only, between the parties to them, their owners. 7 Mart. 131. 437. 10 Geo. 68. Peak 85.

When parish registers are kept as in Eng, the register itself or a sworn copy of it, is evidence of births, deaths, and marriages. Every such register is held as if it were drawn from these as the Stat. requires. 18 Geo. 1073. Peak 86. And the certificate of persons authorized by law to solemnize marriage, are of the fact of marriage.
a distinct mark, the mark without public authority, can co
accom, when they accompany the 

Be an exact to require in what case an

Records of the joint secret gives to the inspection of all persons in charge

Extract from the book of public officers, as above. The book

If examination is refused, the court will by not

The book and papers of a bank can also give to the inspection of its members

The court of Eq.

lit. 520. 1 St. 592. 3 Mc. 398. 2 Mc. 689.
certain order in an inspection of the end's books, in favour of a
stranger, for it is the exclusive province of the court to force
one to give evidence ag * ag himself in favour of another, even
his personal oath if required. 2 Eng. 621. 8 T.R. 572. 3.

In a crim

inal prosecu ag * ag & end's books, no court whatever can
order an inspection of the appointment books, for in such case
it is a mere remise not a sure warrant. 2 & 3 & 4 Eliz. 2, 12.
289. 1 Eliz. 2, 37 Rec. 965.

This last rule however does not apply to infor
mations in the nature of quo warrants ag * ag & end's books
that proceeding is in form criminal. it is in effect a civil proceed
ings by the same rules as civil proceedings. 3 T.R. 572. Rec. 965.

Of Private Writings.

Wherever a fact is to be proved by a deed or
other private instrument, the instrument must be proved
if it is in existence and in the hands of the party by whom the fact is
to be proved, but it is not necessary of the contents of the instru
ment to be proved. This is made more easy in the case of the primary writ, as
that the best evidence of the nature of the writ must be pro
duced. 10 & 11 Geo. 3, 3 Gil. 93. Rec. 967.

Where a deed is in existence, the counten
an fact may be used in evidence ag * ag the party by whom
it was made but not ag * ag the other party or a stranger.
Thus A warrants against B & B makes a counterpart to it. The latter
is good ev * ev of B, but not ag * ag of D or a stranger. Rec. 967.

Although the writ itself be evidence but is destroyed or inna
mend of it or even that writ of its contents may be receiv
In this case, secondary has now become the best evidence of the contents of a written document. In this case, however, it is indispensable that the contents of the first written instrument, if not genuine, shall be sufficient to prove the contents of the first written instrument. 3 T.R. 151, 5 C. 70, 2 B. & C. 585. 1 Black 193.

The rule is,

the same you will not find or to words within public writing. In both cases, however, if the party voluntarily destroyed the writing, he cannot assume this secondary evidence must have been lost without his fault, and if it is so lost the law will not allow a man to be deprived of his rights by the casual destruction of the lost evidence.

A party in aiding when a bond or note in favor of a third party must give notice to the third party to produce it at the trial, and if he does not, secondary evidence of its contents will be admissible. Different from it genuine in favor of another party, that he had notice to produce it, and if he has not notice, it is different from that it is not produced, Lib. 246, 2 Dall. 201, 2 B. & C. 37, 237, Lib. 15, 206, 155, 10, 181, P. 50, Pa. 26, 165, 3 Park 297, 107.

The same rule applies to every other document whatever, e.g., a letter. But a court of law must compel the defendant party to produce the instrument, all they can do is to allow the assumption of secondary evidence. A C. of C. 2d, compel the production of the original.

The same rule applies in the case now under consideration, it is not under a written instrument, or if it is, the contents may be given after notice to produce it. It is well settled that the mere secondary evidence could be admitted as prima

The same rule applies in the case now under consideration, it is not under a written instrument, or if it is, the contents may be given after notice to produce it. It is well settled that the mere secondary evidence could be admitted as prima
in a criminal prosecution, but it is now settled that it can be made to
apply or deal with if the notice, so that there is the same in criminal
civil proceedings. 2 P.R. 201. 1 P.R. 386. 366. 135, 137.

Notice is to be
given in writing, according to the rules of practice. And as to that
part of notice, that may be given without service, notice to deliver
the previous written notice, for this notice might require notice
as in justice. Peak. 103. 2058. P. 39

and with regard to notice in
civil cases, notice to the add. of the party, informing the add.
is as effective, as to the party in person. It thus is the usual prac-
tice. 2 P.R. 203. 3 E. 10th. 8th. Phil. 12.

If the party is in the time,
of a third person, be asked to serve with a subpoena duces tecum,
to appear & bring with him the said inst. and if after service
he delivers it over to the person party, secondary, it may be re-
stituted to the party, being deemed to have suff. notice. Pin. 97, aff.
38. 9.

If there is a subscribing witness, to an inst., he must be called
in person to prove it, if he is alive & in condition to be examined,
for he is deemed the best inst. of the fact of its being the party,
attached. 10th. 5. 16th. 4. 2d. 239.

But if there are several attesting
witnesses, the inst. may be proved by one of them, from now tak-
ing of all inst. as ends & holding the ors. to be produced in 7 P.
R. 266. Phil. 16. 16. 364.

As a consequence of the judgment, that a
subscribing witness must be called, it is settled in Eng. that any
the admission of the party of the original instrument, offered in evi-
dence, that it is genuine, does not diminish with the insufficiency of
speaking the subscribing witness, &c. it must not be read to the jury
21. 239.

This rule however has been neglected both in England and
Scotland, for in those states the substantiation of debt is consi-
ered as good as sworn to, with the same 1/2 of the debt, as before;
the testimony of the subscribing witnesses (See. Er. 18.9. N. John, 1651.
The Eng. rule is 2d read
to in the Eng. courts, even tho’ the oath in itself is lost or cancelled for
secondary 1/2, is not admitted, if a subscribing witness is shown to be
within the reach of 42:4. N. John, 1651.

And in Eng. a confession by debt in his own hand in 1/2
is not sufficient evidence of the 1/2, when it is a subscribing witness,
unless sufficient reason is shown for not producing the writing, this
appears to me to be carrying the rule very far. (See. Er. 18.9. N. John,
1651.)

But when debt produced a oath before a commissioner is
admitted the 1/2 of it in his examination under oath, before whom
it appeared sufficient evidence of the 1/2, without the subscribing witness
must be, not only confession, but production by a party. 5 T. R.
366

Also when a party furnishing a written confession agrees to
admit the 1/2 on his oath, it is sufficient, the confession alone being
not to be freely bound by his agreement. 13 B. R. 365. 5 Essex.
16.

Of this is no subscribing witness, inferior evidence, as of the
house writing, is admitted. It is sufficient to prove the 1/2 by the
writing of the debtor. (See. Er. 18.9. N. John, 1651.)

And if the person who makes a subscription
as a witness sworn that he saw it executed, the witness may be called to prove it, as a deponent in the hand-writing may be proved, * * * * * * will be suff. * * 385, 1636. 10 V. 1274. * * * suff. 2517. (iv.)

by the bye that it is not necessary that the attesting witness shall actually see the act of the inst. it is suff. that the party at the time executes it, & requests the witness to subscribe as a witness. 2051. P. 217. P. 98.

If it appears that the name of a subscribing person has been subscribed as a witness by the executing party, the same may be proved from the hand-writing of the party for it is in legal effect executed. 385. 382. 5 Esq. 16. Phil. 365.

The rule is the same where the witness is intended at the time of the act or at the time of trial, the witness being in competent; the case is the same as if the inst. did not procure to be attested. 385. 382. 5 Esq. 16. Phil. 365.

The rule is the same when the witness is intended at the time of the act or at the time of trial, the witness being in competent; the case is the same as if the inst. did not procure to be attested. 385. 382. 5 Esq. 16. Phil. 365.

The rule is the same when the person subscribed as a witness was not the Know. edge & consent of the 하나, for he is a mere volunteer on a subscribing witness within the meaning of the law. 35. 385.}

The case is the same when the person subscribed as a witness was not the Know. edge & consent of the 하나, for he is a mere volunteer on a subscribing witness within the meaning of the law. 35. 385.}

Some rule holds if after executing nothing can be heard of the subscribing witness (who is supposed to be competent) so that the party can within his own time, & after the hand-writing. 35. 385. 1 Hadwood. 2051. 3 Binney 192.
The rule is the same if the subscribing witness was at the time of the instrument incompetent, for his oath would not receive any force, for his handwriting cannot be proved. So the instrument was admitted. Phil. 364.

This would make an extrinsic which is plainly admissible by way of evidence. From the foregoing rules, it is clear that wherever the instrument is in fact or in law unattested, the substantive may be proved by secondary evidence, as confessions, the testimony of bystanders, or proof of the party’s hand writing. This being so, the best evidence. Com. Dig. "Br" B. 3. Tit. 66. 145. 10 Vic. 2. 2. 4. 17. 4. 21. 5. 21. 8. 16.

On the other hand, if the instrument is properly attested, but the witness becomes incompetent after the instrument was signed, or if the party by whom the instrument is to be proved, proof of the witness’s hand writing is to be furnished, for the instrument itself to be proved. On the other hand, the instrument may be proved thus.

If a subscribing witness becomes incompetent after the sign, by act of law or by reason of the party by whom the instrument is to be proved, proof of the witness’s handwriting is to be furnished. So the instrument itself to be proved. So the instrument itself to be proved. On the other hand, the instrument may be proved thus. 2 East. 183. 12 M. 269. Tit. 34. 5 T. 371. 2. Phil. 362.

(omitted to mention in its place that proof of the party’s handwriting, unless that is present evidence, is prima facie case of the sealing and delivery, from which may presume the instrument what it purports to be. Black. 62. 14b. 10 Vic. 2. 174. 4. 2. 66. 1. 7. 265. 1. 236. 1. 266. 2. 240. 2. 46.)
the instrument was legally executed in his presence. 
Bam. 39. 100
Phil. 16. 3. 3 Cor. 18. 3. 250. 1 Bar. 8. 369. 4 John. 18. 3. 7. T. Ref.
166.

According to such opinion the party bound in this case must be proved. ? T. Ref. 266. e. 2 Hayworth. 27. 3 Bin.
192. 2. Bar. 187. 1 Bar. 255.

And in this case part of the handwriting of a witness is evidence of every thing appearing on the face of the instrument. the signing writing and delivery will be presumed from the form of the attestation. 1 Brown 375. Phil. 363.

In both when the testimony of a subscribing witness cannot be had for the reasons above mentioned, the practice is to always have been to prove the handwriting of the party, not only when the witness is in law or fact unwilling, but where it is legally called for this is regarded as the best evidence under the circumstances of the case.

And when the law does not require a subscribing witness as to a branch, note of hand or court proof of party bound alone is sufficient. 1 Cor. 27. 8.

When there are two co-obligors, two attesting witnesses, one of them being sole alone, the other sworn to testify to the not by itself. 1 Cor. 35. Phil. 364. in this case always appears to be questionable from the interest of the party. the supposition of one joint obligor binds the other it is true, but unless from that it is so obliged.

When in any of the foregoing cases the secondary party is said to be bound the meaning is surely that it is sufficient to make the most admissible evidence to go to the jury. that it may through the lot to let it in to the jury.

If there two subscribing witnesses of whom only one is in a condition to be examined. it must
regularly be produced. 1 Bk. 101, 2. 1 but if both are in a condi-
tion not to be examined, proof of the hand of one of them is suffi-
tive. It is clearly advisable to prove that of both. 1 Bk. 0, 360. 1 Mc. 6, 360. 2 Bk. 2, 350.

In all the preceding cases where the subscribing witness cannot be examined, if the instrument purchased to be sealed is delivered in writing to the party that all the formalities having been completed with. 1 Bk. 99. contra. 2 Bk. 101. 2 Bk. 2, 350.

In proving slavery, to the validity of will, the subscribing
witnesses are essential by Stat. if any one is in a condition to be
examined, he must appear. if proof of his hand is not suffi-
tive: 1 Bk. 101, 2, 372. Thus far the rule is the same as in proving a
will instrument.

If however they are all dead, you must prove the
handwriting of all of them, also that of the testator. In
these rules is shift from rule of was in 1 Bk. 2, 365, in proving
them the hand of one witness is sufficient to be proof, but it is in
our can not say to prove the hand of the party executing 2 Bk.
538, Stat. 1109. 1 Bk. 101, 2, 372.

And in such a case, such as

being produced, unless strong circumstances appear to the con-
trary, a compliance with all the formalities & requisites of the
Stat will be presumed. it once at 2 Bk. 2, 365.

If the witness, no

all living the will of one will be suffi-
tive if he testifies to all the
requisites, unless the devise is disputed, when all the witnesses in
condition to be examined must be called. 1 Bk. 2, 741, 1 Bk. 2, 365.
2 Bk. 2, 344, 1 Bk. 2, 364. 1 Bk. 101.

Put a court of 65° 25° 30°
draw a drawn power unless all the witnesses capable of testifying are examined, even the one is by precedent the device is not dis-pleased. The reason is that a device of the kind is conclusive upon all the facts. Where a judge at law in equitable jurisdiction in which one party claimed title under the will is not thus insensibly conclusive. Pow. Ser. 178. 102. 21. 111. 471.

Our courts of justice will draw a will found on the testimony from witnesses of both sides to all the requisites. There is known as effect from the decision of the latter must be disposed. St. 1, 170. 3, 109. 7. 131.

The all the attesting witnesses to a will 10% within the 15 of 21. yet it may not be proved by the testimony of other witnesses, the party are first to be called, their testimony may be disapproved for it is not conclusive. 1, 2. 15. 36. 5. 121. 2. 124. 7. 104. 2. 109. 21. 111.

Moreover a deed 1 must not be produced as proved like any other instrument (i.e. deed) the 15 of which must be proved by the party claiming under them. Eng. dem. 19. 267. 1. 131. 39. 2. 2. 2. 39. 3. 2. 17.

I have observed to you that proof of the 15 of the 11, evidence to be made out by proof of the handwriting. The question then arising in what instance is the handwriting to be proved. The simplest way of this will be the testimony of one who saw it written or the person. Success cannot be had.

It is of it must to a rule that the belief of the witness must be read both in civil & criminal cas. 1. 113. 111. 102.

But to render this belief convincing at all, it must be founded on
familiar acquaintance with the hand writing of the party. For
without this he cannot be admitted to testify at all. And this
acquaintance must be drawn from having actually seen him
write, or read letters from him in the course of a commercial
transaction, it is not sufficient to have seen writing, purporting to be his. 13 Bl. 628
10 Bl. 236, 10 Bl. 235 b. Decr. 1722, affd. 112, 121.

And the
writings, having seen the party write his name foreword,
does to show the writing his name is a sufficient
to be in his wor., that is to prove a party to make writ
for himself. 1 Esl. 10, 111; 66, 13, 227, 221; 66, 29, 277, 43.

And a writing in testifying his opinion must speak solely from the
pronounce of the writing, without taking into consid...ery extra
viso facta relativa, so that it did not support the second give much cred.
Pro. 6, 102. Pro. 6, 123, 1.

And in proving the hand-writings of a witness
evidence that the instrument attested by him was forged is
not admissible to contradict any presumption existing from proof
of his hand-writing, it is inadmissible. Pro. 100.

In the proof of a
writing, this is an object of evidence about which there is much dispute
i.e. evidence from comparison of hands. And on the subject
the great rule is that comparison of hands is no evidence at
all in any case either civil or criminal. 1 Brev. 624, 63,
Pro. 162.

Now in most of the rules applying to this subject, there has
been no definition given of former of hands.' If they had been
much misapprehension would have been avoided. How much

sent a comparison to be made by the jury between the writing in question to the writing found or admitted to be the writing, or a similar comparison to be made by a witness, who is to testify, his opinion from the similarity or dissimilarity of the two writings. Ex. Ex. 273. a. b. c. d. e. Text. 104.

In action on bond. The question is, and ought to be, to know if the jew offers in or other circumstances such as admitted as proves to have been signed by the signor that the sum may take a comparison with the bond. This is not admissible.

As to question this same to other writings introduced as before. But if the jew offers a witness who is unacquainted with the signor, hand, to testify his opinion after comparison, this is also inadmissible.

So that company

Shands is no evidence what rule holds, equally in civil and criminal cases, and is no formality that to be admissible in civil cases. Since much more has been found with the conviction of Dr. Shandy, as the paper was proved to be the (or to be) from comparison of hands. The conviction now rests as far as it relates to evidence was clearly legal both according to the law now in existence, but Shandy. St. Tr. Phil. Ex. 366, 366

That this rule is now gone, see ante. Dept. 54, 53, 52, 39. 39.

In the comparison of hands by the jury, as been allowed but I think it would not now be admissible law, it rests very when a. ex. Ex. 39. a Root. 107. The decision went upon the ground that unless there was comparison of mens who could read and write it shou'd not be judged from comparison. But the fact is, it is a matter of the most skilled to judge of.
I doubt whether that man was ever seen with capability of doing it: and no evidence should ever be admitted to a jury which even one year could not comprehend.

But when

the antiquity of writings renders a formal knowledge of the former hands impossible, or the old entries in a parish register, writings which have been familiar acquired with the characters then used by the unskilled person in an undistinguished or incomplete form for this purpose, no great inconvenience is felt. Parg. 236. R. 194.

When it seems that persons technically skilled in attesting forgeries have been admitted to prove that the signature in question belongs to be written in a forged, disguised hand, but the rule was never carried so far in Eng. as to allow such persons to testify from comparison. I think however that according to principle such skilled persons on oath, where justification of such entry was necessary in court, might be permitted to give their opinion from comparison. This has been the decision of this House lately at New York. 1 S. R. 297. 21 C. R. 145. Peak Ev. 185. 6 op. 119 17.

In Murray 1892, 2nd. I think the Eng. rule last stated, but it appears to be law.

There are cases in ch. in which it may be used in evidence without any direct proof of their existence, as if it were in favor of another party. It often notice he produces it at the trial, it may be used without proof if it be known the party himself produces it as genuine. R. 183. 2 T. R. 43. 4. 3 Estp. 17.

Once the rule was once determined to be the same when the adverse party who produced the will was not himself a party to the
must. But that determination has been so complicated by other
pointed for utility he may have an interest in it, yet still being a long
he cannot be presumed to know whether it is genuine or not.
Bart. 5:48.

It is an established rule also, that a deed of 30% should
may be read in 20% without proof of it provided the party
followed the terms of the deed, as well as in no instance in atten-
C. 256. 5 Bl. 287. Eib. 2.77L.

This rule however being founded in


presumption does not hold, when there are circumstances from an
contrary presumption arise, as if the deed should attend on the
the land & part of the parcel transferred. And then must be direct proof of the deed. Bell. 255. Gib. 160. Eib. 110.

The title of one deed in another has been considered as sufficient to
the rat of the writer and as against the party to the writing and as a notice of a former deed by grantees in a subsequent one. Eib. 286. Eib. 311.

This is said of every title if necessary if only necessary. Jeremy says where only when the
writer was not is where to be lost, a new other notice given for not producing it. Handley 120. 2 Le. 108. 6 Mod. 145.

Formerly

if there was any reason to introduce or subsequent examination in a deed, the judge determined on perfect evidence it was
good or not, i.e., whether it is the most, that was delivered or not. But in modern practice that is left to the jury under
the rule of most part for instance. 10. 656. 2 Gib. 184.
We must enquire how far written instruments may
be explained by evidence extraneous to the deed or other instrument
found or produced in proof of the question to it. Hence written
words can contradict it by proof extraneous to the deed being high
in favour of such words. This is a familiar rule of the civil law, 5 Bl. &
B. 125, 9 M. & W. 275, 1 B. & M. 3492.

The meaning of the rule is that written words can contradict the
words, statements or stipulation in the deed. Thus if a bond is
produced immediately it is in
competent for the party to pay as a bond. In

But a latent ambiguity arising
in the construction of a deed or other instrument as to what
may be explained by other evidence as words. 1 T. R. 703. 718.
1 B. & B. 372. 3 K. 112.

By a latent ambiguity is meant
an uncertainty arising not upon the face of the instrument,
but from intrinsic facts. Where a bond is produced by words, the
kind of uncertainty may be explained away by proof. Thus a
word is made to be

if it appears there are two factors of that name, or if the
word is 1 St. 12. 1st. 120. 2 St. 529. 2 B. 35. 2 V. 286.

The rule is the same when the deed is written
or wrongly written in the deed. Thus, if the party can prove that
it is the familiar instrument by the testate
and to call him.
But when there is such a mistake
the deed of Trust is made long before the time of making
the will can not admissible ex. 3. this would be going too
far from the intent it would be going beyond the scope of
using words merely. 6 T. R. 671. 7th. 114.

If however the name
of the intended donee is entirely omitted, nothing restric-
tive can explain it the ambiguity is patent it explain
it will be to make a claim for the better. 2 Bl. 940. 7th.
117.

But when the ambiguity is patent, any circumstan-
ces amounting to prove the first intent is admissible
es. 1 Bl. 940. 676.

When there is a right name of a wrong
description given to the donee, the deed may still be
carried into effect by proper testimony, if there is no other
reason to show the description applying, if there was good
evidence to explain would contradict manifest of the deed
then a donee to A. B. the nearest son of A. B. the deed might
be good if A. B. had no eldest son. A. B. being in age.

And the rule
holds even were if the name is wrong, the description
right, as a donee to A. B. Bishop of London when there was
no such person as A. B. 1 Bl. 940. 30. 1 V. 2 Bl. 966. 6
c. 12. 6 T. R. 671.

If a second will is admissible to rebut an
equity or to meet an implication arising when the first
deed was
As to the first branch of the rule to rebut
an equity suppose A brings a bill in A's name to

written in the name of their husband or subservient hand-agt.

reserving the terms of the estate agt. between the parties, it may be proved to rebut e'th E. This is distinctly from the
rule of law. 2. the reason of the presumption of such co-

ies W. is that it is discretionary with that co't. to enforce
one E. in e'th 1 Tind. 384. 1 Vin. 210. 1 Pow. C. 427. 2 Cal
179. 3 D. 410. 1 Des. 642. 211. "Pow. 602."

As to the latter
branch of the rule found co't. admits of such an implication
you will deem that implication always proceeds unless evi-
dence is produced to rebut them.

Now it is a general rule of the
E. that the undisposed residuum of Test. shall go to the
E. If the E.'s has a legacy given him, the presumption
is that Test. intended it should go to the E. in room of
the residuum, but this is an equitable presumption E.
may introduce proof co't. to show that Test. did not
intend to deprive him of this residuum, but the successor
cannot introduce such testimony to show that he did so in-
tend, for this would be to contradict the legal presumption.

115. Cal. 246. 13 C. 487. 1 Pow. C. 427. 2 Cal. 68.
230. 1 D. 497.

Another example. If is a general rule that the money
of Test. shall fall out agt. after making a will is an implied
appropriation. it is presumed from these facts that if he had person-
ally later not have made the will as he had done, this is the
equitable presumption. Proved evidence may be introduced to pre-
hibit intention that this will shall stand, but not to prove that
he wished it not to 5 T. R. 249. Zing. 31. Peak 114. 2 D. 38. 376.
...at the presumption of revocation arising from change of intent, estate cannot be removed by partial evidence of intention, because in this case a positive rule of law must the intention govern.

V.4, B6, 516. Sec. 114.

...patent ambiguity is necessarily out of the terms of the instrument appearing on the face of it. It cannot in quod be explained by any partial evidence. One great reason is that it is not created by partial evi. I think it cannot be removed it. Besides, those ambiguities are matters of legal construction, matter of law of course to be determined on the face of the instrument. 2 V.4, 624. 3 B6, 611. 3 Clk. 239. 3 Ib. 257. 3 Vg. 3d. 108. 4 Ib. 620.

...suffer a device now this: "I give it to one of the sons of S." He having several
the devise is void for uncertainty the words import that there
are several words distinguishing.

...the owner of such building,
devise "one of my buildings to A." this is no such thing as ex-
plaining this by partial.

...in some extent can, however where
to be explained by B. 2. partial ambiguity have been explai-
ned words, however not. a construction differ from their or-
dinary import, not known by proving the usual of it or-
for these are inadmissible, but by proof of such intrinsic fact
or the value of the property condition of the former or
estate, $e.

Thus, a devise by term, as the "free tenant to
the quantum was, was intended to be an estate in perpetuity
this party was that it has only a remainder due in the hand
dependant on an estate tail whose of course must depend on...
But it is not admissible to contradict evidence of an oral agreement to a written instrument, unless the oral agreement was signed for a contract for $1,000 or more, and involved an amount of $2,000, that it was for 15 years or for 50 years but is admissible. 2 Bl. R. 1249. 3 Will. 175. 1 Bl. R. 92. 249. 1 Foote 188. 6 T. R. 252. 1 P. C. L. 249. 231. Comp. 47.

(There it must be proved to rebut an Est.)

But a collateral matter about which the written agreement is silent, is not admitted as evidence of contract, as if nothing was in the case as to repairs, a verbal agreement to who shall make it might be proved. 2 Bl. R. 1250. 3 T. R. 739.

And it is always admissible to prove that the written instrument is not in the case of the party when it was to be, or that a deed was not drafted or delivered, that the deed was false, or that the deed was false, that he was insane or did not want it, for him, that was not introduced to contradict a valid contract, but to show that no such instrument exists. 6 T. R. 147. Park 118.

So also, in evidence, is always admissible to show that contract was illegal, as agreed for and may be, and, when too it shows the existence of the contract. 2 Mil. 347. P. C. L. 277. 3 T. R. 471.

So also, in evidence, is admissible to show that no apparent illegality in an instrument.
was occasioned by mistake of the printer, or if the bound made
in it were necessary. 1 Cor. 6:8, 11.

If an ambiguity arise in an instrument, uniform usage under it, which is in the
nature of a practical construction, may be pleaded to explain it.
1 Cor. 7:9, 10. 1 Cor. 3:11. 1 Cor. 3:8, 9. 1 Cor. 2:3, 7. 1 Cor. 1:3.

When you observe this sort, it is not to shore that
the parties meant by the terms, but to show a constant usage
with the said, it is like a prescription.

But the usage of a few
years under a deed cannot be admitted thus. (1 Cor. 8:19, 20)
3 John, 2:9, 8. 6:6, 237. 2 Cor. 12:6.

Having constantly into the
text written in that you understand that the
manor must be 1st. made seal. And a written instrument must constucted
is required at 1st. and no higher solemnity than a fi. or
ag. (except in case of a will) and it may be contradicted or
revised by fresh testimony. Thus a not. reading "in full
of all demands" 3 not. maner may be found not to in-
clude all demands, since 3 sealed. 2 Th. 3:6, 1. 5 Cor. 9:87.
1 Th. 6:1, 147. 2 Th. 3:7, 8, 9. 6:10, 1. 6:11, 9. 6:12, 237. 3:10, 12. It. 531. Phil. 74.
Parol Evidence — under this term the inquiry is as to our competent witnesses, & whether it is necessary to examine that a witness is to be competent which may legally be admitted to testify at all & this competency of a witness is a question of law to be determined by the court, it is preliminary to his et; id. in chief.

The competency of a witness is the extent to wh. his testimony is admissible, this is a matter of fact to be left to the judge; 1 Brev. 417.

Under the general inquiry it is to be observed that in q. all persons not excluded in competency by some legal disqualification are of course admissible as witnesses, 1 Merey 90. 6.

But then are many cases of disqualification, 1st is that none can be admitted as a witness who is not competent with, not in the full pos. of his understanding, Gilt. 146. Pen. 122.

Second id est. it except is lucid intervals, insane persons can not competent wit, witness as admissible w. a. reason, in this place, Bell 393, Gilt. 144 Pen. 142. 3.

The same rule applies to infants of so tender an age as to be incapable of understanding the duty of an oath & for the same reason. And on this point, the rule is that if the infant is of the age of 14 he is prima facie a competent as an adult & the same of praying, wants of understanding his on the subject as he no more can be expected on the ground of age than a witness of 30. 1 Mar. 702. Pen. 123. 1 Inst. 165. 1 Shall. 838. 1 Merey 149.

Under the age of 14 an infant, competent only
found on his opponent understanding. I think it is not contained by previous or by the courts, the presumption known to be his admission. Gilb. 144, Proct. 123.

Formerly it was supposed that no person under the age of 9 could testify in any case or at any time. It has been held to some very median admission. Stin. 701, 1 Wend. 153, Pea. Ev. 123.

The rule however was, that a child of any age however young may be admitted as a witness, and if he be under the age of 12, he may be permitted to give in evidence of a crime committed.. 1 Wend. 139, 203, Pea. Ev. 123. (at least 6 L. 98). Gilb. 144, 154, 184. Meg. 149, 152. Louch. 92, 114, 344, 387, 397, 507.

Formerly it is held that too young to testify under oath, nor could a witness to give information without oath. But this opinion is now relaxed as to its term in 147 of the two 9th, in information with the oath or anything equivalent. 1 Meek. 152, 1. 291. 2. 154. 5. 634. L. C. C. 114. 164. 344. 1. 47. 29.

The condition of slavery is not at 104 an objection to the competency of such men, or to the local regulations of various states, &c. to be informed. 1 Meek. 156.

Persons shall &c. demand of whom to be of small understanding. may testify by v Kanye this reason is insufficient. the statute in this case is to be sworn as what are you your age? 1 Meek. 156, x 2. Stin. 452. 537, 537. 537. 455.

&c. in case ignorance may dispose.
of a person to be a witness, so when it appears upon a previous examination that he is altogether ignorant of the obligation of an oath, or of a future state, Less. 282.

One of our native Indians in the previous examination was asked “Are you a Christian?” “No, I am a free by tradition.”

A person may be incompetent to testify from the infamy of his character. The rule is, that a person legally infamous is regularly an incompetent witness in any case. 1 Ev. 124. Gill. 139. 1 Sess. 65, 156, 158. 1 Sta. 833. 1148.

By a person legally infamous is meant one who has been convicted of an infamous crime or treason, felony, or crime felix et angrius, or forgery; and any thing which impairs his integrity as honesty or conscience. 2 Mc. 18. 105; Scott 3. 5 Mc. 275. Mc. 286. 206. 206. 263. Salk. 690. Sta. 4148. Gill. 139.

The rule formerly was that a conviction of a crime which incurs an infamous punishment is the pith or essence, a disqualification, with respect to what may have been the offense. But now the infamy inflicts upon the crime without regard to the punishment. 1 Sess. 65. 2 Mc. 287. 8. 1 Mc. 289. 206, 208. 2 Mc. 18. Salk. 689. 690.

Unless the conviction of an infamous offense or a reactionary murder or intestate in consequence to testify even the this punishment should be borne, i.e., is not infamous. Salk. 40. 2 Mc. 18. Gill. 160. 8 Mc. 187.

On the other hand, a conviction of an offense not infamous, as a libel, the following by an infamous counsel,
and the following does not destroy any competency. 3 Lev. 5:26. 1 Mec. 207. Gilb. 141

When the competency is made a consequence of conviction, the party is set free by pardon from the execution, as of penalty, or of any infamous crime at all. It is pardoned by the King (1 Mec. 215; 2 Mec. 215-17; Talk. 039. Bib. 37:21).

But when the competency is made a substantive part of the punishment, a pardon by the Judge does not set free the party to his competency, as a conviction of burglary under the Statute of S. k. A pardon only dispenses with the legal consequences of the Judge; it does not destroy the competency for a constituent part of it. 1 Mec. 235. Talk. 514. 696. 3 Lev. 426.

In this latter case, where in competency is a constituent part of the Judge's making right of a warrant of the Judge or a statute, pardon will set free the competency of the party. Talk. 689. Conn. Dij. E. Term. 12.5.

If one is convicted of a infamous felony by a Judge in the hand, the pardon restoring his competency for it amounts to a pardon by statute, being a constituent part of it. 1 Mec. 380. heg. 37:8. Lawk. 115. 3 Lev. 128.

But a conviction of infamous crime without a Judge in feurescence of it does not dequalify a party to the witness. For you will recollect that a convicit without Judge is no evidence whatsover of the fact found by it in any case. 1 Pec. 243. Rail. 161. Rake. 49. Thus. 37:4. "Tab. 035."

"Tab. 035."
A most proof of the implication of the punishment upon the judges is never necessary to the unqualified of a witness, the infamy incurred does not depend upon the punishment of the conviction. If the conviction is had and proved, it is understood the infamy is complete. 1 Mils. 18. 5 Mod. 75. Com. Dig. 1811.

And it seems now to be settled on principle by numerous and weighty authorities, after a series of contradictory decisions, that the proof of a witness's legal infamy can be made out in no other way than by producing the record of his conviction. 3 East. 77. 40. 6 P. 279.

Comm. Dig. 1. Mere. 236. 2 Blak. 653. 12 Mils. 582.

It was formerly the practice to inquire of the witness upon his own claim whether he had not been convicted of an infamous crime; but it may be doubted whether this is not still the nearly same. 1 D. 129. 100. 1 Mere. 201. 10. 13. 258.

3 East. 252.

It does not appear settled whether a witness is bound to answer such a question. I think on principle that he is not. If a question is asked a witness, the answer to which would disgrace or injure him to furnish him by the 6 L. he is not bound to answer. And a witness not insist on the rejection of a witness on the ground of infamy unless he produces the record of his conviction. 3 Carm. 210. 518. 13 East. 58. 2 Phil. 206 to 208. 2 Blak. 153.

Whether a witness is bound to give an answer that might subject him to a civil action appears not settled. E.g. Dart & Inglis. 46. 50. 3. a witness in such a case is an indispensable. Phil. 205.
The rule that a person legally incompetent is allowed to testify relates principally to suits between other parties. He may make an affidavit to define himself from charge advanced on a motion for information or treatment, otherwise he is in error of the means of defense—Cited 461. McAll. 211.

The quid: character of witnesses not legally incompetent may be preserved restricted to establish him both to estimate from his responsibility, no one is incompetent from suspicion unless it amounts to legal suspicion. The witness is cleared from the law by virtue; thus to unimpeachability, credit is confined to his quid character, for that. The witness is preserved ready to define: neither government from that he was formerly addicted to lying, or that he tells a lie in a particular instance. Bull. 296. 11 Esp. 122, Phil. 212, Pict. w. 125.

And this error relating to the witness's character can be given by those only who are acquainted with his quid character. And the appropriate question in the quid practice is whether in the opinion of the examining witnesses he ought to be believed under oath or whether he would believe when under oath. Pict. 151, 11 Esp. 185. 14. Phil. 212, Pict. 125.

In short, on the other hand as our practice has always been, a witness called to impeach another is never allowed to testify his opinion of the culpability of the witnesses, the question being, what is his quid reputation for truth, honesty among them who know him.

But the quid is one only can be given in the first instance to impeach the witness
yet the party who produces him may call on the prisoner witness to disclose the grounds on which the opinion is formed. 2 Esd. 103. 11. Et cætera.

If the witness to a will can establish in proving it is untrue to them, desire may give evidence of their genuine character for falsity, whose seems the same rule holds in proving the witness to an expression, the only case on the subject known in which the witness can ever stand. 4 Esd. 50. Phil. 212.

Previous desire made by a witness out of court, blood, or inconsistent with his deposition in court may be proved to impeach his testimony. This is not impeaching his guilt character. This a letter, or from a position he reposes on any acts of his in inconsistent with his present testimony may be proved. 2 Esd. 601. Ptah. Er. 509. 120. b. 3 baines. 277. Phil. 212.

After the death of a subscribing witness to a will his confession on his death bed that the will was forged may be proved to constitute the presumption arising from his alteration. A deed of his under other circumstances would not be admissible, being made without sufficient sanction. 3 Btt. 1224.

But the party producing a witness is never allowed to impeach his character at all, the party of his own would enable him to destroy the witness if he pleased for him to make him a good witness if he shared for them. Still a party may introduce a witness to verify a mistake or falsify an error made by his ex. but not to impeach the guilt character. 3 Btt. 602. 2 baines. 356. Phil. 212.
And as our party may introduce evi to impeach the
good character of his adversary's witness, so the same in-
troduction may to support it, but not into the character is
attached. For (say) it is supported yokes. Thol. 212.

According to our practice a party who swears on
his oath of affirmation to the imputing testimony that in
before has made the same statement. Ex. X. 9. 29. Bib. 185. 1 Mass.
182. V. Phil. 212. 13.

The testimony of a witness may also be discredited by proving that he was intoxicated at the
time of the transaction about which he has testified. 2 Day, 391.

An accomplice can prove his character, and in the fact of his be-
ing such may affect his character if invalidating his
testimony, may testify, unless in the case of his fellow. When
case his fellow in civil cases, he is instructed that will
go to his credit as in suits. Still as the record will
not prove this fact, he is not deemed sufficiently in-
troduced to vitiate him. Harde. 163. 2 Harde. 609. Thol. 418.
Bib. 418. 4th, 279.

And if an accomplice, whose Eff. or
Pro. wishes to improve as a witness is by incontinency
otherwise made a party, by means of court his sworn may
be struck out or to make, just as to him entitle this testimony
taken. Bib. 418. 4th. 4th. 41. Bib. 188. 11. Phil. 33.

That an accomplice
has no provision of means to pardon or pardon an conviction of giving
evidence you only to his credit but to his complacency.
is if the condition of the promises is to "give evidence" only, if it
were to testify in a particular manner it would render

It has been formerly supposed that infidels were inca-
pitent witnesses, as having no regard to the obligation

The Jews were much attached to this rule, for it is supposed
no one but a Christian could take truth except by mistake.

The great rule on

this subject now is, that no person can to be excluded

in want of faith except in this, i.e. if they believe

in the living of a God, the obligation of an oath, and

a future state of retribution, a person disbelieving in

this is incapable. 1 Mc 5:9 8:1 2 Mc 7:11. 1 Mc 6:4.
2 Mc 7:8 10. 1 Mc 64:9 56:6 261.


The consequences are that

infidels believing all this are permitted to testify, when

sware according to their own notion of a binding sanc-
tion. A Mahommedan who the Mosan tc. It wholly

imposes them to also believe, a witness, believes in the

Christian religion. - it once. 2 Mc 7:5 261. 1 Mc 64:9 56:8.
2 Mc 7:11. 1 Mc 64:9 56:8.

The question whether he believes that doctrine is

usually decided by requiring him without oath before

he testify in chief. 1 Mc 64:9 56:8. 2 Mc 7:11.

The inquiry has some-
times been made after he has testified by way of cross

question, but this is progressions that objection goes to his taking

the oath. 1 Mc 64:9 56:8. 2 Mc 7:11. 56:8.
And our courts have in some instances at least admitted proof of the preceding declination of a witness to show his disbelief in
those doctrines. 2 Bray 57. This is certainly incorrect, the party
may be deprived of the benefit of his testimony without sub-
jecting him to the penalties of perjury.

Quaker, an old

method to testify under affirmation without oath by cer-
tain Eng. stat. in civil cases but not in crim. pros.,
Stat. 13 & 14 Geo. 3. 1 Geo. 1. 8 Geo. 1. 22 Geo. 2. 8 Geo. 3. 11 Geo. 5.
87 2 94 6.

But in crim. cases a Quaker affirmation in fear

of an affidavit may be used to penalize himself as an affirma-
tion for an information or attachment. 2 Burr 1117. Pcm. 140.

By our Stat. 5 & 6 Ponson, throughout the U. Quakers are
permit to testify an affirmation in all cases civil as well as criminal. A. Bowse 559.

Another vitiating ground of incompetency in a
witness is interest.

Formerly an interest in the question

trial in many cases disbarred in quire incompetent. Salter 223.
4 St. 160. 1 P. B. 360. Pank. 144. 5.

This being the most usual ob-

jection it will interest it is important that you understand
the distinction between interest in the question interest
the event,

By interest in the question is meant to the influ-

ence a witness is under from being in the same situation
with the party by whom he is called in relation to the fact
to be tried, or from having or being exposed to some claim
who may arise out of the facts in question, tho' his right or
not be affected by the verdict or judgment in the case

Thus if an action is brought up in
our society, if another is called as a witness, he is
interested in the question, he being opposed to a claim
existing out of the facts in which would subject the pres-
ent suit.

So if there be two several indictments, e.g.
set 13 for swearing to the same facts. If 12 calls 10
and 2, 1 saying that 13 is said is said to have an
interest in the question, for an acquittal or conviction of
the 13. 14 should not affect him.

Again suppose a
master brings an action for goods for beating his servant.

It is the same as a witness according to Lawmanfield.
He is interested in the question only, in two his right of
serving depends on the same facts, yet this would be no
reason of his in his action. Psa. 166. Stan 575, 944.
1054. 6 M. 18. 1 Bent. 1472.

But it is now settled, according to
Bent & Baker that this species of interest or influence
does not include the witness the objection not going to be
compulsory but to his credibility so much may induce
the subject of observation. 8 T. 38. 36. 4 Burr. 2255. 7 T. 20. 496.
1 id. 163, 302. 3 id. 36. 5 id. 603. 7 id. 60. 603. 2 id. 20. 587. 1 R. 8501.

And the general rule now is that a witness is not disqualified
on that ground of interest unless he is in a situation to be
immediately benefitted or prejudiced by the event of the

Another in crime, however innocent, or the
offender charged as guilty, is regularly a competent witness in the
sentence on the action he has or may have a claim on the body
accused for the civil injury involved in the crime.
4 Mcr. 2255. 7 T. R. 60. Phil. 86.90.

The rule is indeed
something this qualifies him as competent unless the in-
dictor or the prosecutor can give in what in the
civil suit. This is wholly unnecessary for there is no conceivable
cause to C. L. upon which the indictor can
be given in what in the civil suit. The qualification applies
this only to cases arising under the Stat. Law. Psa. 146.
45.6.

This on an indictment, e.g. for stealing the goods of B
or killing B. A is a competent witness, yet B may have
action e.g. to C. L. but the remedy cannot be given in what
nor can the crime itself affect the civil suit.
1 Edw. 211. 1 Macc. 53. Stand. 321. 1 Roll. 203. 2 id. 685.

And if on an indictment for robbery, the by Eng. Law the part robbed
is entitled to instituted an convition against him, he is a competent
witness. If the goods are his he is entitled to them when given
back to him, and the same it has been decided that the part
may bring suit to the State, gave him the damage. 1 Macc.

To if one is in
sfieldset as a cheat the individual scientific L. 15 int. 49.
A libel can of proving it is not material which
in the verdict has satisfied the judge who was summoned to
him. This has formerly thought to make a difference.
*1 Thum 225. 36 East. 577. 41 Dall. 1412. 9 *Con. 1 Casp. 97. *Penn. 629.

And it is said that on a prosecution for
proving under 5th lib. the party injured is a competent
witness either he has half the forfeitum, because it is
said in his act, the amount of the conviction on their
diploma would not be evidence. I perceive it was
be used as constituting a part of the res gesta of the formation of
his claim to the forfeitum. This thinks the rule the
one has some in the weight of certainty. *Phil. 86. *Gibs.
124. 2 Ral. 685. 8 N. F. 284. *2 star. 1229. 2 Har. 1233

And even persons to whom bounty can give is for affording
prosecuting offenders to conviction an competent
57. 61. 116. 14. 17. 15 *East. 145. 2 Ral. 150.

The question certainly
will occur to you are not these persons interested in the
they an immediately interested in it. This then is a strong
objection to the quick rule that assist of it is that, without it
the object of the State would be completely defeated. The
that this makes them compellent, when by law they plainly were not so.

To too on an indictment against a debtor for tracing up a note as bond the defence is a compellent writing. 

It also on a public prosecution on the state of using, the borrower or debtor is a compellent writing to prove the whole case whether he has paid up the loan or not (ie the whole debt) formerly due. 

But a pres on a private suit, who is entitled to part of the penalty is not compellent to testify in support of the prosecution, having an immediate interest in the suit the amount of the debt to be recovered. 1 Coce. 95. Psa. 15. 2

In the single case of a public prosecution for forgery it has been uniformly held that the party by whom the instrument purports to have been made is incompellent to testify for the public provided the instrument if genuine would subject him to a suit or deprive him of a right or claim.


And thus it may be that as many facts as might enhance this forgery to be it contains a new breed of misconstruing
in the celebrated case of *v. Doe*. L & E.

She, in fact, was not admitted to testify until she had a release from the judge, and a non-exculpatory fact not constituting to prove the offence. In every case, he may be a witness, as that he is the person in whose name the instrument was, 1 Mc. 143. 16. 12. 4. 3.

Upon what principle that rule is in the case of forgery was established, I am not able to discover, for in case of theft, taking a person's name is not an excusable motive. In every case, it is to be presumed that the instrument, or its contents, is not genuine. The party is entitled to the benefit of the doubt, if not proved, and the onus probandi rests on the complainant. Phil. 91.

The rule now would hold when the party whose name is forged is not personally affected by the instrument, supposing it to be genuine. 12. 3.

And also where a bond in favor of prejudged, he was admitted after having struck it from his book, thus abandoning all claim to mean it back. Bell. 169. 16. 10. 1000. L. 6. 1. 57. Pro. 169.

Yet when the person would be at all affected by the instrument, or genuine, he is incapable. If the rule has been extended to all persons interested in the question, it is not charging on an indictment for forgery a well the 53. 3.
in the genuine will has been declared incompetent the releas
has been intended to testify. But the last rule seems
not more rigorous in law. See Mansfield's quoting
both the cases, 1 Peck 169. 2 Peck 321. 3 Litt. 172. 4 Whitm. 2254.

But the person whose name has been forgot to an in-
strument of any kind may be considered competent by a
release from him in whose favour it purports to have
been made. 2 C. C. 184. Phil. 92. Peck 169.

But in point
this quotation has been rejected by the party in whose
will the instrument may be a writing without a release,
also the instrument should be subject. So that
the rule is merely the same in cases of forgery or fraud-
y. 1819. 1

The law is the same in Penn. Maj. 1
I think virtually the not proving in N. York
1 Maj. 7. 5 id. 52. 1 Dall. 110. 2 id. 239. 2 St R. Day 196

Interest in the suit. The rule is that a person
interested in the suit of plaintiff in suit. he is offered as
witness is regularly incompetent to testify.

There is notice the exception of prosecution for forgery
under the s. of City 1 of counties for prosecuting of
fraud to conviction.) 3 St C. 36. 7 id. 65 685. 4 Whitm. 2257
2255. 2 T.R. 296. Peck 144. 145. 164. 170. Phil. 23. 44. 50.

If in suit the suit are and an immediate certain
benefit or disadvantage to a person to the writing from
the result of the suit. In other words, a person is said to be interested in the suit, if he has a certain direct, immediate, or beneficial interest in its determination, in favour of the party by whom he is interested, or against the other party. He will incur some certain immediate loss or liability to loss in consequence of the determination in favour of the adverse party. 3 T.R. 92. 4 T.R. 97. 2 John, ch. 236. 4 John, 2d. 302. 5 ib. 527

And generally, the suit usually, or question, whether a witness is or is not interested in the event of the suit is determined by another test, whether the result of the suit in which he is interested can afterwards be given in evidence, for example, him in a case in which he is a party.

This has in many instances been considered the only criterion, but it is not so. The question is, in the event of the suit, whether the result of the suit cannot be given in evidence. 3 T.R. 92. 3 ib. 7 ib. 62. 4 East. 57. 2 John, 236. 5 ib. 145. 2 John, ch. 236. That this is not the only criterion, see 4 T.R. 19. 5 ib. 667. 2 East. 581. Th. 572.

In a suit where a claim or right of common is in question, it is claimed under the same custom is not a competent witness, for it, for you will recollect that a constant finding of a custom is evidence, etc. third persons 12 T.R. 302. 4 T.R. 32. 2 Selw. 731. 1st B. 285. 2 John, 170. Th. 263.

So also if the person offended a witness would be liable for the costs on either side. He is incompetent to testify in favour of
The same rule holds as to any one who has agreed to incur any costs that may be awarded against them, even if the costs are to be paid by the adverse party. It is with one who has given security to answer the costs that may be awarded against them, even if the costs are to be paid by the adverse party. 

So, in an action ag. a seller for breach of warranty of quality by ship. If the seller cannot testify unless he has a claim from the ship, the seller will show that the ship has been subjected to what amount. 1 & 2 Ray. 1211. Tho. 680 3 Campl. 525. Park. 165.

So also in ad. ag. a master for the miscarriage of his boat. Dist. not competent without a release for the master would be an essential part of the act in the subject act. 4 T.R. 559. Law. 1007. 1 Campl. 257 3 be 516. Park. 65 344 1 Esp. 339.

A release will retain his competency. Tho. 1085.

1 Esp. 339. Tho. 65 582.
in hand. He is immediately liable liable own to them retained as evidence 1 Esd. 339. Peck 166. Phil 27. 1 Th. 356. 1 Anf. 408. Titus 575.

So on the other hand if a witness for Plaintiff would by shuffling both exonerate himself from any liability, he is incompetent. By guard on not competent witness for his word because a word by word would prevent guard liability for costs. Pea. 66. 81. Sancn 120. 8th. 576. 1026. 2 Mays 444. 2 Into 658.

On the same principle a grantor who takes any estate with court of seisin or warranty is insusceptible to prove grantee's title in question. For by establishing grantee's title he exonerates himself from liability on his own covenant, but a contrary issue would subject him. 2 Roll. 655. 3 Day 238. 2 John 394. 651. 525. Peck 170.

The same rule holds as a lessor with covenants when quit. is not against lessor. For the same reason, he is incompetent wherein the court is called for quiet enjoyment or implied warranties. "when be. 164. 5 Phil 745.

If a vendor of a chattel is incompetent to testify for his vendor in a suit against the latter calling his title in question, for there is no implied or expressed warranty of title in all cases of sale of chattels. 6 John 5. Phil 745.

But a grantee lessor or vendor with any covenant of title or warranty implied or implied is subject liable to testify for or against vendor, not being involved. 8th. 1445. Pea. 170.

So also when the vendor has covenants or warranty.
title as ag, to them only, claiming under himself. he is a
respective
all but those that claiming,
in a case of whom a quiet claim and, for if furnishing
is evinced by others he has no claim even upon the
which, 28 re. 211. 2 sim. 90. 108. 520.

For the inhabitants of a town or parish liable to be rated for the Poor, if not
actually rated are competent witnesses for the town or
parish in England, in a question of settlement. For this in-
tinction is contingent. been if actually rated, 25 re. 17. bit.
157. 2 earl. 561. Dec. 163. 4.

In count, the inhabitants of
localities corporations or towns be an in ways allowed to tes-
tify, when the court is a party in case of settlement of
.questions, from the supposed interest of the cases to this
the they are actually rated.

which, by this Eng. rule as well as own
own, the inhabitants of a parish or town are allowed to testify
in support of a qui tam act, or a prosecution for a penalty
at the the penalty, when recovered would go to the support of
them from, the interest in the case is too minute and
contingent to include them. Phil. 16. 2.

is a rule that a

those persons not a party to the suit in question is com-
ponent to testify that in himself but that is in action. This
rule appears to be main general. The witness has an imme-
diate interest: the rule proceeds on the very proposition
that wishes is in itself would be either should 20th
preval. 1 John, 275. 12 John, re. 1214. — Phil. 2. 15.
Still left no security was assigned to a new bond, for
himself or his security by reason of the immediate
interest. Deut 14:9 18 2 Sam. 7:10 1 Chron. 18:29 10 17
Job. 17:13 1 Chron. 28:8 29:3 38:8 (See v. 21, p. 17)

For he is a new trustee having no beneficial interest
in the subject. For he is interested in the event irre-
claimable for the cost. This liability is certain, this
ultimate indemnity contingent. Deut 14:9 18 2 Sam.
15:2 7 1 Chron. 28:8 29:3 38:8 Phil. 1:12 2 Day 402.

Let us consider whether Miller be the other Miller
who is not liable (as the Eng?) to costs. Phil. 3:7 ne. 1
Chron. 28:8 2 16:10 12:13 2 Vg. 4:7 2 2 Sam. 28:7
Str. 54:2 18:3.

The reason that his reimbursement may not be
allowed? Or is it a positive maxim that the presump-
tion of intt. in a party shall not be reenacted? (See
v. 22, p. 17)

But an adv. column in minor states is after
his multitudes a competent witness for the 8. For
he has none, no int. Phil. 3:7 ne. 5:18 604

And the

number of a earthquake is non individual interest in the
event, are admitted to liability for the event. And this
number of earthquake event who have no be-

neces. in its furs, I am not personally
liable for the costs. Deut 14:9-50 2 Sam. 7:9 8 1 Chron.
15:2 16:11 116 2 16:12 7 Masp. 12:3 37:3 20:12

Eccles, when the earthquakes are historically intu
established in the subject. As in a right of barren contemplation from Laws 35. 6th 147. As the 74. 2d 28. 174.

The smallness of the interest in favor of the amount appears to make no difference. Bull 293. Phil. 52. 3. 59. 5 2d 174. 11 John 57. 1st 2d 201. Rom. 161. 1st 351. 2d 201. 47. 30. 35. (cont.)

But the composition of a corporation is not forc'd by strict procedural requirements. 2d 162. 6th 165. 1st 33. 1st 225. Phil. 98. 1st 295.

The issue of the procedure is irregular, as it may be set aside. 11th 225. Phil. 98. 1st 164.

So by a misnomer of his corporate form chose Phil. 98. 1st 437. 2d 31. 32. 1st 330. (cont.)

In short, the number of public bodies composition (acting technically present he is) an constituent in all constitutions such as are parties. This is found from the usual reservations of individual interest finally from self-interest. 2d. 1st 57. Phil. 58.

Scarcely this number of a corporation of more private nature, as banking others. 1st 23. 29. 1st 41. As their office is supposed to be generally the more important adding is not the same suffered in efficacy. Phil. 58. 2d. 1st 36. (cont.)
print a CV cannot testify for his co-deft. For his own way to prove at least that they were not jointly liable or charg'd.

But if in an act occurring in trust, no one so what, as given apt. one of the defts. he is entitled upon the show of deft's co's to be discharged & may then testify for the full. Phil. 61. Ch. 237. Gill. 117. Bull. 285. 1 East. 312. 2 Barn. c. 46. S. Q. 3 P. C. 278. 1 Root. 134. Dec. 152. 1 Mewett. 204.

But if there is any co-apt. him the whole can must go together to the jury. Phil. 61. Gill. 117. Bull. 285. 3 East. 25.

Zin. Tract. 44isting the wrong to have been committed by himself & 3. if it appears that it was concerned in the trust. If that person had made ag. 3 him, he could not, without bringing the pros. here, not competent for deft. Dec. 153. Phil. 61. Bull. 286. Barnes. 264. 123.

But be what principle, not surely show that if interest in the event. This is not actually a party to the suit. 18 N. H. 32. 21. 62.

Lead of count these facts appear. Phil. 61. Ag. 201. 1 East. 252 & Binn. 3 36.

On an indict. ag. 2. second or having sub-mitted the deft. can prove, it is competent to testify for the deft. This as to it being as an end. Phil. 62. T.,e. 633.

But no one suffering great by default does not unless has competency within favor ag. 3 the deft. For his claim by to the same. Other can come to him is not proved. Phil. 62. 6 East. 185. Bull. 260. 2 Goffet. 353. 18 T.,e. 75.
...fundament of debt on a joint contract has obtained
his discharge under the bankrupt laws. For he is a party to
the debt. Phil. 62, 2d. 1 Cor. 2d. 5th edition.

So in an action on a joint

contract &c. to two, if one suffers judgment by default, he is
not answerable for the other. For if the action fails to
want, it fails on both. Phil. 62. 1 Cor. 2d. John 2d. &c. for if
the action prevails, the party defendant will be
liable to a contribution from his co-defendants, not the
balance of interest in this can clearly agree to 2d. 2d. Why
may we not take for the other? Phil. 62. 2d. Tim. 152.

It has been held that one of two debtors in two actions,

suffer a defendant to be answerable for the other? 2d. 1 Cor. 2d.

3d. is answerable for the other debt. For he is liable
compl. at all events, he is not liable it is 3d. for the cost of
the action; Phil. 62. 2d. 5th. 5th. Phil. 152. 2. 1 Cor. 2d.
3d. 3d. 3d. 1 Cor. 2d. 3d. Casier 6. Prima 3d. 3d.
for the jury may assess for damages as to all the debts,
here 1 day 3d.

Is not the rule on first hand drawn a de-

fendant from himself? And not the def. liable
for the costs of the other? Is not the other claimant
one of? A damages. Other we may go to mitigate
their — Supposing he was called to his own profit in
the other debt.

If one of two debtors in a suit contract

awards it up himself for so much as he is in debt of
he is a competent agent for the other. John 2d.
3d. 3d. 3d. 1 Cor. 2d. 5th. For a finding in favor of the other can
not benefit him. The damages recoverable being but nominal.

But a person, jointly liable with defendant in a suit or liable solely in his stead (the suit being a party) is an incompetent witness to defeat the suit (Psa. 155. 170.) for he may testify in support of the suit (Zac. 35. Phil. 365. 32.)

Thus a portion of such is not admissible to show that he is solely liable when defendant acts as his agent. For the witness would be liable for half the costs incurred by the Def. (Psa. 155. 170.) (It 69. 176.) 5 (Burr. 2727.)

But a man from defendant would not be competent. (Psa. 155. 170. 1 1 Ech. 8. 103.)

In Ech. one of see. Def. having no interest may be examined on the other side. (Phil. 63. 33.) (161. Const. 393. 2 69. 62. 214.) Wherein the rule on Def. differs from that of Def.

At Brisk, if it is not competent, in one section by his affidavit to prove facts, he himself would be due to himself, as an increase of his right would augment his allowance. (Psa. 168. Phil. 17. 98. (Ball. 263. 101.)

So of his creditors.

For by increasing the debts, the debtor dividends is increased. (Psa. 168. Phil. 51. (69. 62.) 237. 2 68. 2 69. 7 69. 62.) 237. 2 68. 2 69. 7 69. 62. (8 69. 62.) Indeed the suit is lost for the benefit of the creditor.
the commission by proving it regularly sued out, as he is obliged by a bond to establish the bankruptcy, Phil. 5:2. 2 Cor. 4:11. In 4 Mark, 161, 237, 21, 127.

who has not paid his debt, under the commission so competent to support it the not so to increase the funds: Phil. 5:2. 2 Cor. 4:11, 2. 136. R. 127.

earn itself of its expense as they bring matter to the proceedings an inquiry to support the commission. Deut. 16:7, 3, 18:19. for their judgments may be used by answer to the adjuring. Psa.

This bankrupt himself is not competent to prove any fact necessary to establish the commission. For he is interested in supporting it as the means of obtaining a discharge from his duty. Psa. 16:7. Phil. 5:7. 2 Cor. 4:11, 2. 136, 277, 2 Sep. 22.

So the he has claimed his estate, the object of inquiry & allowance. For if the commissioner not supported, the proceeding would be an void, the will remain liable for his debt. Psa. 16:7. For in e.

ease he is competent to increase the funds, as he has no interest in it. Psa. 16:7. 18:19. 2 Cor. 4:11, 2 Sep. 22.

But he is competent to explain an equivalent act sworn in the part of the assignees by other witnesses. Thus to show that it was not an act of bankruptcy. Psa. 16:7. 2 Cor. 4:11, 2 Sep. 22.

So to diminish his estate as to prove a debt claimed by his assignees, as one to his.
evidence is ag. his int. Phil. 168. 10. sect. 70

_sane_ this nearly being admissible we for ag to 
the witness in a future suit is the criterion of int
in the event. Phil. 48. 9 3 T. C. 32. 7 16 62 2 Light. 236
Sib. 267 4 16 302

But it is not universally so.

For then an ease in which a witness is deemed thus
interested the witness would not be we in favor of
him, but such ease are few. Phil. 49. 50 Gill. 106 7. Bull
382. 4 T. C. 19.

This in Tring. justly by ed. for taking the
goods in an ease in 45 A 3 is not competent to prove the loss 
of the goods in himself. For this the issues would not be ed.
for, or ag. him in any suit relating to the latter, yet his
credit would be discharged, if the. (Phil. 32. 2 N. C. 33.) sewer an immediate interest in the event.

If a witness is not competent to prove the loss, generally, in a suit by another device in the same will Phil. 57.

_Why not_

independently of the objection arising out of the 4. of power.
Phil. 374 7. For clearly another fact must be the point in whatever _

For other cases of interest in the event, when y
means will not be ed at supra. In Phil. 30 3.

When the witness has an interest in it is balanced so that
he stands in point of interest indifferent he is competent
to testify for either party. Phil. 33. Part 18 4. Gill. 129.
And on an indenture ag' a county for not unloading a bridge. The inhabitants are committed on either side to the necessity of repairs. They being instructed as well to have rebuilt bridge, as to avoid consumption of repairs. (See. 1 Rtv. 351. 6 Med. 397.)

So acceptor of a bill is commitent, in an action ag' drawn, to show no offset, other discharge with notice. (See 15 Ed. 149. 382.)

So endorser of a note, having wth. money from maker, to take it wth. is commitent in a suit by endorser ag' maker to prove the note satisfied. For he will be liable in any suit to the pth. the endorser) from the other to def. Phil. 2 Est. 145. La. 23. Tomis. 26. 4.

And the comparison of difficulty of a witness in enforcing a remedy ag' one or the other party (when in his a claim accruing in either event) serves not to affect his competency. Phil. 55. 6. Less 1. 3. 2. R. 574. 2. bag. 499.

In at for money paid to the use of ship owner, the bill is commitent to prove that he wth. the money from the pth. for the use of def. His liability being no greater in the one event than in the other. (Phil. 60. of R. 231. 1. tum. 407. 2. being 77. Part. 165.)

For if he has wth. the money that paid it over to must be liable to one party or the other in any event. If he has not it over he is not liable to either.

So in both forvirt when both parties claim under it, he is commitent to prove...
to whom he made the first loan. Phil 5:4. 3 T.R. 308. 2 Roll. 382. Gilb. 109.

So in an action by payer agst. the acceptor for bills, drawn by one of two partners in the name of the firm — either partner is competent to prove that the firm or one had no authority to draw the bills. Phil. 5:2. 13 Fos. 175.

For, as betweenCTL- S.J. who had mort. four deft. money due to the Pllf., who held the competent to prove, that he was the agent for the Pllf. Phil. 5:2. 7 T.R. 482. Rule 165.

Since if the witness would be liable to a greater suit, in one suit than in the other. E.g., Aft. agt. the acceptor of a bill, for the accommodation of drawer, the latter is incompetent to prove the transfer. — For the liable in suit sect. for the suit; he is also bound fully to indemnify the acceptor of same liable to him for all damages. Phil. 5:5. 4 Tarrant 264.

Thus an ancient wonted case in which one party to a suit is allowed to testify from a supposed necessity. Dea 150-1. Phil. 37.

Thus, on the H. of Master, 13 Ed. 1. the Pllf. (the party robbed) is competent to prove the robbing, the amount lost — "on a sufficient of other proof." Lid. 2 Roll. 6356 Rule. 197.

Since as to other facts, wh. in common prudence, are provable by other ev. as that it place where is within the hundred — Dea. 150-1. Phil. 55. Hardw. 83.
On that he delivered money to his servant, who was robbed—


And in an action for malicious prosecution, the information by plaint or the original prosecution, may be proved by the

in his defence. [Pra. 157. Phil 5 & c. 6 Mc. 216

Bull. 14.] This rule is also founded upon supposed

in the only case of this description at comm. law. Pra. 157.

乙 that one or both the parties to a suit are in some cases allowed

to state how to testify for themselves. Thus by s. in both

cases of verdict assumpsit, bastardy & void term prosecution for

thiefs is the, theft, identity of the property. For the theft,

in dica. or a judge by foreign attachement, in prosecution

upon the suit relating to the paper in the night season to

Sw. 15. 4. 15. 154. 126. 184. 660. 1 Day. 116

On a similar principle of necessity & "for the sake of not

be "usage of business" agents or servants becoming inter

in the ordinary or regular course of their employment

as competent witnesses for their principal or master


Ex. gr. A factor may prove

arrest of goods for his principal to change the order, the

satisfaction to a commission on the papers. Phil. 94. 3 117. 20

And every one who contracts for another is an agent with
the rule Phil. 92. 2 & 16. 56. 571.

As of the steward of a manor
when intent to support a claim by the law. Phil. 95. 3. 16. 70
Hears. 320.

To an agent in competent to move in favour of the principal, a part of money delivery of goods etc. the law en-
gages to discharge his own liability to the principal. Rca. 157. 2
164. 5. & 129. Bull. 289. Phil. 92. 11. 8. 102. 2 & 13 Pec.
579. 73. 2. Exp. 579. 8. In 49. Lab. 289. Sola 627.

So if the an-
gent has own P money or P by mistake, he is competen to
prove it in an act by master to mean it back. Phil. 95.
Sola 627. 3. Compl. 144. Rca. 164. 2. John. 270.

Secur to
the acts of but not an in the matter or regular course of
employment claimed to be violations of trust or duty
which are not within the principle or meaning of the rule
Phil. 95. 6. Bull. 289.

See 95. In an act to mean back
money paid out on illegal purchases or squandered by P's
agent. Phil. 95. 6. Rca. 164. 2. Compl. 199.

And not com-
potent to support the action without a release. Nor that
is not in the regular course of his employment if purchased
is lost he is liable to the master.

It in an action ag. a
master for an injury done by the negligence of his serv-
the latter is not a constituent evidence for his master
Rca. 165. 6. Sola 650. 2 Compl. 141. 4 & 13 Pec. 579. 1 Exp. 539. 6673
1 Compl. 257. For he is liable to indemnify his master if
Jeff pursues. Complaining instead by whom

Plea 106. Treas. 53. 1st.

an act for setting Jeff's goods
on ship board; the master is not a witness for Jeff without an
release from the Jeff. For his service would not be to prevent
an act of his own in the ordinary course of his employment
Plea 166. Treas. 84.

In an action upon a policy of insur-
ance for bank of the master, he is not admissible for Jeff's
writings unless by them. Plea 166. Treas. 84. 339.

An agent who,
conspires to testify, is to, to from his own will. Phil. 16. 37 257 380.

But in cannot from the contract of a written instrument, not
producing it, such. Phil. 36. 2 Bell. 246. 1 Calp. 406. 47
1 Calp 4 18 493.

a For can one who has procured a goods in Press
name, testify, (for master), that he purchased them as agent
for draft. Phil. 15 : 3 cannot. 317. For create the analogy
to the case of a dormant partner.

It was not held, that if
a witness supports himself upon an honorary obligation, not a legal one, to indemnify a party. He was incompetent to
testify for that party. Plea 107. Treas. 129. Phil. 41-2. 1 Mc
May 1410, Exp. 707.

That this rule has since been deemed
not to be law. (cfr. in ple. 5 Maps 2. 518. 8 John 42. 1 Bell
62. 9 ed. 50. Phil. 141-2 1 comm. 165. 9 John 42. 270) but
it may go to his credit. Phil. 142.
The interest which excludes one witness must have existed it is said at the time when the act or fact in quo took place, or have accrued afterwards by operation of law only on the act of the party who offers him as a witness. Psa. 157. 185. Phil. 105.

An interest acquires by W's own act therewith the concurrence of that party does not disqualify him, otherwise a witness might in every case depose the party of his testimony; the opposite party might consequently do it. Psa. 158. 185. Mic. 566. 3 Tiph. 37 33. 37 3 John. 2. 237. Phil 106. Psa. 406.

This if a witness to a bond or other contract moves at law, that the party claiming may recover in the action formed upon it, he is still a competent witness for himself and compellable to testify. Psa. 158. 4 33. 309. Phil. 106. Mic. 566.

So if a prosecution is on the point now, prior to the commission of a crime by another, by a man (say) that he will be convicted, the former is competent to be compellable to testify in support of the prosecution. Isa. 68. 2. 1 Matt. 125. 3 Jer. 185.

To whom as a brother being free under B to entertain a policy, afterwards became an enemy with himself, is was heard by B's heard B and B to the end B could hear the other, sparing of any testimony, even if th St the law be now to be renewed in the event. 3 Tiph. 37 406 13 3 John. 2. 237. Psa. 106

First qu. Whether the rule is not laid down too generally wherein the opinion in the last case is law. And what whether the rule extends to every other case?
from those in wh. of act causing the suit is either fraud or
intention to deprive a party of testimony, or injury, gra-
libedor; as in the above case of wages. Phil. 101: 2.

Hence 38a. 38b.

For if a person associated
with a transaction in wh. others are interested, afterwards
in the regular course of business, finds he is interested in the suit arising out of such; he is
according to the latest determinations incompetent. Thus
when a man under what he has the lift upon an ac-
yt. of injury, shall refuse to his action, after the
comprehensive failure, was sold or assigned to have the del-
key voids of court like him incompetent; Phil. 101: 2.

Thus 38a. 38b.

But when a person having given a deposition, while un
interested, afterwards becomes interested by operation of law,
his deposition is admissible, but deposition is admissible 2c.

If an afterwards becomes a party, as in a contract suit
solely, party 388. 1 P. W. 2,87, 8 2,78. 6, 18 5 Content if
he becomes a party (Cal. 2,84, 8 101, 8 78). But in the
last case of deport, under what will it remain, to
be void only after his death, the exceptions shall. 2c.

2c. 88. 22. 82.

And on the other hand in those cases
in wh. a co o can NOT by operating one interest subije
 deprive a party of his testimony, he cannot by voluntar-
ily acquiring an opposite interest privilege himself from
 testifying. E.g. If a subscribing witness to an obliga-
becomes bail for the debtor or party bound, he is still compellable to testify to it. 1 Co. 185.

But when a person who
comes into facts by giving bail for a party afterwards comes to the knowledge of facts, advantageous to the other party, he is not compellable to testify to such facts, and unless he testified in support there cin. Phil. 101; 2 Esdr. 106. This interest was antecedent to his knowledge of the facts in question.

But when a subsequent interest in the court is cast upon the witness by operation of law, he is incompetent to testify in support of his interest. Must compellable to testify agst. it. Ex. g. an heir apparent, who being discover of facts, relating to his ancestor’s title, afterwards succeeds to the inheritance. Can attorney witness to such afterwards is appointed, Act. or Ex. to obligor, or obligor. Phil. 268. 3 Pn 287. 2 Kine 699. 34. 5 Th. 372. 3 Ex. 259. 2 Est. 183. 3 Est. 17.

So if the court, according by the act or concurrence of the party offering the witness. Ex. g. with the severance, bond becomes bail for obligor cannot testify for him— as a subscribing witness becomes bail for the interest of the party, 1 Co. 187, 185, 3 John 68. 237. 2 Est. 183. (ante)

As a good apt the interest who gross to compelliby must also continue to the time of trial. Hence a removal of it before the time regularly upsets the competency of witness. 1 Co. 158. Doug. 139. 5th 172, 1 Hine 270. 8 John 28. 379. 1 Maj. 72. Ex. g. an old attested
by legatees only where he is competent to name them...

22d 159, 99 9 1464 148 4 131 122 127

23d 123 97 1353 3 2 99

Opinion contd. by J. G. B. 97 9 1353 1244 3 47 111 9 88 — before the con-
struction of the State of Florida. But this view of nullity is in support of the rule. 99.

And now by

State 25 2 2 Ch. 6. the legatee or deviser to a subscribing
w. is invalid and void of the w. competent to prove the
will, or to the will. 122 3 160.

This statute being declaratory (Rev. Stat. 29) is in affirma-
cence of the rule. The statute makes the same provision as to legatees who have been
w. or a minor, or an in-

By some it is said

totally being subscribing not one and competent
the will, or a change by the will or land. 128 3 138 4.

We have a similar statute to devise the prop-
cates in wills executed after Jan. 1608. If the will
is not otherwise sufficiently attested (i.e., ch. 21, 22 or
legatees or devises) such will is invalid and void. If given to
the heir, he cannot testify in support of the will at all, or
certainly, all the devisors of real estate in the will are
made up; if it is sufficiently attested without his name
25 2 183.

By this statute, therefore, a subscribing containing,
a legatee, who dies before testament or before receiving or inheriting an legacy, is a legal attesting witness. Psa. 168.

It follows from the last part, that a witness, to or from, an interest with (as the nature of the case may require) upon, or any other means, by which he is divested of interest at the time of receiving the instrument, will estop his competency. (Phil. 97-8, Psa. 168, Song 139, (Post).)

Thus in the case of forgery, if the person whose instrument purports to bind has been divested by the party who is entitled to receive upon an instrument of genuine, he is competent to prove the forgery. Phil. 98, 1 Sam. 178, 184, 255, Psa. 169.”

So if the latter party has, before, set aside the forged instrument by order of a court, Psa. 169, Bull. 289, (ante.)

To in an act, by the declarer of a notary. If the maker, or immediate being relieved in a competent witness, for Psa. (1 e 1790, Post. 93, Phil. 97."

To a sector, for whom neglect his master in trust, may in being relieved by the latter testify for him. Psa. 166, 91, 38, 183, Phil. 956, (ante.)

To a testator, who has obtained his certificate, given a release to his cestui que trust, for him himself, (This is a waiver of lien), Psa. 167, Bull. 282, 2 797, (ante.) Psa. 997, 976, (ante.)

As to members of corps, for any service, see (ante.)
And when a man lends to or from a wife, witnes,
shews the deficiency, a tender of it on the creditor
the refund on the other, will have the same effect. Psa.

This is a legislative ordinance.

If a subscribing witness to a will, tenders a release,
will is refused, he is compellable to prove the will. Or if part
of the legacy has been lent under the bond, the bond refused to
he is compellable to compellable to testify. Phil. 99. Psa. 158.
Long. 129. 3 T.R. 35. 1 Corv. 417.

He could not set a due from bond.

Compellable the matter is shown is compellable to testify upon a
change tended by master, the refused. Psa. 158.

It is a common form for provocation, if a release is tended him
by will.

But if a person gives a declaration while interested
in the suit, this interest is afterwards removed, the
bond is not admissible. For at the time of testifying he
is under the bias of interest. Phil. 99. 1 Corv. 412. 106 inc.
311. supra. Thus a bond given is declared to be in his favour. But the bond
is afterwards changed.

A person is always compellable to testify against his interest. The not
inquirable compellable to do so. Psa. 159. 118. Sal. 69. 40th
Phil. 96. 28. 22. 227.
Petersons are in some cases incompetent witnesses by reason of their relation to one of the parties, with respect to that interest. Thus, a wife is an incompetent to testify for or against her husband; Phil. 175. Phil. 63. 4 Co. L. 6. 5 Bull. 284. Gill. 173. 2 Blount 24. 24. 70. 1 B. C. 442. 40. 678.

For the particular cases distinguished under this head, see Marks, Parent, Heiberg. 

Persons living or married away upon questions as to the legitimacy of certain issues, transmitted or written but without respect to the facts upon which the competent to prove an issue. e.g. 182. Phil. 180. 6 T.R. 320. Hardw. 179. Bull. 114. 40. 572. 8 East. 532. 11. 435.

Councils, attorneys, solicitors, cannot compulsory nor permitted to serve confidential communications made by clients in relation to suits brought, or in contemplation. Phil. 175. 7 Phil. 104. 4. 10 W. 4. 177. Bull. 284. 4 T.R. 432. 753. One is either of them compellable to produce a paper committed to them by a client in an other cause. Phil. 103. 4 8 Marks. 572. 3 May. 279.

To the suit or controversy, to which the communication related, in at another - as the the Councils nor may be discarded. Phil. 173. Phil. 103. 4 71. 757. 60 98. 578. 1 B. C. 695.

For each to testify to facts thus disclosed in a suit between third persons, idem.

These rules are founded not upon the privilege of the source but...
of the client – the duty of secrecy, new cases. Phil. 103.
15 P. 658. 2 T. 587. (law clerk note also)

The same rule holds as to an interlocutor be-
tween the parties: this counsel att'ye. The bringing the organ
of communication between them, is under the same obliga-

But this

privilege of the client is confined to such communica-
tions and matters respecting professional business during the ret
of att'ye. & client. 2 Tim. 129. b. 198. 2 Mc. 189. 24. 1 Coim. 157.

Since an att'ye. be by profession, but not retained as such
is not within the rule; this may have been committed con-
fidentially. Phil. 183. Psa. 69-50. 2 T. 587. 760. For in such a case the relation does not exist.

If the client waives his privi-
lege, the att'ye. be allowed to compellable to testify. Phil. 183. 598. 570.

But a person who was confidentially committed, upon the supposition
of his being an att'ye. whom he was not, has been held com-
pellable to testify to the disclosing made to him. Phil. 183. 6 Eng.
118. Let, give, the inquiry very far.

Such depositions made by an authorized att'ye. to
the adverse party may be proved by a third person who heard them
the rest by the att'ye. himself. Phil. 183-41. 2 Coim. 18. For this
privilege extends only to the non cases of Counsel, solicitor
& attorney. – List to students or clerk in a law office by Mr. Quincy.

Since physicians & lawyers are compellable to
disclose information acquired in their professional charac-
ters. Phil. 182. 2 T. 587. 64. Psa. 68. 17. Psa. 183.
To a Roman priest, to whom confession has been made, ascends to the nature of the Rom. cath. church. Pca. 180. Ib. ca. 77. Phil. 105. In 1 Mc. My. 253.

A conf. to a priest, to whom absolutions have been made, with an injunction of secrecy. Pca. 180. Ib. ca. 77. Phil. 104 in Bull. 234.

And it has been said, that the act of commission of a task, who has taken an oath of office not to disclose what he should learn as such, was culpable to disclose, on the ground that in such a case there is an implied prescription to keep secret in cases of justice. Or in other words, that it extends only to civil, or extrajudicial disclosures.

Phil. 104. 3 S. hike. 337.

Also an act, to such in the case, may be examined, as to his client, or to the known to him before he was retained on another as such. Phil. 105. 1 Thet. 197. 1017d. Bull. 684. 4 T. R. 259. Rom. ib. 279. 1 Vg. 63. 2 I. 185.

For as he does not acquire his knowledge by the relation of his client, the disclosure violates his professional confidence. I. 48. 105. He might refrain the other of his own.

So when he has written an inst. to what his client is not party, he may be examined as to that inst. of st. Phil. 105. Rom. 1789. Ib. 211. 5 Ex. 53. Co. 325. 4 Ex. 235. For the act of attestation is not done by him as act, but as a certificate written by the priest.

So if he was present when his client swore to an answer in 515, he may be examined as to the fact of the latter swearing, or an indictment for perjury. Pca. 178. Phil. 115 Bull. 27. Co. 346. 24th. 1122. For the fact is
not on communicated to him in confidence, but publicly.

So in quitation

to my colloquial part, which knew or might have known
without any instruction from his client. Phil. 185 Bull.
212 2d 40. A 253.

As in relation to the fact of an exarum
in a club or will in ch. his client is interested, unless his
knowledge is not derived from any disclosures by his client.
Phil. 185 1 Peat 197 Bull. 244. as within the sub may in this present, 18

So as to the conduct of a written
motion rule 2 from the adverse party. Phil. 185 7 Peat 395.

So in

So in clt 483 185. All 2 has been admitted to know from his
our knowledge that the bomb was unvis. Phil. 185 Peat
24 41. 4

so when after an action on a promissory note had been
cominiued, the def informs his atty. that the note has
been given without any consideration that the atty.
was compulsable to disclose the fact. Phil. 185 7 4 Pt 432.
Dec. 179. being disclosed after he was furnish.

and an atty. is compulsable to disclose within a note
that into his hands, the collection was indicted on not Phil.
185 10 2. 1 Peat. A 253.

If an atty. interrogates a witness on
a trial, the witness in a suit, cause comes from his answer,
given to such interrogatories, the adverse party in the latter
suit may call on the atty. to disclose the reply testifying
to his former answers. Dec. 179 1 20 253.

For in this in

all the preceding cases of objections to the great rule, the
Att. does not gain his knowledge from the relation of the client. Writ in private view, no professional confidence. Phil. 1789.

It has been noted that a person who has put his name to an instrument to give a signature to it, is not concerned with an act to invalidate it. being concerned, preserved by a clause of stipple. Watten v. Shelly. 172 R. 276.

The rule applies to have been first adopted in the case cited. Phil. 33. In chart 1813. Rin. 1244. 1 Bl. R. 365.

Some after the same rule was recognized in a limited extent, viz. as applying to negotiable inst. only. 3 T. R. 34. Per on 6. 296.2 Phil. 34 (w) 1 Sept. 298.

E.g. in a case of the plaintiff was a creditor of a bill. the indorse was held incompetent to invalidate the instrument proving owing to. 6 Brad. 338. 303. This 128. Chit. B. 284. 7 Maps & 470.

But in the case of Somerlaine v. Cashkester the rule was denied. The former case raised. 7 T. R. 681. 301. Per on 117. 1 Sept. 176. 6 Lev. Ev. 96. 105.

In several of the old the rule as limited above to negotiable inst. has been recognized. 2 Dall. 179; 4 Dall 1791.
1 Burn. 286. 267. 3 Maps & 27. 565. 2 Sh. 165. 4 Maps & 156; 516.
6 D. 449. 7 St. 197.

In bent the rule is Somerset v. Laskelb. has been finally adopted by the 6th of George. 1 bent R. 260. For,
I remain very absent, on the objections to it go attac to the
proof of the fact at all, than to the incompetency of the
witness.

Objection to the incompetency of a witness may be taken by re-
examining him before he is sworn in chief, upon the voic-
der - by the testimony of other witnesses swearing to the fact
whom render him incompetent - or whom have sworn in chief.
and De. 1: 17. 

Finally, the objection could be taken only in
one or the two first instances: after he was sworn in chief
the objection must be late in chief.

But as the practice now is,
the objection may be taken after he has sworn in chief.
which renders it is discovered at any time, during
the trial, that he is incompetent, he may be rejected.
Gen. Ch. 7. Num. 16: 1. & Long. 523. 51. 204.

The more fact is,
a witness is discovered after the trial, to have been in-
compentent in not sufficient ground for a new trial, the
it may have some weight in connection with the
fact. Ps. 18: 1. 5. Phile. 47.

When the cause shall, or you, give in pro-
ject such a case to the competency of the witness, there
have relative only to this except an incompotent reason that


When his name is taken the voir dire, a witness may be interrogated concerning instruments executed by him or other persons who created an interest in him without producing them: For the party directing is supposed not to know what instruments were in existence at the time of course not to be imposed with care of his own interests; Psa. 1879. Ch. 110.

An objection arising from this answer in the voir dire may be removed by this answer under the same oath. Psa. 96. And the last rule holds as well in the latter case as in the former.

If on the voir dire, a witness makes himself to have been instruments, he may produce his own interests, by his own interests, under the same oath without incurring the same oath, by the instrument that have been stipulated to. For if he has become a witness, and the certificate— that the former, a member of a contract, who is a party, he has been dishonored by Psa. 1879. 1 Post. 226, 7. Phil. 97. Rob. Co. 21. 1879. 162. 4. 15. 57. 58. 60. For as the party deprecating makes the oath his own then the oath; he cannot object to such an oath as done to himself.

Then if the oath is proved by other witnesses, in this case the certificate he must be produced to witness the competency; though the party deprecating does not make the oath his own. Psa. 1879.

Of a witness is given to a witness for the suffer
of entering his own witness, it must be produced. Prov. 187

The declarer of the case himself, before trial, that he is interested, is not to give him to. If it was, he might by a falsehood without oath, wrongfully deprive a party of his testimony. Phil. 96. Matt. 5. Mark. 2.6.

But proof of such declarer by the party offering his testimony will relieve him.

Phil. 96. Matt. 2.67.

If the party objecting to a witness examining him upon the same side, he is bound by his proof. When admitted as such. I cannot express, or other evidence to know his

in the same things, if not. It cannot influence him. Depriving him of

incompetency. And the same when if it has been unwilling to his interest unless the great, and then also to object to the basis of a magistrate. 5 day 214. Add the rules


In this form a. However the party may introduce other deeds to prove the fact of his interest, yet his to discover the

not to exculpate him, Prov. 18b.

A witness declaration may be admitted to exculpate himself. Matt. 217.
The ordinary mode of compelling the attendance of witnesses in civil cases, is by the writ of subpoena ad testificandum. Pra. 191. Phil. 2.

And if the writ is in form if every deed or writing, whi is thought necessary at the trial, he may be compelled by a special clause in the writ called a dearer clause, to bring it into court. Pra. 191. Phil. 12. The writ is then called a subpoena ad testificandum.

But the the writs is known meerionally to bring the writing into C.t; the question whether of party is entitled to produce it in any case, having it produced in court may still be submitted to the Judge. Phil. 12.9 Sect. 478.

And if the writ is more compellable to show any writing, which, of his own motion or when it subjects himself to any claim or cause is bound to furnish in any thing. Pra. 191.97. 434. 16th. 530. 169. 340. (ante) Court. 8.336.

A 65 to the mode of serving the subpoena in Eng. see Pra. 192. Phil. 11. Pra. C 572. 540. 6 Mid. 355.

In court it is served either by reading or a certified copy left with the lost or at his usual residence.

If must be served in mannerable time, the no main period is fixed. Pra. 192. Law. 570.

In Eng. the writ issues from that C.t. before wh. the writ is required to appear. In court it may be served either by the C.t. in case, & c. or by a magistrate, as a justice of peace or a & c. Pra. 689. 88. 687. & c.

and if the subpoena is not bound to attend in civil
can incline a reasonable sum, to suffer him, if refusing in going to remaining at returning, from the place of trial, is bound to him, or unable to convey it. Pem. 192. Star. 1150. Phil. 8.

Of a new action for damages, and a reasonable sum for his loss, etc. at any time, to appear, he is liable attract an action on the case for damages. (Dong. 535.) To an attach, or to an action on the state of 10. In Eng. (It is perhaps an omission from that.) for a penalty, less for a "further recompense" given by these states. last to be moved by the party alguna. Pem. 192. Dong. 535 or 556. Phil. 2. 1 Star. 510. 2 At. 810. 1057. 1150. Coup. 346. Stat. C. 685. 3 Burn. 1329. Co. C. 522. Comb. 1449.

In Eng., however, the action for "further recompense" under the state of 10. In Eng., will not lie, unless the amount has been finally ascertained, by the Court of the first instance. The state of 10. In Eng., implies refusal to accept to the discretion of the Court of the first instance (Phil. 2. Dong. 535). The term is construed to mean the Court, not of the Judge. Dong. 535. 540. But the judgment being made, detinue lie for it. Phil. 2. Dong. 535. 601. In the state of 10. Dong. 535.

This rule does not obtain in some. The provisions of our state as to the "further recompense" being very different from that of the Eng., providing for a month by "actable plaint or inform?" Le. 1 C. 685.

But the same rule might proceed in Eng. is by attachment. Phil. 5. Stat. 1062. 1078. Under the act, the writ may be found for contempt or imprisonment till he pays not only the fine but the damages sustained.
by the party. Rev. 8:1, 108. Song. 5:40.

In some if a witness after
seen service I think of his first test. Some days afterward
since, it is said. Rev. 8:105. I.e. are the same. Is the first
suff?. In Stat. C. 685. S. B. "Each person to see for
himself, or he changes," I.e. at 62 Eng. Bar. Phil. 3. Psa. 142].

As to appear or cause, many times, to bring him before the
Court to testify. But this proceeding is not more like the Eng. to
attach the same of pressing a compurder to the party. I.e. C. S.
issuing by attachment, has not been in use here, as there
is no legal indemnity. It trust to its being introduced

The act appears he is not in great obliged to testify, till the way
to which he is entitled is paid or tendered. Phil. 3. Psa. 192:12. 1Sta.
1150. 13 Societ. 16 n. p. 1 Col. P. 36. 14 Col. 49. 3 St. C. 369. Tit. (Col. 806)

above if he attends according to the requisitions in the subs
issue of the (do not the rule in the same, if he attends, whether
order to testify or not?) without any receipt or tender of money;
he may return his refusal of the party for whom he was, subfor
ward, by action. Psa. 192.

If a person wanted as a witness, is in
custody under lawful care, or serving on board of a pub
lie ship under an affair, who refuse to allow his attendance
a subsissue being effectual, if issued to compel attend.
ance is a suit of habeas corpus ad testificandum. Psa. 193, 3 Phil. 7. Psa.
396. Corp. 372. 3 Dem. 119. 119.

If the witness resists in a suit,

opin, the suit will not issue without the consent of the
existing party. i.e. a Court of State. Psa. 193, Phil. 9. Doug. 9.
In such case however, he may by consent, be examined upon interrogation, without being bound up.

So in Eng. if in custody on a charge of high treason, 192.

An criminal case witness may be compelled to appear, either by subpoena or by being bound in a recognizance to appear. If he refuses to come into such recognizance, he may be committed for contempt. Phil. 1. C. 4. V. C. 281.

In case the party accused

of a crime is also entitled to a subpoena. For the provision in this case, by the English law, see Phill. 5. 6. & 7. 6. V. 6. 4.

Several kinds are also bound to appear for the public welfare, with or without tender of money for their expenses by the court, if there is no provision for reimbursing them. Phil. 8. 6. now attainder by Stat. 1 Geo. 2 & 1 Geo. 3. 6.

The person of a witness attending the time of a cause is protected from arrest on civil process, if the protection covers the time of his going to attending at returning from the time of trial. Phil. 1. 2. & 7. Ill. 2. 1113.

And in such a case a


Formerly

value of a will attending from another state, the his attendance

cannot be compelled. This privilege has been extended to
a party, attending an arbitrator under an order of the court. 282. 2 Thess. 292. Phil. 6, 13. The arbitrator must act with care and prudence.

A reasonable time is also allowed him for going to the place of trial, returning, and determining what is a reasonable time the practice of the court is liberal. 283. 2 Thess. 292. Phil. 6, 13. The arbitrator, 329.

If arrest is made in violation of the party's privilege, the court on which he is acting will on motion discharge him. 284. 2 Thess. 292. by both parties.

The usual method in court is to obtain a written notice from the parties that this is unsatisfactory, the circumstances furnishing no basis for the privilege to officers.

When a material 325. 2 Thess. 292.'s case is under an order of the court and a proper occasion has arisen 292. a judge is warranted to arrest the person when the case is not heard until the commencement, but that it seems not done without the court of both parties. Phil. 10, 172. 3. Pro. 60, 2. 1 Thess. 813. (For arrest, see arrest.)

If such an order is about to leave the country, he shall act 326. 2 Thess. 292. at the time of trial, the court, if the country is one of the duties of the party to take every step in such a case. Phil. 10, 172. 3. Pro. 60, 2. 1 Thess. 813. 144. To arrest if he is in the country at the time of trial. 3Thes. 172.

If the opposite party will not consent to the examination, the court may put off the trial, (but if 327. 2 Thess. 292. applying may file a bill in Eq. as before mentioned) another consent to obtain. 2 Thes. 211.
But this will not be done to enable the party to set aside his own defense, as that the 2d if his slave, or an alien enemy, be. Phil. 1. 20. 22.

In cases not mentioned by the 2d, or matters of right, admitted as such in 2d of law, renew cl9.

But by the statute law of Cont., when a person whose testimony is wanted in a cause defending, is bound on a voyage to sea, or about to depart from the State, or under, more than 50 miles from the place of trial, or is confined in gaol, or any legal process, or by age or sickness, or bodily infirmity is unable to attend the trial, his depositions may be taken out of the State, by any administrator or guardian of the person, and then being first given to the absent party, or the State detained. (In the case of a woman residing within 25 miles of the 2d, but having a child sick in a condition not to be left by her, has been adjudged admissi

By 2d law, notice must be given if party is within 90 miles. The depositions of such parties, when a deponent is under, or about to depart from the State, or is confined in gaol, or any legal process, or by age, sickness, or bodily infirmity is unable to attend the trial, his depositions may be taken out of the State, by any administrator or guardian of the person, and then being first given to the absent party, or the State detained. (In the case of a woman residing within 25 miles of the 2d, but having a child sick in a condition not to be left by her, has been adjudged admissi

By 2d law, notice must be given if party is within 90 miles. The depositions of such parties, when a deponent is under, or about to depart from the State, or is confined in gaol, or any legal process, or by age, sickness, or bodily infirmity is unable to attend the trial, his depositions may be taken out of the State, by any administrator or guardian of the person, and then being first given to the absent party, or the State detained.
A suit in Court is commenced, by subpoena, to appear 
before one's State. And if after tenure of money—be ought to 
apply the subpoena, being, liable to the same penalty, be as force 
leading to appear at the trial of a cause. Act. 4. 688 § 3. Co. 8, 111.

A subpo. is not admissible either because it was sworn before 
or parties. § Brown § 5 Co. 8, 114.

A subpoena given in a particular 
cause, by a person who afterwards dies or cannot be found or 
be called before the State, may bind to the same point as a sub-
poa. between the same parties. § Co. 8, 114.

Def. of an act is 
admissible under our State in case never committed; but, by 
construction given to the act, they on discretion in equity 
pronounced in such no such manner can be inflicted. For 
issue 2 upon the State of bastardy. §§ 5 8111. 1 Co. 8, 111. 

Def. of an act for parties of non-
in other States, in the manner prescribed by our State, can 
be committed. § 5 even the by the laws of such other states, justify an act, as 
through to take def. § 5 §§ 5 8114. § 1 Pet. 4, 1 Pet. 39, 154.

Def. of an act in a foreign 
State, according to the laws of such states 
have been held admissible here. § 5 Co. 8, 114. § 1 Pet. 4.

Our def. § Co. 8, 15 § 114 supra, empowered to issue com-
mons, for taking def. abroad in a cause defending in their 
respectively. § in vac. § 114 supra may be enforced by 
common Judge of the def. § 5 8114. § 1 Pet. 4, 1 Pet. 3 of 1 Pet. 39, 
§ Co. 8, 1 Pet. 4 1 Pet. 39, 115. § 114.
May a sheriff in Latin, notice must be given to the adverse party, or his known agents or attornies to attend if he thinks fit, if such adverse party resides within 20 miles of the place of caption, 3d. C. 684. 2d. B. 112. 1d. Rost. 3d. 684. 2d. 80. 57. 74.

The notice is a writing (usually signed by a magistrate) must be delivered to the adverse party, his agent or an adly left at the place of his usual abode.

The notice is not less than 48 hours after the time of caption and must be served within 20 miles of the place of caption.

The notice must be served within 72 hours after the time of caption. 2d. B. 112.

Some not of notice held, as to ex parte, taken out of the state, allowed to those taken in the state, property living out of it - In action as well as when both parties are in the state - if the adverse party is residing more than 20 miles from the place of caption, has a known agent or alt. residing within 20 miles, the latter must be served with notice. 4d. B. 113. 5th.

Writs issued ex parte and substitute an applicant, the same notice as the original party in attaining action. 2d. B. 25.

In quick the distance contemplated in the rule is between the residence of the defendant and that of the adverse party. But the that distance is 1d. 83. 20 miles, yet if the defendant is taken, when the defendant is absent from home, more than 20 miles distant from the adverse party, for a reasonable cause the unfaithful officer, the notice has been delivered with. 5th. 2d. 219. 283.

If such an

If such an

Notice is a notice in a suit, a notice can be served only a day after the time of having been notified when notice is necessary according to the foregoing rules. 2d. B. 113. 5th. 105.

When a sheriff is taken during the
term of the act in which the cause is depending, it is usual to give notice in act. But this does not displease with notice in its usual mode. Ev. 8, 113.

Def. of subscribing with two hands.

The notice must be "to" and not "by" or "from" or "to the" or "any" or "by a" or "by a person" in the state, or to be sent by any man or by a ship. Notice in the state, or to be taken without such notice. 5 Stat. 684, 75. Is this notice con regarded in practice?

Every notice is to be addressed to the act in which the cause is depending. If the defendant, who is to be served, is himself who takes it, must be insured by him. 12 C. 684. Ev. 8, 113.

The certificate of the magistrate, who takes the defe, as the facts of notice given — the existence of the place of meeting from the act, if of the same party, evidence from the place of meeting — is the norm of taking a defe, within 73 miles of the place of trial — is prima facie as to the fee.

The defendant, may think of denying the facts; before his discharging them the defe, may be repudiated. Ev. 8, 114.

If there is no such certificate, the party offering the defe must make them out by proof. Ev. 114.
Slander.

Slander consists in maliciously defaming a person. 1st. By words, written or spoken, which tend to injure him in point of personal security, or property. 2d. By profession or intent. 1st. Bac. 283. 1660. 14 Ch. 9. 3 Bo. 13. 3 Esp. 496. 3 Em. 125. 5 Go. 125. 0.

Committed according to the usual division in three ways, 1. By words. 2. By writing. 3. By picture signs.

Slander by words is of two kinds. 1st. By words in themselves actionable. 2nd. By words not actionable in themselves, meaning so. 1st. Bac. 183. 94. The general rule applying to oral slander applies to written. 1660. 14.

Oral. Falsity + malice must concur to constitute a suit. Malice. A truth spoken with malice, as an untruth without malice, will not support an action.

Malice is an improper motive, a wanton disregard to one's fellow man. It is not necessarily accompanied with a spirit of ill will or revenge.

General rule. That for words, in themselves actionable. Diff. may amount to nothing proving the words (some relying) for shewing it makes such words prima facie import malice; but this presumption of malice may be rebutted by proving the words to have been spoken under circumstances which exclude the inference of malice. 1st. Bac. 2 Bo. 183. 1660. 14 Ch. 9. 3 Em. 125. 5 Go. 125. 0.
Black's actionables words: 1. Then which bring the person, whereby they may suffer into danger of legal punishment. Finch 185. 2. Tending to exclude from society. 3. Injury to one in his trade or profession. 4. Tending to inform one in his office. 5. Bd. 123. 6. 183. 93.

1. Bringing into danger of legal punishment. If the fact would, by a fact, which is more or less, it is more, or a more, or less, it is not, or a more, or less, it is not, or a more, or less, it is not. Ex. changing Parish. felony, forgery, &c. 12. Ca. 42. 5. 46. B. & B. 604. 9. 38. 1st. 114. 1. Roll. 63. 5. 8. 49. 77. 1. Wil. 177. 86.

According to that classification, actionables words may be actionable for the thing do not injure one's reputation. If they may injure this reputation with bringing actionable. Unless changing a person with what is subject to punishment actionable. 1. 183. 486. 486. 1. Roll. 3. 86. Words, changing what is subject to punishment, actionable; and punishment. 2. Ca. 179. 1. Roll. 46. 6. 15. 58. Lalk. 94. 7. Wint. 26. 2. Ca. 486. 1. Com. 137. 6. 8. 3. 185. 1. Finch. 185. 1. Com. 2. Lalk. 696. 1. Ca. 5. B. 87. 2. Wil. 186 cent.

The stat. 15 Edw. mentions in that subject to imprisonment, if the Bastard is chargeable to the Parish. Words, changing what is subject to a fine an actionable or not on the fact charge is infamous or not, to decided by the court. The in this case which rule in Ex. 2. 186. Case of Board. horn. 1. 183. 5. 46. 50. 18. To change one with any crime which makes the person edition liable to proceed to action, able. Ex. 1. 2. 9. 3. Finch 1. 186. 2. Ca. 5. 8. 2. 186.
voir dire changing what
al subject to punishment must be actionable change a
criminal fact committed - changing evil intentions
nuff. 1; Bot. 23, 2. 1; Com. 1. 1. 49. Eps. 4. 1. 6.
"I gave 1. to answer to kill now do not actionable 1. 16. 16.
"I expect to see him indicted for stealing" not nuff.
Mat. 15. "So he is in goods for stealing a horse" not nuff.
Mat. 1. Eps. 4. 97. "For words of a similar import
holder suff. after verdicts. 2 Mil. 306. 300
Adjectivus oneravimus
this broad on actionable a not on they proceed on act com-
mitted or not. Ex. "malicious." "thievish" traitorous i.e. not suff.
"wronged" is suff. 11 Co. 18. 6. 19.
"This for aum" not actionable
unify it be added "in a judicial proceeding" or "in such a
on a thing" often guilt pardon is actionable - pardon for
from guilt. Eps. 4. 97. 1. 81. 1. Bae. 5. 16. 487. pl. 52. 3.
Aug. 23. So if the particular theft had been par-
doned.
So changing one with having committed a crime of
which he has been acquitted. 1. Bae. 4. 87. pl. 52. 2. 15.
Here is no change of punishment.
If such words change a crime
who, it appears could not have been committed, they are not ac-
tionable. Ex. "I ha. killed Mr." if, being still alive Eps. 498
1. Co. 16. 1. Bald. 5. But this may be phrased in Eng. - court
given in evidence except in mitigation of damages. Bald.
5. Judge Buns. thinks that in such a case an
amount of his death is unnecessary, affirming his death to be immaterial. Because it is not always the case that those who are punished for a crime are guilty of its commission.

Of the words changing a crime, a description is added not comprising with the crime charged thereon an actionable crime. Ex. Calling an act theft because he had committed a certain act which amounts only to trespass. 1 Esp. 332, 1 Esp. 334, 1 Esp. 336. 1 Esp. 337. Bull. 5, 1 Esp. 338.

But changing an act de, the its prosecution is barred by the statute of limitations, at the time of the word spoken is actionable. Mill. & Pitte. 658, 659, 660.

If words in themselves actionable consist of an innocent meaning it lies on him to show that they were used in that sense. Bank. 493, 494, 495, 496, 497, 498, 499, 500, 501, 502.

If the punishment of the crime charged is with attenuation, the word is actionable if the punishment may be capital, i.e. Ex. changing committing the after a murder of a bastard, which has been chargeable to it self (as the parish). In the father he is not liable to imprisonment unless in the sense the word of the punishment. 1 Esp. 317, 1 Esp. 486, 1 Esp. 57. 1 Esp. 57, 1 Esp. 315, 1 Esp. 694.

In sending to exclude from society, i.e. to change him with having a contagious disease. 1 Esp. 498, 1 Esp. 123, 1 Esp. 144, 1 Esp. 146, 1 Esp. 219, 1 Esp. 205, 1 Esp. 461, 1 Esp. 462, 1 Esp. 438, 1 Esp. 144. But the words to be actionable cannot be
3d. Vending to injury one in his profession as a trade.

4 B. C. 293, 2 Cor. 182. C. L. 298. Es. calling a lawyer "a lawyer" actionable by. 3 Bl. 170. Finch L. 186. 1 Ath. 126. 35. 50. 60. 70. 80. 90. 1 Cor. 182. 2 Vint. 98. So "he brought his client's secret" "he is a lawyer" "no moral reversal of his client's secret" "he is a lawyer" "no moral action by the court" (a defunct defective applicable to the court 1 B. C. 274. 3 M. 159. 3 D. 279. So "he will mixed his client's cause" Cor. 58. 589. He cannot use a client's "L. 297. So in giving changing a lawyer with ignorance in his profession. He cons. 1 B. C. 493. 2. 1 Cor. 182. Cor 58. 382. 378.

In this case the lawyer must state in his client that at the time of the course of action, he was a practicing lawyer. 2 Bl. 231. 4 B. C. 493. 2 Vint. 28. 29. 207. 1 T. 165. 365. Proof of client acting as a lawyer sufficiently established. 1587.

So falsely calling a broker "broker" is actionable. "he is a lawyer" "he is a lawyer" "he will be a broker in two days" 2 Cor. 280. 9 Bl. 764. C. L. 299. 1 Cor. 183. 4 B. C. 293. Liv. 299. 29. 207. 1 T. 165. So to change him with elevating his custom to take not to deal with him. 4 B. C. 493. 2 Liv. 62. Reg. 1450. 1 Cor. 183. 23 Cor. 1687.

In actions by traders not in their cases to must appear
by laying colloquium or argument, that the words were published with reference to his trade. 11 Bac. 292. 1 Sulk 694.
164. 5 Med. 298. T. R. 138. 61. 169. 7 Ray. 1417. Ex. He is a 'shame' him a colloquium concerning his trade is necessary to be laid. But if the words were, 'he is a bankrupt,' it would be sufficient only to prove he was a tradesman. 1 Lev. 115. 250. 4 Bac. 292. 2 Cr. 62. "Do not deal with him, he is a shrewd, good without gold." 

In Eng. to change a

Chirugian with practising line is actionable. 3 Lev. 17. Excc. 181. 1 Bull. 53. 131. So by call him a 'anrankand' 2 Bac. 290. 1 All. 63. 3 Comb. 253. 3 Sta. 94A. calling him a rogue

To call a Physician 'a drunk' is actionable. To say he has killed or frustrated a patient but not to be actionable. 3 Lev. 620. unless it is added 'knowingly' or *willfully* or the like - 2 as it supposes ignores men in his profession. 1 Bac. 491. 1 Lev. 11 Med. 241. Even if the words 4* of our Apothecary were judged actionable.

To words tending to injure a merchant in his trade are actionable. 1 Bac. 491. 3 Sta. 898.

It is Tending to injure one in his office. Unless changing one in an office of profit with want of ability or integrity, are actionable. 2 Bac. 488. 1 Esp. 509. 2 Ray. 1296. 1 Summ. 189. 1 Sulk 695. 1 Bull. 65.

But words changing a person in an office of trust or honour, not of profit with want of ability, are not actionable. 21 Bac. 488. 64. 73. 489. 1 Sulk 695. Seen if they infringe his integrity. 3 Sta. 617. Ray. 1369.
1 Co. 11. 2. Nov. 20. "Buttressed Justice" not attainable

(Sir John Baker

The correctness of this distinction between offices of profit and that of trust obviously, and cite, Sandwich's, aphorisms contra. "If there is any ground of difference in abuse" it must be that words spoken by a man in an office of profit must frequently become upon him in his official capacity. The case in fact was decided correctly not because of the distinction referred to, but because the words at issue must have been addressed at the Duff, in his official character. The only true distinction said Sir John Baker, in those cases, is the relation the words have to the duties and capacities of the Duff in his official character.

Charging a person in office in either case with imputation of principles which disqualify sufficeth without charging anything Perret, 5.

When the words spoken do not of themselves import to have been spoken with reference to B's official character a colloquy is unnecessary. Roy. 1667, 618; 2 B. & C. 487, pl. 88, 488. ib., 1 Chit. 280. "Suffice if the words themselves do import a reference to the be, to be, Law. 557. Ex. "He is a knavish justice."

So quid. When the words are not attainable unless they refer to some essential thing which constitutes the ground of action to which the words themselves do not refer to the fact of them refer, an amount of a coll. is necessary. 4 Blo. 324. 2 Barnard. 307. Esp. 501. Sir. 112.

Coll. said by Esp. 514 to be necessary when a broker is
called a Conscript. De. Many cited by Ref. 1646, 290.
when this word was "he is a foreman justice" + coll: Rodin
unnecessary. 2 Kgs. 175:2 55 1 Roll 54. 200. 193
calling a physician "no scholar" 2 Kgs. 62. saying of a
trustee man "he is a cheat do not deal with him" Ref.
1480. It is a known com. bound to be 020.

The words do not themselves show that our application by designat-
ing is subject to the subject matter of the person
unnecessary. any meaning. Ex. 20. 37 meaning the DIY.
2 Kgs. 17. 16.

Well: Nothing which and otherwise
unnecessary cannot be rendered to certainty by our
unnecessary. 2 Kgs. 17. 16 2 Kgs. 17. 16. More accurately
any thing which taken in conjunction with all that
judged before between the parties or in the conversation
still remaining uncertain cannot be made certain
by our innuendo. It can only be made certain by
reference to something said before which is certain
2 Kgs. 17. 16 1 Roll 73. Book 684.

In innuendo that for can
mean nothing the meaning of the words beyond this
before implied. Ex. "I brought my corn" meaning a
farm full of corn. innuendo not good. But if it
had been said that "I left a farm full of corn
that in discourse about that farm. Left was spoken
the above words innuendo good. Book 684. 275. 2 Kgs.
511. 2 Kgs. 20. 20 20. Ely. 33.4. Or "the state farm and
of my corn" innuendo. "the corn which you or
half an acre after it was reaped" 2 Kgs. 1218.
1 Roll 83. 161. Book 682.
When an immunesse is imputed to a bad one is surplage. Ex. "He was negligent in all his business in a certain case of libel. immunesse of libel was good." Bac. 516. I R. 89. 2 S. 609.

Thus the term

is uncertain from the words published an immunesse can not make it certain. Ex. "One of the 2nd of 3d is a thief." immunesse. 2209. 497. 230. 245.

When an act is brought for to "tending to ingem in trash profane office to" it must appear in the act by that the 2209. was at the time of the words spoken of such a trash to. Esd. 514. Matt. 49. That "Deff has been a memorable trash for many years past" must suffice. (2209. Elg. 494. no judge.) Bac. 492. 250. 205. 290. 200. 513. 227. 282. 159. 129. 225. I that he shall be presumed to have been at the time a trash.

So in case of a trash that "imagined his living by buying, selling" meagrance. Esd. 575. 129. 229. 520. when words of host was found not to be actionable. (2209. Elg. 522. 1 Lew. 29. 200. 225. 250. 290. 509.) Thus, when they import no definite charge as "Treason, treason" to impute when wantonly presented by Deff, Deff, if Deff in a prosecution of unjustified rage with actionable words, 2209. 185. Acting of absurdly sufficient cause afterwords frequent "volunteer" rule adopted 42. 21 169. 299.

Much of containing words in suit suitwise nr. exploded. They are to be taken in that sense in which they
would naturally be understood by many. Ex. 511. 2 Chron. 497.
1 Cor. 688. 275. 2 Dec. 505. Ps. 151. 10 Med. 198. 1 Tim. 12.
Ps. 51. 1 Pet. 4. 11. 1 Tim. 189. 5 Cor. 263. 1 Sam. 10. 161

When words in the same section admit of an innocent
meaning, it is an easy task to show they were used in that sense.
Ps. 51. E. R. 335. 1 Tim. 107. 1 John. 279. 3 Is. 180. Hence
in such cases inquire of "how the under-stand were

Stainen words in a foreign language admissible if translated
by any of the translators. See, e.g., Ps. 1 Dec. 198. 1 Peter 74. 186.
Isa. 128.

All the sense is to be taken together. Ex. 511. For
the subsequent words may explain the former sense to
full short of slander (as in case of a demonstrative sense) at
super. 2 Es. 19. a. 1 Tim. 10. d. 2 Med. 154.

Could it not be admissible
to language to find an innocent meaning, Ex. 512.
Ex. "Your husband said to a woman you gave him" with
the woman might have been given by accident.

So a fixed construction will not be given
to make words admissible which was an innocent mean-
ing, Ex. 512. "He is a common maintainer of suits" by
a lawyer. Is. 117.

Gen. 4. "The woman said to her husband.

"In all direct change of a slanderous nature, not by
inference. Ex. 512. Ex. "I got his answer by reading the
permanence. 2 Es. 10. 16.

Yet when the intent to change a view
(for any thing else of what the change is actionable) is clear, the words are actionable the somewhat indistinct, Esp. 512. Bul. 4

1 Cor. 12. Ex. 1d it will make you an example for a stupid woman." Riv. 16. "I will show that informed Ed!" 1 Cor. 185. 1 Roll 50. 61. 5. Gw. 8. 569. 1 Lec. 381. 1 Vict. 276. "When will you return the sheep you have stolen" actionable. 1 Cor. 186. 1 Roll 18. 2 ib. 165. 12 60. 134.

In declaring it is usual to state falsely & maliciously, to maliciously, since not maliciously. 1 Cor. 196. 2 Bac. 512. p. 5

1 Vict. 273. 3 H. 35. 1 Lec. 5. 1 Qu. If the words are not in their, or, is far a face implied, or almost amount to this words are false not maliciously published itself to the. Esp. 511. Bul. 8

Dee usually states that Reff is of good fame to. 1 Cor. 195 not malicious alleging that words are spoken "openly & publicly" suff to without saying "in the hearing to" to in the presence of others, persons. 2 Bac. 512. Gw. 2 861. 188. Nov. 87

The words actionable only prima facie imply malice, the presumption may by circumstances established - Est. Case of confidential communication which includes the probability of malice, or characteristic of a word given by a form when in reasonable enquiring - the false, malice must be proved. 4 Bac. 212. 1 L. 180. Bul1. 4 Lec. 20. 2 Q. 91. 1 Lec. 91. Esp. 8. 373.

5 Esp. 110. W. 354. 1 Bull. 587 7 Est. 474.

Confiding one confidentially the way of executive is of a trader "It will be a "brilliant con" not actionable the special damage given
So if the evidence
and in a course of legal proceeding. Ex. alleging in
entirely of the peace to bind himself to good behaviour
Ex. 203. even if the court applied to has no prejudice
of the matter charged. 4 Co. 14. 6 Co. 230. Case of info.

The relating of slander or fabricated by another guilty
actionable. Ex. 517. 10 B. 10. Even if the party
means his as in at the time. 12 Co. 133. 21. Co.
6 400. 3 B. 22. 2 25 7 5 Ex. 17. 2 East 426

But even

circumstances are carefully to be regarded, on to the
intent. 3 B. 29. 498. Ex. when one in the spirit of con-
cern said. "I have heard that it was charged for injury"
action his not. 1 Lew. 18 2. 4 Co. 14. 6 Co. 10.

Def. Sus-

vision no justification. Ex. 518. 6 Co. 39. 38.

Hearses repeated by breaching or provoking
questions by itself himself and not actionable. 1 B. 298
2 Co. 297. 6 Co. 24. "Do you say damn beyond. If
it you will have it.

The guilt is here, in Eng. within a devise
that self, spoke the words as that they are actionable, for
want of malice, or in case of confidential commu-
nication (but supra) 4 B. Ex. 110. 6 Co. 82. 503. 17
1 Lew. 82.

The guilt's character of itself to the crime charge
by the words may be proved in mitigation of damages
1 East 354. 2 50.

But other particular actif
this some minds as those charges cannot when the charge
is of penitent lawyers. otherwise is it true. sect. 12. ang. 12. 1767. vol. 391.
Devon liv. 2. 6. Even when the charge is quiet.

In Eng 2

factual justification is not to be given in evidence when the
Devon liv. 2. 6. Even when the charge is quiet.

In Eng the truth of the words cannot be given in evidence even in mitigation of damages.

Ech. 518. But. 8. 2. are cited herein. The truth of the
words is always a good justification. 4. Bree. 516. 1 Roll.

87. 87. 87.

So sometimes the words justifying the words are in this
Devon liv. 2. 6. Ech. 518. But. 8. 2. are cited herein.
The truth of the words is always a good justification. 4. Bree. 516. 1 Roll.

87. 87. 87. 87. 87. 87.

But if the words are not coagulated by the pen-
insula, then he is not justified. Ech. 518. 2. 6. Roll. 391. 12. 1767.
Devon liv. 2. 6. Ech. 518. But. 8. 2.

87. 87. 87. 87. 87. 87. 87. 87. 87. 87. 87. 87. 87. 87. 87.

So the person charged in

such cases as articles of complaint (the they were
exhibit in an oath) may justify saying, they are all
false - the they are true, for this is his defense in a suit
of justice. 2. 6. Bree. 2. 6. 12. 1767. 1 Roll. 87.

So the may
may or witness is prepared by way of objection to his ad-

Handsome words in a complaint

to a grand jury or petit in magistracy or in an in-
distinct, not actionable. 1 Bac. 499. 30. Bac. 247. 3. De. 187

The if one falsely & maliciously without just
able cause, exhibits or complaint, &c. action for malice
from action will lie. 2 Bac. 500.

So in gent. in the above case of
complaint, if the cause of justic is made a man
aloe for malicious action for malicious person hires.
2 Bac. 500. 5. Pl. 15. B. Black. 495. P. 73. 116. Do in any
grand jury?

So slanderous words spoken by a witness in a
6. gent: not actionable. 2 Bac. 499. 513. Bac. 8. 250. But he is
liable on the case may be for praying, decree if he goes beyond
the issue slanderous to third person. Esr. 534. 4. 60. 14.
Suppose that he so slandered a party for money?

So if one witness in testifying charges another with having to
falsely: an action lies. Esr. 505. 18. 1 Tamm. 131. 2 Bac. 511.
1. Bom. 194. 10. 80.

"That the words were spoken by 8th or
counsel in a case" is in some cases a good defense, or justif,
in other, not. 2 Bac. 518. 498. 4. Dec. 10. Rule when the
words (the future. or) can pertinent to the cause (suggested
by his client) he is not liable. Esr. 517. 1. Bom. 194. 10. 80.
But if the words are impertinent (the suggested by client) or if
being pertinent, they can not suggested. 1. action lies. 3. 82.
List of the books, however made a difference between the

It has been decided that for the portion of mitigating damages
in favour of a client an advocate may use slanderous words, not pertinent. 2 D. 498. Hot. 372; 1 Roll. 276. 10. 33. 1. 20. 2d. In a subversive case (Adv. 62) holden an advocate is never for damnosous words in defending his client's cause - his duty presumed he was influenced by his client's cause. Later writers almost mention the two first cases.

When there are two courts, one charging actionable words, the other words not actionable, for a plea to the whole entire damages can never be pressed, a verdict de novo is awarded. 8 T. 3. 564. Secur if the words are all in one count. 10. 130. 3. 345. 177. 10. 3. 320. 788. R. 1094. 1 T. 3. 508. 9. Re. 181. i.e. laid to have been spoken at one time. But in 2 D. 2 B. 6. 7. 346. 232. 10. 131. 110. 4. 17. 1 Roll. 3. 57. 63. 71. 1 15. 6 6. 2. 14. 6. 3. 268. 6. Re. 181. I. 1. 6. Sut. 6. I do not on the reason of this distinction that it appears to be well established. Words which are not actionable are introduced for the purpose of showing the quo-servius with which the other was spoken. It is said the court will say, 'for want of jury' when the actionable words other not actionable can heard in different courts, because the court cannot discern both which of the charges caused the negligence of the jury. Now how can this discern this more clearly when the words are all laid in the same count?

In action for words not in themselves actionable special damages must be stated. This is the gist. 8 T. 3. 520. 1 T. 3. 136. 6. 6. 7. 7.

So when the words are actionable the defendant may state from special damages, but in this case
be even from no other sorts, damages, than what is stated specially. Bul. 7. The he may prove guilt, damages, on top of customs, in guilt, such guilt damages being lais. 2 N. Bul. 7. Tit. 190, 190. 8 T. Bul. 135. Exp. 520. 1 Roll 58.

What amounts to an allegation of guilt damages? 2 Th. 656. Tit. 90. Bul. 7. & T. Bul. 135. 1 Roll 58. S. P. 396, 1 Vert. 4 690. 299.

But when the words are not in themselves, absolutely, obligatory, that the guilt damages, may in some words, be a remnant of guilt damages. 2 Th. 656. 1 Cor. 198. 2 N. Bul. 7. Tit. 290. Exp. 520.

In mentioning what the full words are, if they are malicious, occasions special damages, ex. calling a single woman, offensiveness, with being a slut, by wh. she loses a suit. 2 Th. 269. Exp. 260. 178.

In case of slandering a tilt (as it is called), as calling her thin appearance, a bantam - it is suff' to show want, a foolish slander. No action lies, if Def. claimed the tilt (260.17) to lais, Exp. 501. & N. Soc. 133, 14. Bar. 2194, 1 Roll 38. & c. Puffs to this had signified a design to disembrace, stuff also, that this words tend to disinhibit, 1260.17, & Exp. 501. 630. to an end in favor of youngest son.

Our meaning of damages, is a blow to another action for the same words, whether there, an actionable for, or not, Exp. 519. Bul. 7. & N. Soc. 133, 14 Bar. 2194, 1 Roll 38. & c. Puffs, to this had signified a design to disembrace, stuff also, that this words tend to disinhibit. 1260.17, & Exp. 501. 630.
the actions of slander in guilt. Offences having the words
stated may give evidence of the words of a similar kind
spoke at another time. I even after the action but 2 take
But this cannot be in principle for

1 Words not actionable may
thus be proved. 2. Words actionable (which may be the pre-
ced) are a formulation for a distinct action. Slander after action docs. may be thus proved the true object
is to show motion. Bac. 7. Car. 520. Trin. 691.

What other words
spoke at another time are given in evidence under this
rule. Depl. may prove them time to rebut the inference
Car. 518. Bac. 10.

When words not stated defamatory at sufficient
times are proved they must be similar to those charged. Car. 520.

As the same words, only. Bac. 10. Bac. 10. Trin. 518.

Our 15 has decided against proving like words spoken
for 140.

Every state limited as to slander. 24. 3 from the time
of uttering. It extends only to actionable actions. Car. 5:19.
18 Dec. 395. In Eas. 375.

Other necessary to show the words
decided as being, sufficient proof to show the substance. The
same must be the same. The intent of slander must not be
changed. 2 Rolle. 916. Bac. 5. Car. 521. 4 T. Bac. 313.

Object of slander by way of time must not be. 7 Plowm. 394. Car. 524. Bac. 5. Dec.
II. Slander by writing: A Libel.

Section 1. Slander by writing. A Libel.

The rule does not always hold in cases where the words are written in the only that the plaintiff could show that they were written with the intention of injuring the plaintiff. See 3 Term. 394. 3 Term. 126.

The rule does not always hold in cases where the words are written in the only that the plaintiff could show that they were written with the intention of injuring the plaintiff. See 3 Term. 394. 3 Term. 126.

The rule does not always hold in cases where the words are written in the only that the plaintiff could show that they were written with the intention of injuring the plaintiff. See 3 Term. 394. 3 Term. 126.

Section 2. Libel. Any malicious defamation of a person (living or dead) made public by writing or printing is actionable. See 3 Term. 394. 3 Term. 126.

Libel. Any malicious defamation of a person (living or dead) made public by writing or printing is actionable. See 3 Term. 394. 3 Term. 126.

Defendants. Any malicious defamation of a person (living or dead) made public by writing or printing is actionable. See 3 Term. 394. 3 Term. 126.

Defendants. Any malicious defamation of a person (living or dead) made public by writing or printing is actionable. See 3 Term. 394. 3 Term. 126.

Defendants. Any malicious defamation of a person (living or dead) made public by writing or printing is actionable. See 3 Term. 394. 3 Term. 126.

Defendants. Any malicious defamation of a person (living or dead) made public by writing or printing is actionable. See 3 Term. 394. 3 Term. 126.

Defendants. Any malicious defamation of a person (living or dead) made public by writing or printing is actionable. See 3 Term. 394. 3 Term. 126.

Defendants. Any malicious defamation of a person (living or dead) made public by writing or printing is actionable. See 3 Term. 394. 3 Term. 126.

Defendants. Any malicious defamation of a person (living or dead) made public by writing or printing is actionable. See 3 Term. 394. 3 Term. 126.
In a civil action, the truth of a libel as a wanton document is a justification. 1 T.B. 448; 4 Y. 116, 263; 2 El. & El. 166, 116; 98, 3 Bl. 125, 6. But 97, over Golden v. Pierce 2 Bar. 571, 5 Et. 275.

In a civil action, the truth of a Libel as a wanton document is a justification. 1 T.B. 448; 4 Y. 116, 263; 2 El. & El. 166, 116; 98, 3 Bl. 125, 6. But 97, over Golden v. Pierce 2 Bar. 571, 5 Et. 275.

To cure an innocent mistake (3 Bl. 145, 6; 2 El. 150, 230) the party aggravates the guilt (2 Mc. By 643). To see if the bad reputation of the person libelled by any justification 2 Mc. By 643.

It is sufficient to the constitution of a libel, that it be published. But writing it originally seems to be sufficient dictated by a third person. Esp. 510. 2 Co. 406; 5 Mc. 168. 2d El. 643.

But merely transcribing it without having it my own is not a publication. Esp. 510. 960, 59. But it is evident of a publication if the libel be made public in court. 4d Co. 419.

But composing it, procuring it to be completed, reading it, after he knew the contents, delivering to another after he knew to communicate it a publication in law. For he wilfully or knowingly instrumental in making it public or, to incur the guilt of actual publication, Esp. 510.
The risk of a libel by a substane in writing is prima facie evidence of a willful
publication, Finn, on the other, 2 elecbry, 644. So of prining, i.e. prima facie evidence, 2 Mctby. 643. 2 Pet. 12. 648.

So sending it to the press for publication is a pub-
lication in law. The person sending is guilty of publish-
when it is printed. Foster 201. Casp. 570.

Signifying it in the presence of others is a pub-
lish. Exps. 570. 36. 125. 5 Benn. 266.

But infringing part
of a libel in manuscript, without malice, has been held
not to be sufficient. Exps. 570. 36. 627. 173. 1 Hamr. 176. Bole.
Nov. 643.

Writing it to the person
who is the object of it suffices. Public prosecutions.
Note for a civil action. Hol. 12. 215. 12. 60. 35. 1 Mcd. 58.

If the letter was a friendly representation, it is suffices for a public
prosecution. (Publication wanting) Exps. 570. 20. Claude at
actionable. It can only be actionable if it supports a public
prosecution actionable. 3 Bce. 125. 3 Bce. 191.

The deo write
an object. actionable when it does nothing they consider as;
2 Pet. 150. 58. 2 and 1 3 Bce. 191. 1 Hamr. 120. 2
snow. 313. 10 Mcd.
55. 1 T. Rep. 752. and 1 Hamr. 194. 3 Bce. 492.

Writing nothing
anything, falsely which makes a man actionable is action-
ably actionable. 3 Bce. 194. VM. 203. 105 & 1 Bce. 381. 84.
ent. 3. 100. B. 107. 100. 3 Bce. 492.
III. 

Slander without words, or libel without writing.

3 Bar. 491. 1 Dun. 144. Esop. 305. 2 Atk. 270.

The printing of a libel on a coin or spectacle in every stage of its circulation. Thenceforward not chargeable in Comp. 178. 1 T. R. 571. 527.

For the printing of a libel only the initials or even or two letters of the name of the person ag't done, it is intended, or printed merely, it is a libel, the name being such that it must indubitably refer to the person.

3 Bar. 243. 1 Dun. 144. Esop. 305. 2 Atk. 270.

By our statute, every slander is not punishable as a public office. 16. L. 225. 1 Hen. 121.

If in not rendering $3.4 to the corresponding sum in/series for defaming etc. magistrates be, fine, imprisonment, disenfranchisement or banishment.
Action on the case for Malicious Prosecution.

This action is but to renew damages against who has injured our indictment or other process, or but an action of Diff from a corrupt motive or to recover without any ground a probable cause. 

Pitty & B. 114. Exp. 557. 7. 8. 1126. 61.

Analogy to the old action of conspiracy which is now much out of use. Conspiracy lies only against a man for having falsely maliciously prosecuted for treason or felony either endangering his life. 


Another analogous action is the action on the case in nature of a conspiracy. Action the case in nature of delay when two or more conspire to prevent or maliciously defraud another or otherwise conspire to injure him in human form as property. 


An action for malicious prosecution resembles in some measure that of slander. It is not necessarily or generally the diemus to which Diff has been exposed, but the malicious purpose disclosed. 3 127. 104. 219. 20.

Stee. 691. 124. 12.

Act for conspiracy lies not ninth Diff has been actually prosecuted (Exp. 527. 8. 129. 23). Law, B. 4. 260. 1. 4. 211. Exp. 530. 161.) Indeed for conspiracy lies when there has been an unlawful conspiracy or where the nothing is recent. 2. B. 1581. 66. 866. Exp. 530. An action on the case in nature of a conspiracy.
The latter, i.e. on the case in nature of t.c., is substantially an act for Malignity, with this difference - that the latter may be both agt. one, no other being concerned. The former must be both agt. two or more agt. one charging that he with another or with others had conspired, t.e. 1 Cow. 159. The ground of the two actions are thus for the same. Esp. 531. 5 Ld. 52. 1 Ew. 173. 139. 10 Sir. 210. 1 Gran. 230. Roy. 176. 5 Mod. 407. Bull. 14. The two are mere subjunctive to may be agt. one only.

It is objected to the support of this is either mal. pro. that motion want of probable cause in the former; pro. the same.

Medicine, what is folly now ask of. Bull. 14. Esp. 529. 1 Ew. 171. 15 B. 5445. It lies therein agt. one who maliciously promotes a false impression agst. another knowing the charge to be false, or having no reasonable ground to believe them true. But it is always sufficient for relief to show the false cause.
a without probable cause is 2d. 1 Co. 187. 2c. 6. 132. 3 Dn. 231.
2d. 261.

But if a public off' without information of his own some motion monumently &. m. something.
(1d. 261.) A. is liable (2d. 2d. 261. 225. 2d. 6. 130
1 Com. 157. Since the off' acts unministersly, conf. in pa.

But if the public off' in the last case is the magistrat.
granting the warrant they gruowami is that off' was
arrested under it. Tn. jur. not case in the pr. of the
And in this respect the case in 2c. 6. 130 is amid. 2c.
P. 2d. 2d. 25. 556. Doug. 655. "false imprisonm't.

It must always appear from the fact that the process &. the
is in some way at an end. In conspiracy "legit. no.
... acquitted" is necessary. 2c. 6. 136. Doug. 6. 205. 1043.
2d. 2d. 23. 2d. 6. 114. Doug. 657. "off' was dis honoured
from finding not suffi."

But the accuser to show the process is at an end is accordd by verdict.
1 Sumd. 228. 556. 552.

An allegation that "off' was acquitted on the orig' fact?" not supported by evidence of a nonpro.
for this is not an acquitted. 2d. 261. 556. 2d. 261. 261.
The fact that all the proceedings in the orig' pros-
... a material part of the indictment is fatal. 556. 2d. 290. 64. a variance between the
orig' &. the d. 64. to the d. of acquitted. 64. 2d. 2d.
there if it is in an immaterial part. 2d. 2d. 2d. 2d.

It seems that no met. d. care acts his ag' judge of meani.
Cases and cases do for our mischief not done in the
remains of their judicial powers. 1 Sum. 158. Esp. 655. 178.503.

All mischief may be & equally
is inferred from want of probable cause. Bann. 172. but want
of probable cause cannot be inferred from the most ex-
press malice. 1 T. R. 564 a Tr. 829.

For from malice D. fis may
give in evidence collateral circumstances as an a-
unanimity by the J. that the indict. was found ma-
licious. I. T. R. 554 a Tr. 829.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.

Convict of D. fis in the
action present by a competent jury; but in
conviction is conclusive evidence of probable cause. Esp. 529. 10 It. R. 322. 173. 127.
In most trials, if a grand jury has found the indictment, the court, under a "true bill," must try for robbery.

The proof of the evidence given before the grand jury is good evidence of probable cause. But if the evidence given before the grand jury is not sufficient to justify the arrest of the person named in the indictment at the time, the arrest is void.

The existence of probable cause is a mixed question of fact, quantity of law. What amounts to probable cause is a question of law. Whether the circumstances alleged to prove probable cause are true is a question of fact. But the fact being given, the inference is a conclusion of law. (1 B. & S. 535, 1 Ch. 529.)

Thus, for a regular plea in bar, there must be evidence of suspicion on which the action is based. (1 B. & S. 134, 533.)

It seems necessary for the defendant to show that the crime for which he was prosecuted was committed — i.e., that there was probable cause. (1 B. & S. 534, 2 Mod. 216, 2 Kean, 126.)

Defendant believes his property to be stolen when it is not.

So what amounts to malice or the existence of malice, the facts being given is a question of law. (2 B. & S. 134, 1493, 17 & 519, 107, 533.)

When the action is for a malicious prosecution for felony, a copy of the record given by the court in which the trial was, is necessary to the granting of discretionary relief. (1 B. & S. 385, 12 B. & S. 53.) When the crime alleged...
of a misapplication only, such as by not miscarrying, Ex. 524, 1036, R. 335. Origin: promissory by 6th title.

Secondly, when the action lies for a judgment civil suit on action, because a right suit on being shown is that the action does not lie for bringing a civil suit even though there is no right of action because it is a claim of right. Puff is answerable for false claims on it is liable for suit, Bull 11, 6.13, 14, 525, 1036, 335. No damages pursued seems for civil fines.

Exception 1. When there is good cause of action for one against another having no suit other than to assert the action, the action lies, Ex. 526, Bull. 12, 14.

Exception 2. When Puff in right suit having good cause of action was in a suit not having cognizance the action lies, 6.12, 14. But it is necessary that the suit in the right, Puff should have known that the suit was not cognizable, Ex. 526, Bull. 12, 2, 302.

Puff is answerable having no right of action on color of right, having it to be so, suing another for the purpose of obtaining it being liable, Ex. 525, 335. No such case in the 20th book, 1036, 335.

Let it be if for such purpose he sued him for a much greater sum than is due, 1 Smirn, 123, Ex. 526, 136, 424. But it is said that the action will not lie in the best case for amounting civilly Puff has been held to discharge bail, Ex. 526, Bull. 12.

When the suit
is entirely groundless. It is so by the right. Plff the
book in the former court, as a writ of the person, but
wrong. 

The first suit being malicious. Ex. Plff has said suit for double
the Plff gross under it after having taken
other gross under it. Act for evicting the dam-
ager. 1 Chit. 205. 66. 6th. 12.

The partition granted must be stated, when proceed in form civil suit.
that it was done maliciously with intent to injure
offense the Plff 2 N. & W. 205. 1 Rob. 532. 1 1st. 12. 16th.
2. 24. Ray. 380. To enjoin property to hold Plff to bail,
if that is the injury. 1 Rob. 15. 6th. 12. No damage by
injunction.

In which this is unnecessarily amounting to
dispute from home without any particular benefit to be,
but from apparent malice is a foundation for the act to
decided not to be. Sup. 9th. Gen.

In the above recepts case it is malice that the civil counts be allowed.
1 Rob. 16. 5. 21. 374. Seen, if a strong in civit. Act to bring
grounded suit ag. 513. no such count malicious or affir-
ment (as in crim. case) not a claim of rights by him. He is not
innocent. 1 Rob. 16. Ray. 380. nor liable to 20th.

Two requisites in all cases to support this action for a
civil suit. 1st. Party actiluiusmind, i.e. encloud for
it cannot at hence oppose to be groundless or unjust.
Doug. 205. 6th. 15.

2d. Damage, i.e. actual, already incurred

...
a inevitable. Esq. 527. 31. Sta. 114. 4th. 13. Therefore Sir

for a bond in my name. I can have no action till such

upon it.

But it is not necessary that the actions init be

have been assailed in favour of the present Title. Esq. 4th. Mon.

suit suffered on the same action. Yet this lies, Esq. 527. 31.

Any groundship proceeding by action when ended.

is on this point unfit. Esq. 527.

Our Stat. gives an action

agit all who willingly, unwillingly, wrong any other by present

any suit with intent to vex & trouble it. Fidei dam

ager is also subject to fine $7. For third offence to be

enclosed agt as common Malcontents. St. Leon. 229.

This cannot

join in an action for a previous action, injuries being expert

personal. Ht. 145. But then may be two suits brought.

Sta. 79. 2 ib. 910. Esq. 527.

Whether damages may be

premised in this action agt suit. In re. Upon can. How can

they be premised Esq. 527. 1 Sta. 79. 2 ib. 910. The matter

deft. enters into the consist of damages. Esq. 527. 4th. 1191.

not recoverable by the same parties. A 2. 183.
Assault & Battery

Assault is an attempt or offer to do a corporal hurt to another by force without touching. E.g., lifting a weapon or fist in a threatening manner. Com. R. A. 1615. 2 Bac. 120. Esp. 512. 26th 15

Leaving a gun, scissors, bowstring or sword, point a pitchfork, etc. to one within reach of it. 2 M. & R. 545. 1 Vict. C. 356.
18th 158. Any unlawful setting upon the person by an offer to hurt. Finch. 2015. This is an inchoate violence tending to an injury. 3 Bl. 120. 3 Burns. N. B. 22. 85. It is no actual danger.

But a threat otherwise amounting to an assault may be referred to for proof spoken at the time or a false shout of an assault. 1 Bac. 154. E.g. A boy his hand when he heard a boy's shout "if I ever cut a piece of time to fail" the intention was to cause with the act to constitute an assault. 1 M. & R. 3 Esp. 512. 10 M. & R. 187. 7 Vict. C. 545. Must alone then commit acts to an assault constitute opinions contra. 1 Bac. 152. 14th 133. 134. 2 Ball. 545. 1 horn. 570.

But threats of bodily hurt in doing actual or commission or an injury. E.g. Intention of mere beating. 3 Bl. 120. Haldon. 389.c. 1st.

Battery consists in the actual commission of violence upon the person of another. Esp. 313. The least degree of it, if done in an angry, spiteful, or unreasonable manner is battery. 1 Bac. 152. 6 M. & R. 179. 2. 16 horn. 589. 14th 134. 13th 15. & &; putting in the face, touching, or striking. The unlawful beating of another. 3 Bl. 120. But if in a baste of course unlawful? for it may be justified. 3 Bl. 20.
Every ball is included in an off, proving of balling is nothing but a change of off of ball. 1 Bla. 154. 2 Bla. 362

occurrence of bodily harm; the not amounting to an off (though alone cannot constitute an off) or in some cases not actionable injuries. When they occasion an increase in some cases they are actionable. 2 Blov. pass. 36. 3 Bla. 120. Perch. 3 per. 1 b. 1 c. 590. 1 2 Bla. 545. 2 Bla. 291. 3 3 Bla. 120. 4 Bla. 291.

In ball things, the particular distinction below is to be taken:

must be immediately, but not necessary that it should be instantaneously. Effect of the act of many dons suffers prevent or commence a train of effects. In spite of any common act by which an enemy can injure, support the action. 2 Br. 291. 3 Br. 291. It is said to be a spike into the market place where he eventually put out. Piff. 3 b. 1203. 2 Bla. 237. 291. 634. 391. 3 Bla. 590. 1 2 Bla. 545.

The particular distinction below is to be taken:

loop of it can part.

If one person acts on another essentially can harm of the latter falls upon a third, acts upon the first. Esp. 313. 3 Bla. 590.

At a horn taking and due might be against a person the injury could not be liable, not his act. But if a third person stung the horn, he would be liable for all consequent mischief. Esp. 313. 4 Blov. 1 c. 590. It. 24. 1 Com. 587. 2 Bla. 637. 3 Bla. 16. That is he is liable in an act on the case. 2 Bla. 637. Esp. 313. 4. 590. 1 2 Bla. 16. That is he is liable in an act on the case. 2 Bla. 637. Esp. 313. 4. 590. 1 2 Bla. 16. That is he is liable in an act on the case. 2 Bla. 637. Esp. 313.
Rule. If the act committed to was legal, he has no remedy.
Ex. Must by playing at cards — no action. It promotes courage. 1 Boke, of 1544. If hurt by boring committed to by him, he has an action — undamn. 1566, 2 Cas. of 1744. It cannot make it lawful — 1 Rol. 1828 no fit injury suitably. In an action brought for trespass, etc.

To committing to be brought does not justify the torturing. Estp. 183, Gomb. 218, 167, 217. 16: In the civil action? But that the injury happened in an amicable contest is not injury to a good cause — consent good. Caun. of 125.

Now in de
fending himself, accidentally injuring another behind him, he is liable to this action. 2 Nal. 396, T. Ran. 468.

Malicious intent is always not necessary, to subject to the action as if it arose from a breach of trust to it. Part 13, 410. Doug. 1440, Estp. 399, Not. 132. civil in not to claim. malice. 1 Part. 81. It is a quite rule that in cases causing no delicts, innocence of intention occurs. Doug. 649, not universal. 1 Com. 284, 2 6, 19.

But how far an.
avidant will occur an involuntary trespass has been a ques-
tion of much difficulty. According to 1 Part. 81, it is fuff. to make one liable that "he has been the physical cause of
damage." This is too broad a rule. In it would not admit any inevitable accident as an excuse. If the injury be
him by parties of the party injured; assured. Not. 134.

It is

Then that "inevitable accident" is inevitable in spelling.
"Innate" what? That the accident should be physically unavoidable; if so the case in Bul. 16 seems not to be law, unless a distinction is taken between wanting being a Samson man of another's attempting to pull them down. For in the latter case the accident is not physically unavoidable; but in Bul. 131 th. 6 they are not "innate" agreed on the ground of neglect. 1 Bl. 1545 Esp. 313, 38. agreed if utterly without his fault. Not 131.

But 16 supposes that if a house was to run away with his side, might it in running injure another, the rule would be liable on the ground of neglect. Yet the instantaneous injury would seem as physically inevitable, or if the horse had been used to running away, etc. But in the case of yet for neglect — not the horse, etc. Not 295. What is the act, given suppose some weight, on the case of cutting a bridge of timber, which fell on the bank of a river, the weight of timber. 1 Bl. 2092 Esp. 596. Sum. 2092 Esp. 583. So when 88's timber floats in 68 land of 2 N. Bl. 257 8.

Rule is clearly, that when the injury is inevitable, the fault: see 1 Bl. 294, 2 Bl. 896 8 Mc. 37. & 4. can taken with the of injury fault, on another.

The injury cannot be said to be inevitable when the act causing it is voluntary i.e. when the act is not
the effect of a case alone agent continue. But still there is
not any liability if the principal died in himself the
faulty cause.

In that ease, according to some opinions,
if the act causing the damage is lawful, it the agent
quity of no neglect, no want of care, he is innocent. 8 Co. 599.
168. deo. gu. better finish seems to be, injury must be inevitable.

In 4 Barr. 209. sec. 1st. 2d. sq. - 2d. sect. 2d. not to be con-
sidered as the agent, nor the agent inv. unless the act was voluntary
on his part. When the injury is wilful he author of it is un-
countenantly liable.

But when the act causing the damage is un-
lawful, the author is in some way, either in it itself or as liable as all
other, whether there is this last neglect or not,
for the consequences must be, a immediate. 2 Bl. R. 873.

The above rules as to accidents apply to injuries in


Three Kinds of defence. Denial or infici-

A justification.

justifide in many cases. 1 Ser. 537. 3 Bl. 120. Esq. add.
having legal proofs to arrest one may in evidence in case
of operation so far or is necessary to effect the arrest. Esq. 314. 2d
157. 1st. 798. 1st. 798.

But a battle is not justifiable

in this case unless there is actual resistance. Ray. 229. sec. 7
at

0 157. 1st. 798. 1st. 798. 3d 314. 2d. 607. R. 593.
The plea of malleitun means to go to the justification of the Bawt, as well as apart from the Bawt. 2 Tim. 4:16. But if a person's name be, or after the same manner be.

But the law of malleitun must be some proportion, or to the law of the Bawt, as well as apart from the Bawt. 2 Tim. 4:16. But if a person's name be, or after the same manner be.

The plea in this case is not justified, or that first of all arises from Bawt that Bawt struck in self-defence. Eph. 3:15. Gal. 6:42.

But malleitun it seems to be, as stated by Eph. 3:15.

As to the plea the injunction is, 1 Th. 5:23. 50:76. 86.
If the Pitt was the delineator some of the buffs (as the term is not strike nor threaten to strike) Biff is justified in some cases as when Duff hit the spot on which duff was sitting duff hit off Duff finger. 1 Roy. 177. &c. 612. But the men in the case seems to have been justified by Duff attempting to grab Duff. 11 Mod. 43. copy 177.

So same Duff that his moving into left house + a scuffle ensued duff was justified. Exs. 315, 616. &e. 966.

Parents justified in going advice reasonable correction. M. aye b. X. B. a. b. c. 1767. 1 March. 180. So according to some k. X. 1 March 130. R. &. R. 80. 1 Bae. 155.

Those relations constitute special justification.

A man may justify a baillif in defence of his wife, so of parent & ch. 6. Exs. 313, 618. 1st. copy 112.

Clearly a man may justify in defence of his master — but cannot. 1st. 311. Bae. 68. Exs. 314. Bae. 180. 1st. copy 52. 1 Bae. 246. 1 March. 184. &. 107. 1 Bae. 129. 1st. copy. 85. &e. 952. That the bailiff must have been in defence of wife to prevent her being injured — not vindication. Exs. 316. 1st. copy 52. 2nd. copy 52.

So one may justify bailiff in defence of his property forcibly invaded, as by breaking a door, gate, &c. But if there is another man than a man entry on an enclosure (not simply force in love only) the woman not justified in a bailiff without a request to depart. Exs. 314. Bae. 19. 1st. copy 661. 1st. copy 154.

In case of entry on lands,

However, the bailiff must in pleading be justified not as a bailiff but as a molitor. Is. 189. Exs. 315. 5. 2nd. copy 42. &c. 149. &c. 155. &c. 366.
The last rule enacted under the name of 

pelops, I relate to the right of expounding his borders; but when he is 
disputed, or disputed on, by another, a different rule was obtained, the art, and rules, 
not known at 6 4.

at 6 4, one who had a right of pelops on lands was allowed to regain pelops by force from the defensor, 2

Bac. 535. 3 M. 179. 4 B. 148.

But now by such king, 1st Suet, Chris. 5

held 301 one may not enter a lands of which another is in 

pelops or by holding over a tenure in resiend or taking avanced 

pelops) except in a reasonable manner. 2 Bac. 535. 1736. 148.

3 B. 179.

This story contemplates only pelops which are in some 
degree in some way abandoned by the owner. As in case of lease, when pelops is given to happen, to case of lease, to 

the holder of which is neglected by owner of vacant, merely to 

have a journey, is not such an abandonment as to waive 

force - owner right to use it. "Possibility entry."

In case of first

property, owner not allowed at 6 4, to regain pelops by force 34255. 5 Ill. 184. 2 Roll. 3 85 6 5 68 6. 135 6 6 136 by 6 8 16 8.

Possession venue justifies a bail but may mitigate claim. 

4 M. 6. 6 837.

Adversary cannot 

justify a bail in defence of his master goods. 5 Conn 8 24.

Cev. C. 242.

4 8 5 6 11 81 4. 6 8 11 83 2 3 8 11 84 3 8 11 84 3.

A 6 8 11 84 3 8 11 84 3 8 11 84 3.

4 8 5 6 11 81 4. 6 8 11 83 2 3 8 16 8.

a continuous do. as ovisions, as ulos, tarsus, 2 6. 6 837, for 

an act is on within in individual act 4 8 5 6 11 81 4. 6 8 11 83 2 3 8 16 8.
In behalf of wife, must mean 1st join. If the injury be laid
'ad damnum ipsum omnem', for help is demanded by cost. In
form of suing, if the wife is personally injured 1st damages
would survive to her. Esp. 316. 1 Soc. 387. 1 Rot. 782. 2 Cor. 1268.

If damages, one and 2d dimes of the husband only.

Esp. 316, 2nd. 1 Rot. 1468. If different, must
be laid 1st to wife, it must be pleaded in abatement. Esp. 321, 1 Str. 420.

If both, has been committed against, husband 
alone must sue for the injury to himself. Esp. 316. 1st. 
2nd. 1 Rot. 1468. 2d. 2 Cor. 384. If both join in the case for the damages, 1st
must damages can given. With abatement of the husband
verdict, (Esp. 316.) If joint damages, 1st must be in late

1st may lay (as agg't of damages it is said) on many facts
for which he could not himself recover. Ex. permitting libel.
Esp. 317. 1 Soc. 644. Ex. Is it to aggravate damages on showing
innocence, the truth was? 3d.

In every justification must
be pleaded in case of a husband, as his wife, damages, in
the case of trespass, Esp. 317, 2d. 1 Soc. 369; i.e., when both
in the facts shown is prima facie a trespass.

But circumstances which attended the transaction (as was often
at the time tending to create a ratifying in itself, the)
may lie to prove in mitigation of damages: the if
judged they would have been a justifi' Esp. 317.

If damages
be an agg't, he must confine his battle to the plea in
Esp. 318, 1 Soc. 637. Ex. Plan, that 1st they have run away wit-
him say this will be for them is no battly by Stat.

The gentref

to a plan of once after this see injurion to. Ex. 317 1 Bar. 155 5 Com. 354
if Stat. please son after to &. Deff's smc justify the after he must obey
it specially for he cannot give his justification in evidence under
the gentref to the injurion to. Ex. 317 Com. 205

all sorts of serious
away either in places or given in evidence. Ex. 317 Bar. 17 1 Le 637
L Mod. 424. calf as inevitable accidents.

To the plan of motility

perhaps to. Deff may reply the son to common which in error
or certainty the justification seen. 1 as an out of genus battles
aliquum bona motile to 5 Com. 356. Grin 381. Linit. 1856. Sum. 371
in 11 16.

Deff not confined in proof to the time before the death of
how any breach may be carried by st. of limitation. To the official
plan must come all the time, want to be as broad as the death. 5 Bar.
2047 1 Bar. 155 7 Sum 245. Soc. 16. Sect. 102. Comp. 249 21
Ex. 247 15319 21 282. 1 Le 24 2. Soc. 2 283. 1 Soc. 532. Bar. 17 2 Bar. 79

What Deff cannot to from or is to be to time when he pleads son of the
second sort. Bar. 17 1 Stock ap'rit 1477. in proof of Deff's which any
way is called. Deff is driven to a novel assignment.

Is that plan of
in is broad in the death of the injury as. if the subject is not the. the whole
injuries. Ex. 318. Ex. Deff changes this. till it is wounded
in place of the breach the death met the wounding is me. Soc. E 268.
The after's deviation over the whole grammarians. Ex. 318 in the word
that Deff make an after's death Deff's the other defended himself
of any case save a limit at the happen'd me. times of motility others.
that she cannot answer the allegation of wrongdoing.

The proof found

2 is on the relation of husb. wife. But 2 e. This agt. 2 e. must be proved to have been made to prevent injury to be. But 2 e. way of revenge. Esp. 318. 22 1st 62. 2 Rev. 346. Stat. 954. Wife cannot plead alone. And must join in all cases. Esp. 318. Sec. 11. 239.

A former receipt of damages

arg 5. Deep 2 another is a good case. Sec. 250. Esp. 319. 216. 2d 11. 662. 2b 295. And 20. July 66, 5 1st e. 159. 186. N. 111. 2. for the uncertain damages. One added in "new justification" which makes away be. H. Sec. 118.

Satisfaction not in dispute. All R. 2 mean is, that in case of torts damages being uncertain, Deff might multiply actions in hope of obtaining more. In case of contract, the sure being certain he has no such instrument, if the right 2 def is solvent.

The rule notes, even if further damages occur after the first recovery. Esp. 319. 2d 11. For the balance is the gist.

Do in

Deep guilt a former receipt is a bar to all entente. 2d 669. committee before the death of the first witness. 2 Rev. 230.

In this act as in all trespasses if the injury is shown by such the Deff may sue all or any. Esp. 317. 5 2d 651. Action to sue in where all. Esp. 416. 2d 666. As to owing damages court contra dictry.

If two in men are charged jointly for fraud guilt.

jointly, i.e. each guilty of all. Any commits own damages. Esp. 330. 529. 5 1st 2793. Circuit. 19. 11 Rev. 5. Circuit. 317. 2d 10. 2b 27 118. The thing done or substantially same — so if frauds you eg. beti by def anto damages cannot be recovered. Esp. 2210. Stat. 2155.

If def fault in
in their places, e.g., on pleading the guilt of an another justifica-
tion, etc. every man owns, that the suit for damages is supposed equally just, according to Ex. 22. 2; Est. 11. 6. 7; Laws. 11. 6. 7. But 20
Law. 3. 324. 118. 2. Est. 4. 241. 1, 2. Samuel. 207, 22. That the damages cannot be reduced. 5; B. 2792.

But in the case, where damages ought not to be reckoned, it may prevent a suit on account of being guilty of committing an act of taking goods by stealth and persuading another to commit the same; then the person is not liable, but the one aggrieved shall give any amount when it was first paid, Est. 20. 1 Samuel. 207, 22. 6. 239. 24. If a man shall enter a sealed bond on the one part and the other, or without a sealed bond, he may take profit for the greater damages, etc.; but if he shall enter a sealed bond on the one part, and the other, on the one part: Est. 20. 1. Samuel. 207. 22. 6. 173. 2. Cant. 19. 10. 70.

3. It is said, that the king may in such a case find out guilt on the part of another on another. If a man has entered a sealed bond, the finding will be good. Est. 20. 6. 360. without any notion, unless supposed to be valid. Then the one not found guilty, (11 Co. 5. 7. 22.) and the other, who may be found guilty, of eight parts, or eight times. This qualification adopted by our defect, (2. Est. 3. 1. 24. 19.) accordeth with 11 Est. 5. 7. in this qualification, etc. when the injury is an entire, Build. 9. cannot seem because the wrong was inculpable, 7. B. 234.

First rule is, where in state, i.e., if the suit for damages charged a man guilty, i.e., such as such of the whole, damages cannot be received. If one is committed to pay the whole, no con-
tribution in law is equity. 116. 6; Est. 186.
In Eng. it has been held that a wai is not a sufficient or to
an of suits deft before high. 
the others. This charge it act
on t is to refer it to one. Nat. 70, 130. 666. 20
Bart. 19. 6. 173. 4. con.

And in Eng. it has also been held that
the defendant to state the name of one of the
acts or things before the judge or a witness. Rule. 664. 2. 13. 3. 287. 6. Sec. 664.
If no witness ag. him for may be sworn. If any at all arise
he must then be tried before he can testify. The count may be
a verdict or to him in first action.

All cases of action were
in delicto in the name, unless or con. an amended. 6. 5. 665.

The jury may if they please away from the court before only a
point. Rule common to actions of Tres. in gent. 664. 2. 13. 3. 287. 6. Sec. 664.
684. 6. 89. 32. 8.6 guilt of 664. not of wounding.

more than is in issue is idle. If there has been a may be,
the court may or give increase the damages at their discretion. But there may have been any loss in the debt if the
judge certifies a warrant to. Note it must be done in bond. If
must be present where motive to increase is made. The manner
of wounding 621 be made in the debt. infra. 7. Formed on
the rule that in the first act of one, "may have a not" is
to be tried by inspection, 664. 92. 2. 3. 176. Lat. 233. 3. 321. 323.
6. 89. 32. 8. 6. 86. 32. 4. W. 6. 6. 32.

It must be proved to be the same hurt for
which damages were given by the jury. 664. 3. 2. 32.

To damages increase in case of wounding. 664. 322. 2. 3. 176. 6. 6.
attaining bail. 3 Bl. 333. manner of bail in the suit. Damages not incurred in this case if the Judge who tried the cause declared himself satisfied with the verdict. 3 P. 322. 1 Mill. 5.

The jury cannot give more damages than are claimed. Ex. 420. Co. 1. 297. But if they do, Jiff may have juid. on remittit the excess. Comit. 21. 90 Co. 115. 1 &1. 3 Bl. 643. 21 Mac. 265.

Every suit is in public as well as private wrong. 1 Bl. 196.

'Ant. 134. 3 Bl. 101. 4 Bl. 145. Irremediable by fine or imprisonment. 21 Bl. 216. Public wrongs' least affront a distinct kind of offence under 4. 6. 338. Jut may be joined when the public affront is by accident. 3 Kib. 105.
Action of Trespass vi et. for False imprisonment.

Every unlawful restraint of one liberty or motion, or violation of one's right of free motion or false imprisonment, 3 Bl. 127, 3 Bl. 326. To illegal confinement in a private house, 2 Stud. 579. 5 Bac. 169. Finch 262.

Two requisites - 1st detention of the person. 2nd unlawful act of the detention. 3 Bl. 127. 2 Inst. 579.

The unlawful act consists in want of authority. 3 Bl. 127. Am. 42, 32, 119, 409. Or from special cause amounting from the necessity of the case to justification. 3 Bl. 127. Or the committing of a felon by a private person. 3 Bl. 326. It lies not in the case of a ship continued on a voyage, the ship being a prima facie punishment.

But every arrest of a person for a civil cause, without legal process, is unlawful restraint. 5 Bac. 169. 2 Inst. 572. The custom of imprison without legal process is not good. 5 Bac. 169. 2 Inst. 147.

A private person not guilty of false imprisonment by confining a person solely without the officer's warrant. 5 Bac. 169. 2d 231. 2 R. 561. But that one may having made an arrest on feudal права cannot delegate his rights of custody in his own absences. 1 Bl. 264.

The most common case in these of arrest under false process.

If a court of record is guilty of arrest for maliciously (meaning this maliciously) filings suit liable to an action of the acts judicially determine his imprisonment. 3 Bl. 326.
In Eng., a judge of a court of record of quasiprivate title, is not liable
at assumpsit for any judicial act, whether it happens that mis-
taken in matter, if he confines himself to his judicial
Est. 35; 12 60 232. Dal. 396. Ray. 267.*b* 172. 1 T. Est. 5 33.
S. 5, 8, 513, 14. 2 Alb. Rep. 1141. When all the cases are cited,
no hint in this can diminish a court’s “whennot diocletian”
reputation” in favour of the judge’s integrity.

But to sum up if
a court of record of some quasi-judicial title, has not passed
of the subject matter, indulge our liability for them they do
not act judicantly. 10 60 76, b. 1145 Alb. 86 59.

But if they have passed of the subject matter in their
proceedings, they ought their peril to them not liable, such
est 10 60 76. 2 Alb. R. 1145. Dal. 396. E.g. an awarding a satisfy
ag. to a Peer in a civic cause.

Counts of limitations peril.
the of record are liable if they transgress their juris-
1 Est. 396. Est. 493. Est. 332. 8 60 1142. Rules if they do not
transgress their jurisdiction. 1 Alb. R. 1145. but liable for
acts. They being of record. Est. 326. Dal. 396.

But a juror, our liability in Eng.? at 6 12. for any mistake in
1 Alb. 385. In any they transgress the jurisdiction 2 Alb. R. 1145.
in some respects. But this rigor is mitigated by several 35
Est. 388.

But the *b* of 3. b will not grant an information
against a justice who appears to have acted unrightfully. 1 T.R. 685.

Courts which can fine & imprison said to be courts of record. R. v. P. 1241. 3 Bl. 25. 12 Mod. 386. Said to be universally true. 2 Bl. R. 1146.

As to arrests of persons not liable to arrest, see arresting. Sect. 273. In debt, see from P.R. 16. unlawful except on a suggestion of distraint. 2 Bl. R. 242. 3 Bl. R. 1192. 3 Mil. 368.

False imprisonment lies in the case of the arrest. 1 T.R. 691. The rule is quite that the arrest who is instrumental in causing an illegal arrest is liable with the principal. 3 Mil. 345. 77. 2 Bl. R. 1192.

In this case, the officer cannot be liable, since the subject matter being exigible by the person being amenable to the court. 1560. 76. 3 Mil. 387. 1 T.R. 391. 1 Ed. 95. Sta. 710. Provided the court is of good jurisdiction.

Exemption from arrest sometimes, in Eng. connected with the character of the individual, as E.g. the serf. Sometimes it arises from temporary circumstances or from lawful privilege or attendance on court or a suit. 2 H. 4. 175. 2 Hans. 231. 4 St. 373. 4 H. 31. 636. In the latter case, the arrest is not illegal in the first instance, but a superseding issue. 1 Bl. 392. 8 T.R. 534. 2 Bl. R. 1193. 2 T.R. 577. After which detention is illegal. 1 M. 17. 4 Ed. 17. 3 Ed. 379. 1 Ed. 549. 547. In a recent case, the officer in the arrest only. Doug. 654. 2 H. 392. 684. 2 T.R. 577. 1 Ed. 547. 549. 2 T.R. 577. Supp. 9. 2 Ed. 570. 577. The subject is stated by Ballin. 4 Doug. 683. Arrest relates to an act or omission after the supersedeas. In the prior detention of a serf
Arranging a case, if an act of omission is
involuntary, the act is not liable to suit. In
such cases, the act of omission is not liable to
suit. The party may be subjected to
punishment under the Act of 1845, 6 & 7 Wm. 4,
Ch. 52. In such cases, the act of omission is
not liable to suit. In such cases, the act of
omission is not liable to suit.

Privilege of certain acts
allowed in cases of collision, to avoid
conflict, as in navigation, action of
NAVIGATION, and others. In such cases, the
right to allow or not, to allow, or not, is
reserved to the parties to the suit. In such
cases, the right to allow or not, is
reserved to the parties to the suit.

Parties attending on litigation under rule of court is justified,
attending under it, according to the nature of the case.

Gadens retaining prisoners
for fees (the omission entitled to a discharge) not liable to
imprisonment. 5 & 6 & 7 Wm. 4, Ch. 52.

If the Court or the magistrates are in error, the
sentence is the responsibility of the
Court or the magistrates. 5 & 6 & 7 Wm. 4, Ch. 52.

An act of omission is
privileged in omitting without warrant, in a reasonable
charge of felony, the non is connivence. Long, 324, 5 Ch. 73. 18th 23.

Connivence of a private person. But if a felony has been
actually committed, a private person suspecting another
to be guilty, or on reasonable ground he believes another is
not liable for omitting without warrant to carry for
a magistrate. 5 & 6 & 7 Wm. 4, Ch. 52. Long, 324, Ch. 52.

To prevent a breach of peace a breach. 1 Bulst. 150. 2 Stew. 52.

Long, if no felony has been committed. 5 & 6 & 7 Wm. 4, Ch. 52.
Arrest in civil cases by breaking on the door of the house in false Impr. 5 Bul. 39.

A warrant may state the form of the house. 2 Bul. R. 1275. The warrant is of no use. 5 Bul. 1275. This case is in dissectionary. 2 Bul. R. 1275. This case is in dissectionary. 2 Bul. 1275.

A warrant may state the form of the house. 2 Bul. R. 1275. This case is in dissectionary. 2 Bul. R. 1275. This case is in dissectionary. 2 Bul. R. 1275.
If an officer makes an arrest on a process from the face of which it appears that the
officer had no jurisdiction, he is liable according to the
current of authorities. 2 Pet. 552, 6 S. 3 Esp. 328. 3 Pet. 427. 2 Pet. 352, 601. 2 Pet. 523. For damage to
polymer. 3 Esp. 328.

Any person has a right to arrest another who is fighting. 5 Bac. 172. North 136, 2 Ch. 81. It
to contain him till the purpose is over.

In certain cases former

The bail to be set with that limit which cannot be lit,
the under arrest or process. 2 Pet. 152. 172. 416
1 St. 3720. But here is no instance of false arrest.

In this case, Doug. 648, ang. Can it be bid. 2 Se.
116, 2 St. 717. Sum; no, the process legal, the service is
sometimes not aside the form to change 2 St. R. 1193. 4.

Un halted, one for a short time under a lawful warrant
from a warden, after an examination is not illegal. 3 Bac
172. St. 166, 601, 62. 529.

A private person may with
warrant, procure a person arrested by a warden, disposed to do no mischief. 5 Bac. 172.

If an officer makes an
arrest on a process from the face of which it appears that the
officer had no jurisdiction he is liable according to the
current of authorities. 2 Pet. 391. 2 Pet. 32. 601. 2 Pet. 2180. from
what ever the count of jurisdiction arises. Doug. 310, 601. 2 Pet. 2180. 2180. 601. But the rule has been extended much further.

Then it has
been held where any regard to the other appearing on
the face is not (see when a court of limited jurisdiction has
jurisdiction of the cause (from what quarter the defect of
jurisdiction) issues, the officer must be unless he be as fast as
Ex. 336. Section 30 affirming in Marshall’s case. Annu,
contemplation in Rev. 239. See 710. 592. 579. Defeated in 2
Wis. 380. Ex. 398. 97. Let it be the Marshall case seem still
to be law in Eng’r, viz. that when a court issuing the process
has no power of the subject matter everything done in it is
absolutely void — whether it appears a mot when the face Ex.
391. Bull. 82. 3. 1 Virtue. 82. 4. book. 17. 2. hornet. 238. See 710.

But when the court has of limited jurisdiction in
jurisdiction of the subject matter (the defect of jurisdiction) is from
something local or personal, the officer, is justified until the
defect appears upon the face of the process. Con. 20. 5. Rev. 170
1 Wis. 92. 1 Virtue. 327. 1 Bull. 82. 3. Carter. 274. 2. hornet. 24. 3. Rev.
Consp. 220. horn is not liable even in this case because the right
defect ought to have failed at 592. 13. horn. 16. 6. 76. to 5. horn. 525.
As to the case of common Pleas. 3. Wis. 325. Ex. 329. 1. horn. 20. 5.

Office may exercise under
the command of the court of Writs, but the writ must be
served when the court has not jurisdiction of the subject matter 10
Con. 96. 6. 6. 52. a. 2. horn. 325.

Where the jurisdiction is complete
the process is made in the form of the officers per-
tificions. 2. 92. Rep. 231. 81. The the court or magistrates in calls.
See 710.

When a court having jurisdiction of the same subject
also.
nearly an impropriety. Still, if the process appears regular, the offer is justified. See 71 A. 2 Ta. 231. 71 A. 255. 3 Bar. 333. 2 Mo. 280. 3 Mo. 325.

While it seems to be in English, according to the weight of it that when the subject matter is one of the petty jurisdic (whence jurisdiction is quitt of any issue) those officers are liable. Notice when the want of jurisdiction is as to the person or place. Then the offer to liable enables it, unless from the force of the process is such in each case of acts of war. But the latter branch of it i.e. the time of service, applies not (it is said) to final process (like in prior courts) without qualification. Ex. When want is in such final process of under offer of jurisdiction must show that the cause arose within the jurisdiction or at least that it was so laid. Bul. 83. Conv. 26

But the the process under this qualification i.e. if the offer it was not the right, Puff. He is bound to bring the instant of the court, jurisdiction to show it. Within the course of acts more (see 3. 244.) if the offer of right (now Puff) is not bound by being placed to the first act. Esq. 230. Bul. 83. 5 Bar. 170. Mnt. 369. 2 East. 260. 2 Mo. 196. 7.

2d. May 236 surviveth this rule, that was
the right of offer a death in the case Sec. 27. 154. 1 Nnt. 236 an act - see conv. 260. 2d. May 230 aches in this point in court see. Ment. 131.

In some cases, process is not the party but the liable when the jurisdiction of the Act, are the cause of anomalies, if the subject matter person liable.

1. The course of limited jurisdiction. See how much
given by state is not strictly jurisdiction Esq. 331. 7. 8. 314. 448. 458
1. 71 A. 2. Where a person committed a theft for killing person - the
he had an int. effect to answer the penalty, off. incurred but the
quality of the warrant was not prudent. 1 Wil. 150, 3 Esp. 332. When
a person was committed on st. penalty of £13 which he affidavit
pay, but was imprisoned by constable till he paid the pen which the
statute did not allow. The constable was safe. This was for alien
of process no question of jurisdiction. 2 B. & C. 355, 128, 1035, 1141.

II. So in other cases the breach of warrants of Westm. in any st. 1 order from any objection to the juris-
diction of the court is called void & the Off. in the breach liable to this action. Iniquity & c. a case resumable to the
statute but one to that of the debt. Esp. 315, 316. 12 B. & C. 355, 1035. 1 B. & C. 355, 1141. This is not liable to
any order from the dept. of Westm. This iniquity, resumable upon the face of it.

III. So the case cannot be lawful
out for an out of process the action brought to the Off. in this
magistrate, of he was in fault. Ex. Weartham assault in conspiring
to a slumber without his duty Esp. 312, cit. 1 B. & C. 356, breach
must by military commander. Claims of magistrate break
privileged.

When an off. justifies, proof that he acts as off. and not
that fact. He is not bound to show his appointment. Esp. 315, 3 Esp. 355, 12 B. & C. 356, 1 B. & C. 355. Can you not this be in-
bulled?

The case is that an arrest must make the use of irregular
words. So a process from one or irregular proceedings. Ex-
crime or an excor. once a jury is set aside for being Irregular.
Esp. 3 Esp. 91, 3 East 128, 3 Cr. 83, 7 Esp. 73, 12 B. & C. 356.
Get that the officer serving the break is not liable. S. 194, 391 is a case in point of b. of Wm. 172 10. 5, 9. 2.

The 6. is of limited jurisdiction & the irregularity forbids. 30 2. 3. 993. 4.

But an arrest on one crown jurors is good. N. B. 2. 3. 9. 3. 182, 325. Ex. 391. The party may justly require some serious breach, take its to be named. 3 182, 325.

Process has been return void. It is irregular when filled up without proper authority. Ex. 392. In Eng. the under st. left a blank for fill up with the name of a Stiff. 2 182, 325, 392. 3. 182, 325. The person said to use the crown during the process. It does not appear that the power of the irregularity, Act with Ex. 392. 3. 182, 325, 392.

Unit atate, whendis a notice to an in different house, unless the man is insulted by the magistrate. To a unit shown by Stiff to assault the own arms.

So when the process is joined informally. geo. out of the Vice Chamber of b. of Oxford but ton. Eng. Woff. making oath of his name of action & that he believes. The power to. officer & justice Robert. He joining in one place. The process voided. Woff. 4. justice ought not to be just. denne. 2 182, 325

Woff. not liable it is said if he was not joined in pleading with the others. 594 2. 3. 182, 325, 394.

So when the unit is not returnable on a day on which irregular. Ex. 314. 2. 3. 182, 325, 394. Ex. 3. 182, 325. Ex. 314. 2. 3. 182, 325. Ex. 314. 2. 3. 182, 325.

Some general cases of any kind as a warrant to arrest the owner of a horse "known they are." 3 K. Br. 399. 1 Stal. 82 150. 2 Mads. 275. Vint. 218.

Requisites to search warrants: 1st. Sworn on oath.

2d. The ground of suspicion declared & executed in the same time by a known officer & in the presence of the informant & directed to a particular place & the particular reason when & why, &c. When this requisites are observed the informant is justified a note by the warrant 3 K. Br. 399. 2 Mads. 275.

When the officer serving a process justifies under it himself or only swears the writ or process itself. 3 K. Br. 399. 6 Cro. 52. 9 Rell. 513. But it is returned if sworn process 2 Stal. 1184. Comb. 540. But the return, so far, has arrived. In Eng. The officer, whether not obliged to serve his return because not in his power. But the necessity of an officer serving a return obtains only in sworn process. Comb. 740. 3 Cro. 90.

2d. It is right. Diff. in Diff. he must show a just & as well as it on in final process. 3 K. Br. 399. 6 Cro. 52. 9 Rell. 513. for jury may have been sworn upon the arrest of the pretext. Diff. ought to take notice of it.

Some suit where the act is agt a man wrong, who is suing the owner of the property for another reason of breach in aid of the act, for his request.

If a Diff does not return a writ when he ought to do it (or make a false return) he may be treated as a trespasser at law. 5 Crow. 587. 2 Stal. 503. 5 Bac. 102. Gal. 579 Cray. 603.

The Diff in sworn opinion for the return is necessary to complete and validate the act.
If one of two offenses are joined together they may reason in this
fashion. If the plea of justification is insufficient for
both it is so for both. Ex. 335. S. 118. 81. 80. The conscience
of the plea is not good for both however he may. If he loses
his defense by joining. 1 Mils. 17. Ex. Off. does not show the
reason of process to whom brought to do it.

Proceeding 2d. 3d. 4th. 5th. 6th. 7th. 8th. 9th. 10th. 11th. 12th. 13th.

Proceeding 2d. 3d. 4th. 5th. 6th. 7th. 8th. 9th. 10th. 11th. 12th. 13th.

Proceeding 2d. 3d. 4th. 5th. 6th. 7th. 8th. 9th. 10th. 11th. 12th. 13th.

Proceeding 2d. 3d. 4th. 5th. 6th. 7th. 8th. 9th. 10th. 11th. 12th. 13th.

Proceeding 2d. 3d. 4th. 5th. 6th. 7th. 8th. 9th. 10th. 11th. 12th. 13th.

Proceeding 2d. 3d. 4th. 5th. 6th. 7th. 8th. 9th. 10th. 11th. 12th. 13th.

Proceeding 2d. 3d. 4th. 5th. 6th. 7th. 8th. 9th. 10th. 11th. 12th. 13th.
Proposals for inquiries to personal property.

Thus far in its most extensive acceptance at L. & R. is any trespass of Law. Thus of Farmer stealing one of the horses. When not considered as a mere of technical importance it is only violation of any law.

3 Bl. 248, 5 Boc. 157.

The word as was used in Law denotes in its greatest sense any misappropriation committed to the injury of another person or

3 " P. 383, 5 Conn. 574.

The word in its most appropriate sense imports only injuries by force to the real or personal property of another.

3 Bl. 380. The trespasser now to be considered compriy all possible injuries to the real or personal property.

The rights of tenure in property liable to two species of injuries. 1st. Abuse or damage while the possessor of the same continues. 2nd. Erection or deprivation of right.

3 Bl. 125.

1st. A want of real profit without attaining the object.

Or poisoning one's cattle killing his beast or doing any act which takes away from the value of a chattel. Falls under the description of Injury 3 Bl. 125. To if the timber falls etc.

The remedy in this case

If the act is accompanied with force or immediately injuring
is by Trespass. 3 Bl. 153. 2 Com. 552. 2 Noll. 556. 17. 20. 1588.
Of cause is lost when truth is the proper remedy. Judge amended
vice versa. 6. 2 Rop. 125. 2 Mor. 131. 2so. 6. 141. 96.

1. Of Action or deprivation of profit. This kind of injury is
for as it is remediable by Trespass alone, consists chiefly in
an unlawful taking (an unlawful obtaining being chiefly
remedied by action or Trespass) 3 Bl. 152.

The action of Trespass gives damages, not restitution in specie 3 Bl. 152. It is not
for taking a thing or goods or fruits that the profit has been
judged no prize. For the question depends on the loss of profit
in tributes in the Community. 67 only. Doug. 578. 96.

But in
some instances where the wrong taking is lawful, Trespass lies
for subsequent wrong. 20. 380. 67. If an interest is taken on one's Estrob,
that afterwards comes? Trespass lies. 20. 385. 405. 5 Com. 551. 3 Mor. 20. In some cases trespass
lies not.

Rule. Where the cause to sue the action aet is given by law, amount of
the cause makes one a trespass action. 20. 385. 405. 5 Com. 551
2 Rop. 87. 2 Ch. 121. 152. 18. 20. 146. 2. 2 Rol. 551. 46. 96. 18.
Com. 38. 3 Mor. 20. Com. 20. 111. 12. Co. of an Estrob. 20. 152.
20. 221.

So if one enters a tenant's afterwards, 67. is a
Trespass in entering (by relation) 20. 551. 146. Care of real property.
So if a thief does not make a return of a unit when brought
to. Ex. Nemo prodes 5 Com. 551. 2 Rop. 551. 152. 20. 551. 152.

But the setup of right thus given by law must be a position
mistaken - not a nonfrayer. Ex. case of a Partition, supra.
When rent is stolen - but he would not have been a trespasser in
injury for refusing to pay the Partition for entitlement. 6th,
363. 5th Rex. 141. 8th Rex. 145. 2nd Brev. 314

So if one having taken a
dispute lawfully refuses to deliver on tenure of suffrænus,
5th Rex. 171. 2nd Brev. 556. Disturbance of goods etc. from the injury is
arrested by 5th Brev. 1130.

Except to the man in case of
of the thrift who omits to return a boat. 5th Brev. 162. 2nd Brev
Brev. 652.

When the party gives the license under which the
orig. act is done, the other can never be made a trespasser
by renewal. 3rd Brev. 19. 2nd Brev. 106. 2nd Brev. 561. 8th Brev. 106. 11th
967. For the the law will furnish in case of abuse the
very act which was authorized by itself, yet it will not all
low a party to trust that it was unlawful which he himself
made originally lawful. 5th Brev. 162. 2nd Brev. 52. Ex. unlawful
disturbance, alien by Bailee etc. 5th Brev. 531. con. annum. 5th Brev
162. 2nd Brev. 20.

If he make Bailee destroy the thing, but takes it in
views line for be not injuries the Partition - but he into
a trespass at in law. 36th Brev. 57. 2nd Brev. 560. 13th
Adm. 248. 7th Brev. 261.

To maintain this motion Defendant
knows the 3rd Brev. 3. 5th Brev. 4. He is not after's
Ex. Trespass to a house with permission to 1 - self but trespass.
4th Brev. 348. 5th Brev. 261. 1st Brev. 486. Now hold that when one
law. 7th Brev. 9.
But constructive relief is against a stranger. - 5 Boc. 164. 5 Boll. 554. 551. 5 Boll. 557. 5 Boll. 559.

So generally any person having the goods property may maintain the same, even against a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 552. 5 Boll. 557.

The agist of cattle may maintain trespass against a stranger for taking them. - 5 Boc. 164. 5 Boll. 551. 5 Boll. 557.

The goods must be taken into possession in order to maintain a trespass. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If the trespass is given to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.

If goods are delivered to a stranger. - 5 Boc. 164. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557. 5 Boll. 559. 5 Boll. 557.
from first debts. This right is from the will not the estate.

So legatee of specific goods may maintain Trespass for taking after 6 x 4 years. It must be before delivery to him by 6 x 4 years. Actus of the legacy has been "of a third part of Trespass goods" not specific. And in the instant, it was to use support Trespass would not lie if the taking was before 6 x 4 to the legacy, 1 T. R. p. 280.

In Trespass for goods taken belonging to two, both should join, but the defendant is free liable in a statement only. 1 barn. 12 roll. 3 late. 38. 1 roll. 21. 8 x 4. 580. 21. 3 late. 523. 4 late. 810. 9. Robling jan. Hayen 12.

Stating that at 6 x 4. Trespass does not lie for an act amounting to a felony as Robling to by reason of Magna. 5 barn. 582. 5 T. R. 1761 1 late 21 37. 1 barn. 130. 7 late. 375. 2 roll. 257. 1 mod. 333. 1 late. 1490. Late 1440. Nov. 8. English court. An act amounting to the application of this principle act must be an act amounting to a felony. monarch. 2 late. 873. Rob. 1372. 3 roll. 170 ans. 9. mod. 131

If a thief or under thief takes the goods of one and the goods to another thief liable in this action. Doug 170.

In declaring the goods must be described with eminent authority. 20 x 4. 6. "Dium goods" or "Dish goods" not suffice as goods by necessity. The same remedy would not be given to another thief who does not justify. 1 Rob. 410. 2 late 217 roll. 1265. 1 late. 637. 56. 35.

But this rule applies only when the action is founded on the taking of or injury to the goods themselves.
not when the injury is caused by way of appropriation. There's a generally is suff. 6 B. Tresp. for breaking & entering Proff. wom. 1876, 1878. 1972. 18th C. 1555. 1 Vict. 21. 7 2. B. 313. 3. B. 20 24. Dec. 12.

So a quitt as evidence is suff. if it is made known by reference to other things in the deed. Exp. 216. Sect. Keys on tenuring the bome opers. 6th C. 1 Vict. 116.

or a permanent nature to may be added with a continuance. Exp. 316. 407. 8. 6th C. 638. Pay, 239. otherwise durum, duum. 239. 239.

Laying with a continuance when the acts the act in a continuance not cured by verdict. Unless some other fault in continuance. Exp. 2138. 6th C. 639.

Proff. must state facts or

In this showing a right of Proff. i.e. within our actual or construction. 1758. Exp. 406. 385. 6th C. 646. from. 'Proff. not sufficient. 6th C. 46. 45. 2. 290. 1 st. 290. 3. 156.

Proving by 2. Proff. alone not suff. dict. This was not good even after verdict. — Value must be stated. 6th C. 297. 5. 19. 1 Vict. 129. 1 Dec. 39. 2. 240. 6. 129. 5. 3. 6. 249. 2. 31. 174. 6th C. 588. that value and not be alleged in Prova. omitting amount of value correctly in dict. 6th C. 46. 7 5. Dec. 196. 86. 3. 84.

Evidence of an action
against some party or parties for some harm, is a good plan in abatement. Book 6, 1 Com. 29. 0. 110. 1 Bac. 13. Cont. 96. It is an act of the other action for some harm, is against a stranger. 1 Com. 50. 20. 1 St. 158. 2 173. 2 14. 72. 3 2. 20. 5 Bac. 192. 18. 15.

Say twice not material... Peffer may prove this at any time not barred by Statute Limitations. 5 21. 31. 21. 31. 17. 31. 23. 21. 31. 32. 21. 104.

Says if a person is pleased, self must be known on to the sub 2. 15. 5 Bac. 106. 17. 38.

Peffer by way of aggravating damage may deny in his deed things for which he could not have an action. 3 21. 20. 196. 2 19. 1 Com. 61. 1 78. 2 14. 2 1 Aggravate damages. 3 31. 4 14. 1 2 14. 1 1032.

If Peffer is committed by deed, Peffer may sue a claimant or none or all to ag. as each man separately. 5 Bac. 192. 5. 3 42. 1 2 109.

As to suffering damages, sub. "Agg. 1 Ball."

If an agg. to one is compelled to pay the whole, he cannot obligate the other to contribute. Rule common to all words. 1 15. 2. 8. 1 186. 9 116.

But if it appear from the deed that the Deft Witt another person curtail to the deed in ill for not joining the latter. 5 Bac. 192. 3. 174.

1 199. 1 18. 1 114. 1 199. 2 14. 1 114. 1 199. Later if the Deft (other) is not known, the curtail must be pleaded. 3 41. 5. 2. 22. 1 61. If justification (pleaded by one of sure) shows upon the whole Peffer has no cause of action. Judge cannot go agg. to either, even if one
E, subject to a formal guilty. E. a license fraudulently obtained. E. 1 St. 21. 21. 610. Nov. 5th. Aoy. 1272.

In Eng. "tie it amine," an awar of substance, for at 62, the judge is in case of par- eable injury waa a capita pro fine - in other, P.I. fee a sum of money wages paid out on night the judge was a mis- creecion. 21 Bac. 111. Tine, Arment. 8. No. 39. 2. Darn, a firm after the judge's 81. 408. 2. Bac. 191. Tine. 196. Sal. 636. Dec. 49. Bio. 1. 443. 426. 36.

Now the unit of capita pro fine is taken away by 6. 50. etc. But the P.I. pays a substitute in a lacking judge in acting for injuries with force. Vis. 6/8. in- go the warm of the rule continues. 5 Bac. 191. Sal. 636. Dec. 28. 1377. 985 com.


These defects were by verdict t shall be amended. 21. 400. 1. Sal. 690.

The court decided in 6. 50. that Tnep. t Case might be joined in one suit - no late action - at 6. 2. such a pro fines would be the because every judge 5 would be mepaying. 860. 39. Now the capita pro fine is taken away by 6. 50. etc. Yet the criteria are still over the difference a successor of the judge's 5 Milo. 321. Some in migraung for mispraisement may be joined in 1 Tne 3 Milo. 319. Trep. t Tine not joined, see 2 Milo. 322. 10 Trep. 274. In 6. 50. the rule as to costs may be stiff as to the two cases of action. 2 Bio. 268. 9. The identity or sufficiency of the judge not one universal criterion. What when the judge is gone?
Your are the same, they may be universally joined. 1 T. Rep. 274. 2 Id. 327. 5 Alc. 191. 2 Id. 11. sec. 20.
Triumph on the case.

Aiding in effecting an injury to the person or personal property.

This action lies for wrongs not accompanied with personal which the act caused or injuries. 1st, culpable negligence. B. 74. 3 6 1 7 4. 2 for consequences of injuries occasioned by acts which are conducive. Ex. of first kind of injuries. Thom. Morris v. Nor. Han-ler. Malai powstais. 2d. Negligence in a Bailer. J. H. A. d. K. 2d. 3d. 4d. 5d. 6d. 7d. 8d. 9d. 10d. 11d. 12d. 13d. 14d. 15d. 16d. 17d. 18d. 19d. 20d.

The law on the case is generally found on the case of the H. to the case. 2d. 3d. 4d. 5d. 6d. 7d. 8d. 9d. 10d. 11d. 12d. 13d. 14d. 15d. 16d. 17d. 18d. 19d. 20d.

In both, the form of declaring a common law or make a distinction between actions in the case. A. 1st. 2d. 3d. 4d. 5d. 6d. 7d. 8d. 9d. 10d. 11d. 12d. 13d. 14d. 15d. 16d. 17d. 18d. 19d. 20d.

The law on the case is generally found on the case of the H. to the case. 2d. 3d. 4d. 5d. 6d. 7d. 8d. 9d. 10d. 11d. 12d. 13d. 14d. 15d. 16d. 17d. 18d. 19d. 20d.

If case is, but when trial are in the proper action. Sec. 3d. 4d. 5d. 6d. 7d. 8d. 9d. 10d. 11d. 12d. 13d. 14d. 15d. 16d. 17d. 18d. 19d. 20d.

When there are facts in a fact in a fact, as the difficulty. 2d. 3d. 4d. 5d. 6d. 7d. 8d. 9d. 10d. 11d. 12d. 13d. 14d. 15d. 16d. 17d. 18d. 19d. 20d.

When there are facts in a fact in a fact, as the difficulty. 2d. 3d. 4d. 5d. 6d. 7d. 8d. 9d. 10d. 11d. 12d. 13d. 14d. 15d. 16d. 17d. 18d. 19d. 20d.

When there are facts in a fact in a fact, as the difficulty. 2d. 3d. 4d. 5d. 6d. 7d. 8d. 9d. 10d. 11d. 12d. 13d. 14d. 15d. 16d. 17d. 18d. 19d. 20d.

When there are facts in a fact in a fact, as the difficulty. 2d. 3d. 4d. 5d. 6d. 7d. 8d. 9d. 10d. 11d. 12d. 13d. 14d. 15d. 16d. 17d. 18d. 19d. 20d.
Tramp is the proper remedy, as Cold of ones self, palm imprint.

The difficulty in applying the rules.

The effect must not be instantaneous, to maintain the ship.

Injuries where

not the instantaneous effect of the wrong, but in some cases

caused by that. In other cases, when the im-

mediate cause of the injury is but a continuance of the

wrong, to which no measure is produced by the

wrong, the author is not liable.

The immediate cause is liable. The ultimate

injury is caused in law on the immediate effect

of the wrong.

But when the wrong, cause the injury,

would be by the wrong, the author of the

wrong would be liable, if it were in law only. In

law, the ultimate cause is not

the author. The injury is not caused in law on the effect of

the ultimate cause. But it would be the result of

the immediate cause.
ball which after glancing 10 times, must at last meet the oblong blunt in bow the immediate effects of the original for the proximate cause or ultimate force is but a continuoction of the first force or cause commensurate. Thus therefore the impulse of the injury is not the immediate effect of the weight force (it is not mere the merely physical force) the immediate cause of the injury to ed is the cause commensurate the physical compact done to the hard cells particle but may this be least to actions by masons in such ease always have been substantially as on principles they ought to be case. V I. Rep. 167 8 C. P. 645. Cal. 206. the that have been caused Misc. 4 24. 831. 2 Mc. 8. 11. V I. Rev. 167. 2 ed. Rep. 162. 7. B. C. 599. D. At. Rep. 276. 7. At. M. 699. 2 At. Rep. 276. that the mason's winding is Misc. 3 ed.

Although a stone which compacts a stone in bowing stone to bise the vis impulsa remains without immediate rational agents the bow tacklestb. so if it breaks 1000 times. So if an arrow or bug in the way or road 1 in throwing it hits mv. 5 V I. Rep. 162. Stan. 624.

What in the can but by B. I. of a foot ball. force would be the anody. At all shot at a mark glances it moves. Tense lin. - So in the self same. 3 in turning out a wind or cutting them. Cypria. 2471. In this case the injury is the immediate physical effect of the force continued not notice by in turning for agents. - But if a dog is thrown into the wind it falls over it. Even lin. - not the effect of the weight force continued. loco. I. 244. 1 Calm. 202. Cyp. 579. 619. 8. 10. - So in
In every act of pulling down, cutting them, &c. The force
continued, it is an conjoint act of force. Who of those
alone? As for erecting, the short does not cause the same
act conjoint for it would before the injury took place
Cutting down a kind of roots, &c. in Pulp it is like pour-
ing water on Soffs damage - an conjoint act of force.

When can his for injury occurring in consequence of an act
of force, that might act may be liable to have been done in it
namo this the act is one more descriptive. acind. 3 Scra.
47, 244.

Whether the said act was lawful or not, the criti-
cion. 2 Bl. 409, 892.

Said that can not Dush his when the
act was might lawful. E. v. Short case. 2 Bl. 536 but came
Con act of cutting them, &c. 2 Bl. 479 meaning Pulp
lies not when the evening act was not on 3 the force to. 3 Bl.
18-2. 5 Com. 588. 2 Full. 556 1. 17

This act bunt for a great variety
of now & misprays. 1 Bl. 448. 3 Bl. 52. 122. 1 Com. 132 224
Many of them have distinct titles. From. 465. 614.

A wrong subject for which the action lies on the ground of
liable must be a wrong of duty imposed or required
by law. 2 Bl. 392. E. v. a person of indigent is not bound
to think it safety, of it; v. this wrong act is not liable in
2 Sc. 367. 7 Com. 6. 20 7. 6. 6. 219.

Thus for negligence in
his office a Pulp is liable to one other officers. 6. 5. 244.
in many cases, 1 Cor. 2:15 v. 9. Acts 93. In 2 Cor. 5 a 15.
would be liable to for not selling the product in trade. In 1673. The
may return that it remains in his bonds, and for
profit. cap. 366, c. 233, 1 Bk. 366.

As a person performing business for another in the line of his profes-
sion, if owing it carelessly or unskilfully is liable in this
action, but if this business was not professional, he is not liable
for want of skill alone in case of special agreement, but
for negligence he is. 20 Ray. 244. 2 Wils. 359. Esp. 601. But
in case of an undertaking in Physic or Surgery, it
seems that unless the person undertaking make the matter
of it a common profession, they are not liable even for
lost without a special undertaking. 3 Dbl. 122. 66. Esp. 601.
1 Bonn. 165, fol. of the patient.

It lies in great part, a great
one by whose act or culpable neglect, the health of another
is impaired. One that lies a great deal more than in
injured another's health. So for injuring a woman,
producing the same effect. Esp. 610. 1 Rom. 90. 536.
122. 1 Bonn. 166. 70. 95 52. Aust. 153. 3 Bk. 182. In, if he
did not know it to be harming, 1 Bonn. 166. 1 Rom. 90. 2 Bk. 5.
3 Dbl. 166. Sample in many cases that provisions not on good
1 1 Petr. 110.

For mischief done by a dog or horse, if addicted
to such mischief, it was liable. Having notice, not with-
out such notice, 1 Bonn. 350. 1 Bonn. 208. Judg. 40 if
notice is not alleged. 166. 3 Bk. 152. Luther. 40. Esp. 601. 2.

For injuries done by animals for nature of beast, with
If a timber plant on B, prof. B has cam. in mut. 2 40 Bl. 2 31. E. J. 689, c.

34 days for obstruction, i.e. hindering one from the free enjoyment of his rights of some kind, generally an incipient right. 3 P.B. 266. 21. 1 Ben. 129. 9 bl. 117. 3 Lez. 266. Bro 8. 245. 1 Vint. 275. 2 ib. 166. 2 Rob. 104. 6 19. Obstructing a right of way — obstructing a watercourse. 2c. 8. Str. 5. 638.

For an escape either in form or in fact, proofs the act lies ag. the shiff. V. Proc. 245. 1 Shaw. 176.

At b. I. the only action ag. shiff. in either case was Trup on this can (it) now by Stat. Mat. 2. 2 1 Rich. 2. Dett.


When the prox. under which one is arrested is void no act for escape lies ag. shiff. from if erroneous only. Esp. 609. 9. Salt 279. 8 2. 188. 5 76. Key 148. Esp. 659.

The nonparance of Det if shiff

Himself only liable for misparance of that. Both he 2 Det liable. 84. 59 no escape on byssing an unit. Esp. 603. Bro. 173. 8. 15. Doug. 14. 505 405. 2. D. Mod. 32.

If a shiff having assenten
one in a main process, refuses to take suff. bail, when because
he is liable in base, but not in Truf. - not a trespass at iniect.
The abuse of the authority of the laws being negatim. &c. 140.
148, 96 St. 23. b. 1 Bar. 206. St. 6. 20 &c. 214, 215. V. Mod. 31. 86.
146. 147, 148. St. 187. 124. 127. 56, 57, 58, 218. 220. 221.

This &c.

also ag t. receivers of any taken in a main process, in favour of
the orig. Plf. Bul. 62. 6 Mod. 211. Inst. 311. 8 T. P. 127. bom.

Any money given the whole estate be or not. Expenditure upon

So it lies for money taken by final process, in favour of
Proceeding ag t. receivers discharges Defl. according to Espl.
610. So in this case in favour of Plf. Inst. 94. 513, 399.

It lies for Defl. ag t. a person escaping with an issue in a main
pro. if that the Defl. himself has not been sued. Espl. 612. 3. b. 6.
53. So ag t. Defl: in favour of Defl. rect. Espl. 613. but not in
favour of the part unless the escape be voluntary. Lex 6. 53.

But the Defl: cannot maintain the action ag t. the party es-
caping even the Defl. has recovered ag t. him for he is not li-
able to Defl. by law but on this cont. Espl. 613. Lex 8. 324. The ing-
in to Defl. & Party, not to Defl:.

All liable to this action for ag t.

But as misconduct, injuring their clients. Espl. 617. 2 Mod. 325.
Bom. 2960. 5al. 86.

Defl: sometimes liable too to adverse party
In the first place, it must be acknowledged that in the case of a breach of trust, it is the duty of the person to whom the trust is given to do all in his power to recover the property. However, the question arises whether the duty of doing so is owed to the person who is injured or to the person who is responsible for the breach of trust.

It is important to note that the duty of doing so is owed to the person who is responsible for the breach of trust. This is because the person who is responsible for the breach of trust is the person who is legally bound to do so. Moreover, the duty is owed to the person who is injured as a result of the breach of trust.

In the case of an action for negligence, the question arises whether the duty of doing so is owed to the person who is injured or to the person who is responsible for the breach of trust. This is because the duty of doing so is owed to the person who is responsible for the breach of trust. However, the question arises whether the duty of doing so is owed to the person who is injured as a result of the breach of trust.

It is important to note that the duty of doing so is owed to the person who is injured as a result of the breach of trust. This is because the person who is injured as a result of the breach of trust is the person who is legally bound to do so. Moreover, the duty is owed to the person who is responsible for the breach of trust.

In the case of an action for negligence, the question arises whether the duty of doing so is owed to the person who is injured or to the person who is responsible for the breach of trust. This is because the duty of doing so is owed to the person who is responsible for the breach of trust. However, the question arises whether the duty of doing so is owed to the person who is injured as a result of the breach of trust.

It is important to note that the duty of doing so is owed to the person who is injured as a result of the breach of trust. This is because the person who is injured as a result of the breach of trust is the person who is legally bound to do so. Moreover, the duty is owed to the person who is responsible for the breach of trust.
for actual point of his own & Martin is liable to an action

Ann Knapton has
the property of these goods lost for want of that degree
of care the law requires of them. 5 B. & C. 103. 5 B. & C.
Esr. 178. on 15. Not liable for goods stolen by guests hurt
in companions, or taken by publicceremonies. Viz. Bart. 56.
5 B. & C. 76. 7. Ann Knapton.

The action lies for deceit in sales-a false
warranty or a false affirmation. 10 B. & C. 35. Ev. Affirming
want to be more than it was. 1 B. & C. 22. Warranting goods
such a valuer de. 1 B. & C. 166. 7. 1 B. & C. 22. 1 B. & C. 20. Esr. 624.
6 B. & C. 2 B. & C. 22. to promote in the sale of real estate. 2 B. & C. 122.
6 B. & C. 384. 2 B. & C. 366. 2 B. & C. 173. Gurn. 7 B. 65. 73.

...not the ag 8.2 accursed for false affirmation when vendor
has been guilty of neglect as vendor might have easily
learned the true value de. Ev. Vendor affirming that it
would give $100. If the defects are visible, a good war-
renty is strictly not to them. Esr. 624. 0. 2 B. & C. 118. Paid
10 B. & C. 110. 1 B. & C. 24. In like not a strict warranty
put to this case. 1 B. & C. 170. 2 B. & C. 165. Good warranty of
a horn horn good after verdict this he had but one up
1 B. 11. Is it his for actually disguiseing known defects.
Esr. 624. 2 B. & C. 5.

So when vendor maketh fraud by
false affirmation or to his title to the goods sold, Science
in this case said to be no offense, i.e. when fraud is the gist.
Science ensueth in slander. B. & C. 110. for the law Esr. 624.
So it lies for injuries occasioned by any false affidavit made to and by the person making it has no interest in the fund. 3 T. R. 157.

So for injuries done by altering or falsifying an oath. See false oaths. Proceedings, etc. 6 Esp. 633. Mod. 583. 2 Esp. 90. 

If by a wrongful act, make an innocent person liable even to a 3° Term liable to the person. Ex. I cheat, cut off 13° land of his and subject it to damages. Term liable to him for the promise. 2 Rob. 258, 256. 6 Esp. 325. 1 Pull. 100. Barth. 34. 4 All. 3. 2 Term. 282.

When a public right is obstructed or violated to the injury of an individual the courts must maintain the. 6 Esp. 670. 93 it be must state it shows special damage. Ex. S'iff or inhabitant of a certain place had a right to keep a ferry toll free. This person injured to carry him. It is true the action stating the common right but not laying special damage does lay not. 1 Rob. 72, 50. 2 Barth. 198 40 of a public nuisance occasioning private damage.

So it lies for an injury not from a nuisance in quick. Ex. obstructing a street light. 285. 126. 1 Tent. 109. It must stand that it must have stood time immemorial. 2 Rob. 176. 6 Esp. 118. 48 159. 6 Mod. 116. Miln. 1st. 20 7th. suff. 20 Esp. 143.ations of app't 2 Hams. 175 29th. 1 Bl. 8. 200.
If a man having built a house on his own land, sell it, then in no case person obtaining under him may erect any building which will stop its light. An injury in execution of his own grant. 3 Bl. 217. 961 58. 63. Matter of negligence.

A house built on a street is on the site immediately entitled to the privileges of an antiquated nuisance. 3 Bl. 217. 961 58. 63. Matter of negligence.

One action of damages for a nuisance is no bar to another (as in an overbuilding). 3 Bl. 217. 961 58. 63. 18.

Every continuance of it is a nuisance. The author of a nuisance does not discharge himself by having or enjoining from acts for injuries occurring after the act. 3 Bl. 217. 961 58. 63. 18.

The action is agst apportion or uplift when the continuance occurs as a new nuisance. 3 Bl. 217. 961 58. 63. 18.

For obstructions affecting rights action lies both in favor of uplift for years since its erection for it is an injury both to the present enjoyment and in execution. 3 Bl. 217. 961 58. 63. 18.

For the action lies for overhanging a half house or land in front of it. 3 Bl. 217. 961 58. 63. 18.

So for erecting a spout or tank. 3 Bl. 217. 961 58. 63.

So for erecting a spout or tank. 3 Bl. 217. 961 58. 63.

So for erecting a spout or tank. 3 Bl. 217. 961 58. 63.
Injuries affecting another in the relation to others of the same kind, parent child, master have been treated of. "Dom. Rel." Est. 646. 5. 6. 9 Am. 7. 8. 9. 35. Parent - 9 Min. 18. 3 Ann. 1878. 2 9 Rep. 188. 1 9 Reg. 102. 10. 10 9 9. 169. 2 9 9. 5. 12. 3 9. 9 Rep. 5. 4. 2 9. 9 Rep. 387. 3 9. 9. 1845.

The act itself is not in their cases have been in some trespass, but they are substantially actions on the case. Est. 646. 5. 9 Reg. 102.

For the other persons injuries - If a legal voter tenders a vote, if the returning officer refuses to accept it, 9. 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9. 9. 9. 9. 19. 3 9.

If a candidate for an election officer may win this action agst the returning official if the latter refuses to take a count of his vote. Est. 646. 5. 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9.

For a candidate for an election officer may win this action agst the returning official if the latter refuses to take a count of his vote. Est. 646. 5. 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9.

But it is held that it was not for a false return of Members of Parliament if the right is not determined in Parliament in favour of iff or cannot be determined as in case of depopulation. 9. 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9.

It is held that it was not for a false return of Members of Parliament if the right is not determined in Parliament in favour of iff or cannot be determined as in case of depopulation. 9. 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9.

If false return of iff or cannot be determined as in case of depopulation. 9. 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9. 9. 9. 19. 3 9.

For false return of iff or cannot be determined as in case of depopulation.
on this subject, an action may maintain their actions at
such as print his works i.e publish without his permission
2 term, 2364.

any person employing another as a measure
for his miscreant neglect in doing the business, to the
for injury in this action, i.e. when the injury is remediable
by Sears. Otherwise, he is liable for trespass; a remedy not
adapted to the injury. 2nd 630. 2nd 739. 2nd 1441. 2nd 1803.

for obstructing process. But if one offer is frustrated by a strange
from executing process, as by removing the goods of the
right, left or locking the right, 2nd 928. done, can lie for this
offer or Def in the process. 6th 5. 926. 560 938.

In declaring
in case, no prima facie form of wrong necessary - as there is in
specific or general actions. 2nd 5. 193. 2nd 541. 2nd 549.
As to the action, be good with "Done Reed."
The definition by fiction always supposes a prior law; fully paid. But the action lies as well when the h. is tortuous. 5 B. C. 256.7. T. 590.1. Wis. 31.1. As when lawful; the gift being conversion; it may consist either first in an unlawful taking. 2. in an unlawful use. 3. In an unlawful detention. The evidence of conversion in those cases is direct, must be a misappropriation to constitute conversion. Esp. 590. 5 B. C. 257. 2689. 1 Sel. 635. 1 Bell. 6.

The tortious taking is itself a conversion. 1 Esp. 689. 5 B. C. 257. 1 Sel. 264. 2. II. 265. 1 to diminish or carry away thing of the kind miscarrying. Esp. 580. 1 Sel. 126. T. 6. is concurrent. B. C. 256. 7. 584. 3.

B. By our unlawful put use — This supposes, also, lawful. By using a thing found; bailed, etc. etc. 5 B. C. 257. 1 Sel. 221. 6. 219. This is am assuming to dispose of the goods of another, or if they were our own. When the taking is tortious, there must be some evidence of an actual conversion as in the last. 1 following E. 5. Esp. 580. misusing a thing entrusted to our own care or found; etc. is an unlawful use in a conversion. 1 Sel. 221. Ex. a canning of a box of goods, which it open or steal it. 2 Sel. 265. 2 Bull. 212. 2. T. 264. 2. 3. Throwing paper found into the water, etc. 6. 219. 3 Sel. 153.

If — Bailor of goods absents them. T. 6. is concurrent with. T. 6. = E. 2 Sel. 57. 5 Sel. 15. 2. Bell. 555. 5 Sel. 581. 1 Mod. 248. Bailor extinguished. — Drawing first of a tank of wine and filling it with water is a conversion of the whole. Esp. 581. 1 Sel. 221. 7. 576. Assuming the

What immortal curiosity of a thing is not unlawful?
Unlawful detention - is a conversion or if the Def. fully refuses to deliver on demand if indeed there has been no actual conversion or by using, selling, destroying &c. a demand refusal are not necessary to the right of action the theft itself was lawful. Esp. Dig. 589, 90. 1 Sid. 264.

But an refusal to deliver on demand is not itself a conversion or unlawful detention - for it may be justifiable. See not suff. evidence of ownership accompanying the demand. Esp. 570. 2 Bul. 312. B cerc. 524. So Def. may have had a lien upon the property if evidence coming to 2 Show. 161. Ray. 752. Esp. 582. 2 Blem. 936. 2221. So it might have been destroyed by no fault of Def. or lost or stolen. Sal. 655. Esp. 570. 2 Sid. 262.

A demand refusal then provides only evidence of an unlawful detention or conversion. Esp. 570. 2 Show. 161. 383, 155. 2 Show. 179. Sick. 15. Only known for evidence. 10 516347. 57. 245. Harris. 23. Blem. 1243.
defence of goods for no use or them for his service & trouble
V. & 18. 254. 2 20. 8. 117. cannot justify a detainer.

For the goods of another puts them into the hands of a third person
into the command of the owner. This is conversion. 1 581
1 20. 260. Such is liable for a conversion by himself to
the use of his master done by his mistake under 582 26.
1 16. 22. 8. 1 5. 22. 2. 7. 2 14. 82.

As timber
Brum. 1 7. 8. 22. 59. 2 3. 31. 2 20. 2 24. 2 26. 2 28. 2

If goods are sent by AB to BC not to vest in BC, but to answer
other purpose for which cannot or answered - it may remain
for them after demand. 5 21. 2 15. 2 7.

Suppose it finds the
goods of BC obeying them - may it on notice, to deliver becoming
the value - if then sent upon his right, how 1 5 8 2 2 4 2 2
for most questions. Analogy to case of administration played
1c. 3 5. 26. 2 2. 11. 1 5. 10. 66. 8 2. 3. 14. 2 54.

It is not necessary for AB to have the absolute ownership of
the thing for Boston may maintain the action as a person
having the goods property. 5 22. 2 26. 2 26. 2 56. 2 2 26.
45 24. 214.

So a tenant having specks property may perhaps in
all cases maintain the action ag. a stranger. 1 20. 14. 22.
2. 20. 116. 1 22. 21 2 18. 1 2. 2 20. 2 2 2 26. 2 5 8 2 2 26.
2 2 2 26. 2 24. 2 25. 2 14. 2 54. 2 7. 1 20. 3 2.
As a thief who has taken goods in 38 may maintain it. 1 Ch 28. 39. 30. 42. 1. 47. 42.

So upon for years a man driven down may have it ag 3 strangers for the thieves. Bul 33. Esp 577. Okt 5th. prop 3.

So prop gives a right to maintain the action agt all the world but the owner. Ex whom one finds goods. 6 esp. 577. 19. 21G. 505. 777. 38. 33. This gives him a kind of property which will support the action agt the peace. 6 esp. 819. 12. Sam 27. 2. 5. 50. 26. 3. 338. But the prop must be acquired legally or under claim of right for if gained without claim of right it gives no shriek. 8 esp. 577. 3 W 33. 2 Sam 27. 2.

Wrong of prop is suit to when theft having goods of J S was obliged to deliver them to 1 iff. 1 iff action long. Esp 577. 189. 60. 50. 219. 1. 222. 1. 240. 772. 9. 180. 60. 60. 60. 60. The iff must be prop. 2. Sam. 27. 2. 1. 47.

But a property of anything is necessary for when iff had suit an oven for goods to be delivered to his such to the thief man deliver them 2 rest. It may then lay ag 3 the prop in favour of the purchaser for no property in purchaser for want of delivery. Show if they bad been delivered to the rest. 38. 33. 18. 10. 15. 57. 57.

An uncertain

But theft may maintain it ag 2 strangers 1 iff. 44. 140. 3 esp 39. 140. 1 esp 577.

Omen. Esp 39 could not maintain

Act 377. Sec. 60. 2 vb 164. 'Held that amount of com-
pensation in Intestate lifetime is supported by proof of taking in
his lifetime during afterwars—on the time of bringing up
on the knowledge of such—what then? (Comm. 216. Exp. 59.) Sec.
60. Was not the taking intimated? Exp. 59. 1 Matt. 260. 'No court
assiduously the conversion complete in Intestate lifetime.

Bailey right is said to be founded on his own liability to bailor
as if so at all—on the possibility of his being liable to
the always exist. 1 Bac. 213. 70. 5 Tim. 164. 5 262. 1 Cor. 287. 5
29. 10 Cor. 216. Judg. property, doubled in award of
Deposition & Bac. 165 pl. 22. Is not the actual profit which
the stuff? Besides, he may be liable. No bailor liable in
all courts—Policy.

If on delivery to the goods of A. B. a bailor
by delivering them back to bailor exonerates himself from
his claim. Such demand is offset to bar an action.
1 Bell. 693. 4 My 137. 'Suppose shift blaming the profit to be
the bailor's refund to action to be him— is not this evidence
of unfaithful discharge.

Sec. 44. by bailor sues to bailor of his action
in the prejudicial device vice versa. 12 Sec. 85 Bac. 165. 263.
2 Bell. 589. Commencing the action attaches, at fright of
wrong but either may have an action for his special
damage. 2. 2. 95. Analogous to appeal of probity by morta
or death, he who begins first, see 2 2 Bac. 559.

Bailor by suing
wrong thereby exhaust bailor—he shott his remedy 2. 2. 95.
Of bailor was first, he make, himself liable to bailor.
Said, 1260. 69. that he who has the special profit shall have it; the act is the action against him who has the special profit. 70. 

Chap. 12. Sec. 6. 7. 17. &c. What a buyer may have by such act on the case of money special damages. 5 185. 266. Other 

First, or Prior ag? & Builds? The action is not for the loss of profit, but of the use of it. Of the special interest - the value of the 

inquiry is not even prima facie for the use of damages.

Returning the goods to 574 after conversion does not vest his right of recovery - Mitigate damages only. 65 13. 5 185. 266 6 Mot. 212. Sec. 148. 1 boro. 224. 1 Ch. 5 185. 266. U. 9 185. 266 6 T. Rep. 696. But when the conversion consists in a taking, taking - if slight, delivers it on demand; no damages for the taking - that is received in this action. B. 31.

More in Divo - the property converted in 574 except when it has been returned. 65 13. 1 Ch. 5 185. 266. 

Act. 1076. 5 185. 266. 

If a minor receives any to a stranger as a gift box to the action. 65 13. 1 Ch. 5 185. 266. Remain 

in but not recovery. Act. 1076. 

So a minor in ind. but the profit having been sold is a box. 5 185. 280. L 27. May. 1417. 

So in 576. when an agreement. 65 13. 5 185.

Against whom - Youngful Taker & Buyer & Finder to. 

So first.

Gent. A. A. The owner of profit mony in England in 574 travels - not only ag? but also subsequent to the 

sale even a bona fide purchaser. Act. 1187. Sec. 5 185.
Finds on sales of goods. 1 Mt. 8. Exch. 577. 1 Cal. 283. 1 Chon. 158. 1 Bac. 237. 5 d. 260. b. Provided the sale was not in market or at - or if them by comin. 2 Be 255.

Except to goods sold on credit or as relates to others than first taking, in case of money of bills of exchange - Drawn for these can be sold only as first taken, by reason of compliance. Then they have been paid over to a 3rd person or bona fide pur chase - reason of policy. (Chap. 259). 1 Lact. 14. b. 182, 738. Case in finely in case of a bank not stolen. If? Away from sold case. Exch. 580. 3d. 3 Bac. 151. b. 1 Be. Rep. 285. 1 Rom. 111. A. L. 2. 257.

For what? personal chattels in goods.

The action lies for choses in action of any name the only evidence of property. Rate was not to be alleged. Exch. 55. b. 190. 262. b. 265. 1 b. 725. Com. 219. Lact. 182. 283. 652. 1 Rul. 5 l. 20. 1 Port. 125. London 117. Exch. 543. 2 Be. Rep. 108. To for title over in.

If lies not in goods or on animal fora motion. As if confused (what) 256. 355. For such reclaimed animals it does not anchor. 1 Com. 219. 1 Port. 5. 5 Bac. 263. 3 Exch. 86. 1 Port. 282. b. 2125. This for some animals as dogs. 1 Port. 263. As in some cases the not reclaimed being merchandise local. In Money. (Por. 257). b. 262. 5 Bac. 262. 1 Com. 219. It can not lie for a major slave in Eng? or because 5 Bac. 263. 2 Exch. 46. 3 Exch. 1272. 3 Lec. 158. 2 d. 291. 1 ex. 5 1st 75.

It has not for conversion of a record - not favorite property - such lie often. It does not lie for sale of receiv. 5 Bac. 264. 1 A. 255. 1 Exch. 565.
It has been hitherto that this is not for money or for aught that it might be equivalent as in Altham. 5 B. 5. 638. 61. In late cases holden, that as the object is not to recover in specie but damages only, it does lie for money not under circum- 
stances. 5 B. 644. 1 Gow. 219. 1 Hol. 56. 15. 18 B. 64. 35. 56. 881. 41.

If from court less hurt or money at play than lies by the bank. 5 B. 64. 1 Hol. 122. 136. 53.

Mercantile promises

promises may maintain from after tenor of the money. 5 B. 64. 1 Gow. 124. 1 Esp. 592. 56. 78. 2 Bo. 85. 2 Rob. 916. 13 B. 78. 1 Bl. 220. 1 Hol. 522. 1

If promised on an existing contract promises cannot maintain from the reversion. The money advanced to instant sum. 1 To. 155. 5

The action being not to enforce but to be relieved agst the contract. Thorns. An equitable section.

Gift of goods

without form act of delivery does not transfer the property thereof will lie in such case agst owner. he having taken proof. 1 Esp. 577. 1 B. 239. 2 Hol. 50. 18.

without demand is not the gift by hand be a license? But delivering the keys of home when the goods are kept to domes is sufficient. 955. 1 B. 192

Our Text in form or Joint tenor of a chattel cannot maintain this action agst his companion - advantage taken of it on not guilty. 7 B. 586. 290. 1 Day. 301. 1 Gow. 550. 5 B. 280. 1 D. 1 Esp. 658. 1st. 1 Ben. 70 - seems if it be distinct. 1 Esp. 586. 200. 1 B. 363. 8. 56. 1 Gow. 354. 9. 5th unon only agst a stranger. Also in abort. 290. 2 1 B. 135.

Co. 6. 524. 1 Esp. 211. 3 523. 1 Lo. 4. 1 B. 820. 1 Gow. 450.
The action lying for conversion of a personal property, only recovering a thing from another, falsehood is not a conversion. 5 Bac. 257. In taking a cow from its place, carrying it away, Bov. 2, 17. Q. But if the conversion is "perpetual" or in his own good,"rosser's breach. Bov. 2, 17. Q. After insolence. But tortiously taking a thing already secured is a conversion, Bov. 125. 5 Bac. 257.

Throwing goods on board, than a ship — no conversion. 5 Bac. 257. 2 Bul. 280. But must state a place or it is ill in substance. Esp. 588. Bov. 8, 78. Bov. 2, 90. Bov. 50. A. 2, 219.

Delegation in Town ought to show bond in Puff. but stating prop. of it, own goods is suff. 1 Moore. 691. Hard. 111. 1 Bov. 2, 22. 5 Bac. 271.

For wife. 2, 30. 2, 30. 379. St. 1002. not necessary to state demand of refusal.

Time of conversion must be named. In one case for mischief, Judg. was omitted. Esp. 588. 1 Vent. 135. Bov. 5, 238. 1 Bov. 254. Bov. 8, 97. When the time of conversion was laid before the town, the "afterwards commits" held it of the "set," went. In art. the consent of Judg. 3, B. 344. Esp. 387. Bov. 122. 5 Bac. 316.


Said this man.
only two good plans inTown. & Gent. if you & Relate. Esp. 592. 1116. 305. 5 Dec. 276. Many have been allowed. Yulet. 198. 1 Yule. 146. Dec. 1173. Jan. 60. 1078. Sol. 65d.

What a justif

ication may be given in evidence in this gent. if we
Esp. 593. Bul. 48. practice in con. - 4 of Limitations in
con. does not run ag. Thrown out when encountered wit
h traps. Lupt. 6. 9

The English term Replevin is a remedy to recover goods stolen or wrongful
appropriation. In English law, it is a procedure to recover goods stolen or
wrongfully appropriated. The remedy is available only if the goods are still
under the control of the wrongdoer. If the goods have been disposed of or
destroyed, the remedy is not available.

Replevin is the taking of goods
chattel, out of the hands of the wrongdoer into the custody of
the party injured to produce satisfaction for the wrong committed. It is the act of the party injured. 3 Bl. 6. Sometimes signifies the thing taken by distraint.

Replevin has not for goods
taken by a man trespassing not sent. 2 Bou. 93. 6 Bl. 333. 3 Bl. 142. post. What is not granted but when security given by
Def. to try the right. If the defendant be in Eng't to sustain the property of the owner is for distraint. 3 Bl. 13. 127. 6 Bl. 125.

If Def. in Replevin do not try the right.
i.e., does not pursue his action or fail in it, the property is
to be returned to distraint who may have a writ of return
Salmond. 2 Co. L. 125. 4 T. 33. 232. 372. 3.

If being returned to
distraint be may kept it till tender of stuff & censure
no longer. 3 Bl. 127. 58. 6 Bl. 157. 6 Esp. 377. Tender of stuff
serves, before distraint, makes the distraint tincture. If before
the imprisoning, it makes the imprisonment or distraint
entire. Not the taking. 8 Bl. 147. 3. 6 Bl. 60. If after
jaunt. For distraint, it makes further distraint tincture, at
issue. Esp. 35. 2 Leib. 20. 5 676. 2 R. 54. 561. I in the last
case Diff may have attaint, or Proos. 8 Bl. 147. 3 sent.
When distress is taken on it is to be impounded in armoury chattle in a pound court. animals generally in a pound court. 3 Bl. 12. Le. 20. 47.

When a distress being in nature of a pledge, it could not be sold. Distress or CP only kept as a punishment to the owner if he were stubborn. 3 Bl. 10. 13. 2 Le. 558. Its have in great measure removed this inconvenience, especially in case of distress for rent. by allowing a sale in certain cases, but not in case of cattle taken in damages for rent. 3 Bl. 10. 13. 4, 65 8. Some others. There was always some exception to the old rule. 3 Bl. 14. 26. 41. 12 Mcq. 306.

Want of Bullion is shown in all as a matter of right. Even the rent is granted with right of distress insuperable. 2 Bae. 370. Le. 20. 145.

The principle cases in which distress may be taken by the law are. 1. A barn of cattle damages present. 2. The mere right of rent. 3 Bl. 67. Le. 2. 26. Es. 360. 3. The barn may be by rent out of a barn, or by chattel. 4. by present. Es. 346. i.e. Distress upon present in complaint made. So Distress may order his Bailiff to come to quittance. Es. 327. Pet. B. 167.

In Engl. suit of Distress lies in all cases where in which distress is taken except when the distress is forced and kept in Wiltshire. This is a distress by the owner of the goods. the latter being carried out of the 30. or can evaluate the which case the Distress is that the goods is on engine, i.e. secured in a distance to a place unknown.

It attains when the right distress having attained the goods. or to the suit of
Replevin, on a claim that they are his own, which claim is on
a claim against him, denies them to. If, instead,
no such claim but the profit is an eavise to. How then can
be no replevin 3 Dig. 149. 3 P.K. 13. 64. 70. 3 Bay 175. 1 of the
shifting till the gold shifting is for the moment. When no
words
steal, he is authorized other shifting cannot be found. See, p. his
say in the suit of replevin 1 Bac. 382. 3 P.K. 172
2 Esp. 327. Bac. 322. 6 Esp. 376. 6 Mil. 24.

II. Of Replevin of cattle taken Damage Peasants.

In this case, the owner of the land has his election to detain him
round the cattle, n to bring Price. But if the shifting other
shifting escapes his action of Price is gone unless the escape was
without his fault. 2 Lea. 91. 2. Summ rule in case cattle
slain. 2 Bac. 179. 12 Mod. 658. 63. 1 Rev. 70. 6 Sel. 248.

Act 6. 2. The proceedings in Replevin now tedious. The suit
must issue out of 6th. 3 This will come to long distance
from the owner. 2 By. P.K. 2. 3 Starb. 52. 3 Starb. 3. The shift is
enables to applying immediately. 2 Bac. 373. 3 P.K. 127. 3 P.K.
138. 13 of 31

Analogies between taking body of debtor's in
bounty cattle and - both pledge, 2 Bac. 354. Demand not
satisfied by cattle, nor by release unless the party imprisoned
is in fault. 2 Both pledge being holden one otherwise 3 Bac. 179. 12 Mod. 603.

The owner of cattle sustained must of nec
safety provide for them unless they take into bond one. 3 Mil. 24.
Every act of Replue for cattle taken, damages present contain, in form an act of Tres. Gen'y, however, Replue in Replue does not reject to return damages, but opposes for the purpose of having deft damages applied. If honest cattle were unjustly taken, Replue in Replue incurs his damages.

The poundkeeper has a lien upon the cattle impounded, for his fees in case of settlement, between the parties. Upon 2d. on to this right as a Replue.

If cattle enter from the highway, immaterial at l. d. whether the fence was good or not (15 H. Bl. 527) because it is unlawful to permit them to go at large in the highway.

For mischief done by animals from a disposition common to the species, the owner liable without notice or knowledge, as a Bear biting, or cattle trespassing. If that committed from disposition not common to the species, owner not liable without seizure. Ex. a dog biting. Ex. 501. 2d. R. 586. The seizure not known able. in or by plea but must appear true or false in evidence. 1 Rob. 44. 46o. 18. Sis. C. 350.

If the owner of land when a beast damages present on the land of its owner he is not liable for charging decent of strange beast to both. Latat. 12o. 5 Beaz. 179.

Defence not allowed to mischief distinguished. 3 Rob. 13. Sis. 5 128. He knows a trespasser at once.

When there is a trust in Replue the 2d may either deny the taking or show his right to take in case of damage.
The gentleman in question is now at Mr. Vint. 249.

Yet Bac. 383. Bal. 52. Upon this issue, claim of profit cannot
be given in evidence. It should be Bac. 383. Bal. 52. Bal. 5. 2Bac.
92. 6 Mod. 81.

If a defendant (in his own right or that of his wife) is
because the tenant was damaged by assault, he is called the abou-
stant. Esq. 360. V. B. 150. V. Dod. 145. If he justifies in an-
other right as Laut. i.e. his P. to make cognizance. 3 B. 150.

Avowery is also in the nature of a plea to the replications. The
replication is in nature of a plea to the avowery.

In this case both

Justice an act. i.e. Duffs. The owners of the cattle seeing for
damage, the abovewright in Eng. 2 for a return of the Cattle.
1 in some cases damage. 4 Bac. 373. 2 Mod. 149. Law 5. 176.

That avowery is in nature of an act subjacent from abovewright,
right to return Indig. for the return of the distress or in
some cases damage. 4 Bac. 373. Esq. 376. 2 W. 117. Bal.
95. 2 Duffs may plead in abatement of the avowery. 2 Bac.
373. 3. abovewright sued not alone with a certification. 200. 6.
50. 798. 1 Bac. 122. 6 Mod. 105. Flow. 263. Aple. 148.

But the

the avowery is in nature of an act. on trust. in 2D 2 2
it is an avow with his fellow. 200. 530. 2 Bac. 373. Esq. 374
for taking cattle damage. Indig. 2D. Abow. He must
make cognizance as Duff of the other. Mr. Jones. 253. 2 Bac.
386. 1 Rolls. 220. pl. 14.

Tenants in common may have several
avowery for rents. because it is in reality. 2D 2 387. 387.
As to Distress for Rent. Claim the landlord might take as large a distress as he pleased. That had no meaning. The word by the landlord, s. 52, ch. 3, a special action on the case. 3 B. & C. 12. 3 C. L. 28. v. 104 (Anns. 857.) (Plr. not maintainable.) See s. 59. In this case it being no injury at 6 s.; except when gold or silver being of a known certain value was distrained — in other cases a special action as is proved in this state, is the proper remedy.

Distress for rent is incident of common right (according to 6 s.) in those cases only in which the owner of the rent has the reversion; not when he has no future interest. As in case of rent charge — or where the owner of land conveys his whole interest assigning rent. 4 B. & C. 18. 58. R. 142. 3 C. L. 355. 6 C. 15. 28. But he may have the right by clause of distress at 6 s.
On the right of distraining is by St. 26 Geo. 2 extended to all rents, D. 2 Bl. 43, 3. 176, C. 150.

In case of distrains for rent by St. 26 Geo. 2 of 15th in the action of Replication, plaintiff in recovery has costs, &c. much in damages as is equal to the value of the distrains.
If that is less than the rent due - But if the distrains are equal to or more than the value of the rent due, he recovers in damages the amount of the rent, &c. in the first case. Distraining may have a further distress, 3 Bl. 180, 1 Bl. 58, 3 T. Rep. 349, C. 2 Bl. 131.


2d. In the case of forst property attached, Replication in this case is made an accessory suit, not hearing on the replication suit, but in the attachmt. D. 257.

It is rather a "conditional suit," requiring the offender to deliver the goods, &c.

By this suit, &c., it is returned to the owner on his finding security to present it & to answer such damages & compensation as shall be on the adverse party, &c., shall recover. St. 26, C. 177. The security to procure the replication, &c., is mere matter of form.

This suit brought in good policy. That the claim need not be dispossessed of its first. In a long time on attaching is but for security, the suffer no injury, Sec. 215.

Replevying in some manner supervised by rescripting,

Magistrate taking the bond acts ministerially. He is liable if bond is insufficient (but not if the bondsmen is exonerated at the time) of the action may be brought against the surety, &c., the surey, &c., suit has been brought against the pledge, &c., C. 176.
He becomes surety in this case, sues for the whole debt, as in Eng. If he does not sue the amount of the bond taken as in the case above (1 N. Bl. 76, 3 Co. 307, 2 N. Bl. 527) the case may lie. 1 N. Bl. 76, 3 Co. 307, 2 N. Bl. 527, c. 36.

The case in N. Bl. is stronger than a similar case here - Bond in Eng. brings for a return of the goods. Esp. 348, 37 Eng. 336, 21 D. R. 183, c. 2 N. Bl. 527. The act is loan. Bl. 60.

Clear construction whether

the action would lie - Bond in Eng. doubles the value of the goods. Bl. 60, 2 N. Bl. 36.

Questions whether whether certain profits is taken to a small amount I refused the bondsman is liable for more than the value of the property. No decision else by order from the courts of this state. But the words of the statute imply - analogy to case of receiver, man who is always liable for the whole unless he delivers the property. Decided contra 21. 3 R. 235, 2 N. Bl. 527, Esp. 348, 2 N. Bl. 526, c. 36.

Instead

also whether the bondsman can discharge himself by surrendering the goods after pledged? For Def. in Def. 3 R. 235. This question difficult in some measure (i.e. as far as it is affected by the extent of his liability) upon the former - how far he is liable? Not like the case of a receiver, man is bound only to deliver, not like bondsman in Eng. unless who engages only for the return of the property. In cannot he come, sues.

If the first

of one is attached for the debt of another, he has not an act of Replication - but he may have Teils. For Replication in this case is not an additional suit. In one can reply on

 lui him a party to this suit. He has no suit in the goods. Bl. 348, 37 Eng. 336.
To it seems, Repulsion is not the proper remedy, for a man Dispelling not according to the laws of Eng. it being grounded on a mistake. Bus. 53. 6. 5. 145. 15. 3 13. 146. 7. 2 Law 89. Tax. Bull. 52.

If cattle of a Tenor sole is discheived to the manner. But this alone may sufrery for profit is never bought by intermarriage. Esq. 375. 1 Pisc. 51. 1 51. 53. But if the wife join it is good after verdict for possession will be that they are joint tenants. Esq. may reply the dishes taken from Postula. Andt. supra.

If the goods of such are discheived, they cannot join in repulsion, injurious being proved. Esq. 2. 14 5. 6. Esq. 374. Bull. 53.

Goods discheived in a foreign county, though that man cannot be repulsed them. Esq. 372. D Skirn 91. The captives might be lawful then.

Repulsion of things personal only out of sufrery of land. Esq. 372. 1 Pisc. 385. Tax. 15. 68.

Repulsion is founded on the sufrery (i.e. sufrery) of property in the Paff. - Though it is good sufrery in abate in tenor that the property is in a stranger, Esq. 357. 2 Pisc. 372. 2 Pisc. 92. Com. 44. 11. 13. 94.

Debt from war of Trps. (Bull 53) where Paffs. takes as sufrery for in Repulsion the Debt is in fact like dispelled by the Repulsion itself.