Municipal Law. (No 1)

The law of Nature is the unexplained law of God as discovered by reason.

Law of Nations is in truth the law of nature applied to sovereign States or Nations.

Municipal law is the Rule of civil conduct prescribed by the supreme power of the State.

1. "Rule. It is "permanent, uniform, & universal" i.e. 1 Bl. 44.5 as far as it extends, in other words general not personal within its own limits. "Permanent" not transitory, but containing either indefinitely or for a certain period.

"Of civil conduct"Natural Law is a Rule of Moral conduct. Municipal Law a Rule of Civil conduct. "Natural law prescribes the duties which are 1 Bl. 45 necessary in a state of Nature or unorganized society of a Government. Municipal Law prescribes those duties, which are Required of us as members of a Nation.

Municipal Law -

Prescribed "Not Retroactive (1 Bl. 45-6) Difference between Retroactive & of post facto Laws the latter are always penal laws the former either penal or Remedial.

3 Dallas 386
391

Bull vs Calden
sup 6: 317 U.S.
Interpretation of Laws. 1st Words to be understood according to their most common acceptation.

Terms of Art according to their acceptation among the learned in the art.

Words are dubious context to be consulted. Thus their meaning may be established by their connection. Preamble often useful. So to compare the law with other laws relating to the same subject.

Words always to be understood as having reference to the subject matter.

Effects & Consequences of different constructions to be regarded.

Reason & spirit of the law consulted extra materiae.
This unwritten law is called unwritten because its establishment is not set down in writing, but it derives its authority from immemorial usage.

**Common Law.** is a customary law common to all the Realm or state, & not confined in its operation to any particular district.

The Common Law depends for its support upon its reception from time immemorial. An usage to be immemorial must have existed from the accession of Rich. II. but this distinction will be found of little use for many parts of the common law have been built up since the time of Rich. II. Moreover the late decisions on new subjects are considered as evidence of what the law was at the accession of Rich. II. i.e. in theory. The main point of fact this change is of small importance.

The Evidence of this Common Law is to be found in the Records of the Courts of Justice. Rules of Practice, Judicial decisions & treatises of the lawyers. To be interpreted by the judges of C. of Justice. They are the Depositaries of the C. & are deemed as official to know it. Judges do not in theory make the laws, they merely declare what the law is.
Common Law

18th. 70

These decisions form what are called precedents. Precedents are only evidence not conclusive as to what the law is but precedents are to be followed unless it is found absurd or unjust.

It must be followed unless good reason can be shown for it. The case must not be one which the party objecting to the precedent. A decision in a former decision of the same court will afterwards come in question.

How did the Common Law originate? The notion of memorials usage is mere fiction. The Common law was laid up in the courts of justice. They cleared it of all written. The expression "act done by prescription" is sanctioned by the supreme power. This "rule is sanctioned by the supreme power as it is strictly acquired as by the legislature.

Modern decisions in any case are decisive only evidence of what the law necessarily has been. By the rules of the law merchant. The law of doing wrong, there were not known until being after. Rule 21.
The correct state of things... one phase from the be...
Dec 25
From
To

Dec 26

Dec 27

Dec 28

Dec 29

Dec 30

Dec 31
Construction of statutes

The rules of construction were intended to enable
courts to arrive at a correct interpretation of the laws.
In the construction of statutes, especially Remedial statutes, three things are chiefly to be regarded: The Old law, the mischief, and the remedy provided by the new law. The construction of the statute, as to remedying the mischief, is to be determined by the remedy. The Judge consults the mischief to determine the remedy. The Judge gives the Old law and the mischief to his Bar; he may give the true construction to the remedy. The Rules given (Page 243) for the interpretation of laws apply to the construction of statutes. (Vide ante) and 1 Mec. 57, 60, 61.

Here is an established distinction between the construction of Penal and Remedial statutes. Penal statutes are to be construed strictly; i.e., according to the letter. This Rule is not correctly expressed. The true Rule is this: that penal statutes are to be construed strictly, as against the party accused liberally in his favor. E.g. supra. No person can be adjudged to be within the purview or penalty of a penal statute unless he is within the letter of it. So that a party to be punishable under a statute must be both within the letter and the Reason of it.

The Only Reason is the Legitimacy of the Law.

In Remedial statutes, the Cardinal Rule is that the spirit of the law must govern on both sides.
In quo any uncertainty of expression in penal statutes does not include those only who are deemed such by reason of any incapacity (as exempted from the punishment of the state by common law) this idios

cumulates to: it is exempted from such as an instance of punishment which the statute prescribes. 1 Newch 44. Sect. 35.

So Tuyn says that the Rule of construction ought to be the same in all kinds of state, and this is true but the distinction is well settled. But a similar Rule of construction, was adopted in the Construction in the Construction of wills. All persons was held to include only those who might convey land at C. L.

When the Reputation of an offense incurs as is usual an augmented punishment the person who commits such offense cannot be punished with the augmented punishment unless he has before been convicted of the same offense and judgment rendered against him.

The Rule results from the established Rule of evidence for unless there has been a judgment against him the C have no evidence that he has committed a prior offense of the same kind. But the Rule goes further when one is prosecuted for a second offense he must have had judgment against him before the second prosecution is commenced or he shall not suffer the augmented punishment: and further he must have been convicted of the first before he committed the second or he shall not suffer the augmented punishment he the Ct consider the augmented punishment as inflicted for the hardships of the crime in prescribing the first punishment.
There are many cases in which a felony is repeatedly
injured by the continuance of an offense. Thus an
of $10 for every month during which the offense is continued
for 56 hours held that in such cases there can only one
penalty be recovered at a time, but this rule is contrary to
the English law.

Hunting 36
H. 45

The rule of strict construction as apt, the subject has not been uni-
formly ordained in England. Thus by St. 25 Eliz. 3, a servant killing
his master is guilty of petit treason & it has been held under-
the St. that if a servant killed his master, that he was guilty
under the St. of petit treason. But these cases are not
returned to be new law.

Kiding 79:10
H. 21:17:19
5. 232.
3. 7:12. 788
1. 4:11. 123.

The penal laws of each sovereign state are in the strictest &
most absolute sense local so that no one can take notice
of the penal laws of another state.

So if one commits murder in
New York - he cannot be punished for this crime in Court
for the murder is an injury agh. the people of New York &
the people of this state are not injured & therefore cannot prosecute him.

But the penal laws of each sovereign state extend to aliens within
that state and indeed to every one within the limits of that state.

1. Maps 116
U.S. V Page
Circuit Ct. of
Court contra to
the 6th Rule

In this state, if an inhabitant of another state steals a horse
in New York & brings him into this state he may be punished
here, also in Maps not in New York. 2 John B 377:9.

This is not a repeated case in Court but there have been
abundance of cases in the light. Ct. S. G. thinks the Rule
in Court & Maps is clearly wrong.
It is said that the bringing of goods into this state is a
violation of the ignorance of dealing; it is a violation of our law
against stealing.

Beneficial theft are construed equitably so that the thief may
may be either enlarged or restrained for the purpose of effecting
the intention of the legislator. Thus the act of wills enacted
that all persons may devise the quit the lot held that under
this act the same count or not devise. It has been greatly depa-
ted in many instances from the latter as to the act of Codic. 3 de
anomalous statute was held to extend to Administrators who
only Executors were mentioned in that provision.

Under this rule not only sentences of clauses but even words
of technical words are construed to mean something else
from what they do generally. Thus the word Void in an act or transaction is
delated Void in any act of the will intended to be Remedied
only by considering the transaction as merely Voidable.
The transaction must be Void but if the act is not to be Remedied
in or out by Remedying or by considering the word Void as meaning
Voidable. It will be construed Voidable.

When a St enables a St to do an act of justice to a party the
St is in general bound to do the act in all cases falling within
the St. If it is apparent from the face of the St that it is to be
left to the discretion of the St. Then the Rule does not apply. When
the St of Wm. and Mary, requiring Costs by which the Defendants
in informations are in certain cases entitled to costs. Hon. 12 Bac. 500.
the St is bound. If the matter instead of being an act of justice St or
was merely a matter of convenience the St is not to be
bound to do the act.
But this Rule has not been intended to extend to Executive Officers, Pen." "

It is a general rule that a St. taking away an Ex. Power is to be construed strictly, because it abridges the Right of the Subject. But this Rule does not extend to the Ab. of Limitation. The Reason of this exception appears to be that this St. is not made for the purpose of abridgment of the Subject's Right, but for the purpose of quelling long [protesting] Sts. It for the purpose of discouraging State claims — it abridges.

**Explanatory Rulings are to be construed strictly. Thus we are not done with me Remedial — for otherwise there would be no end of Explanatory. The St. being construed to explain it is presumed that the Legislature used purposely the words with least conveying their meaning. Where a St. is partly penal & partly beneficial, the different parts are to be construed differently. Thus 13 & 14 Eliz. have been liberally construed so to the civil part, but strictly so to the penal part. The Stat. of Usury is construed liberally so far as it acts on the Contract, & acts that aside but strictly so far as it acts on the Offender.**

This is a rule of construction that different parts of a St. are to be so construed as possible that the whole may stand & take effect. But if these parts are inconsistent the latter repeals the first. But if a St. is altogether inconsistent with the St. so as to render the St. utterly nugatory, the saving is void & the St. stands. A St. Vesting in the King the Estate of A saving the Right of A. The Rules for construing Sts. are the same in Law as in Equity for the object of both is to discover the meaning & intention of the legislation.
Repeal of Statutes

The common law & stat. law are in their own nature repealable by the legislature. When the statute is repealable the common l. Rule is unchangeably abrogated, for the last will of the law-giver is law.

And on this same principle, if two l. are in opposition the former is Repealed. 1 Bl. 59. 110, 287. 6 Bac. 638. 601.

On the same principle, if the former & latter parts of a stat. are in Realp. & the latter must stand, the former is Repealed. 4 Bac 638.

A clause in a st. declaring that it never shall be Repealed is Void. If a clause in a st. providing that it shall not be Repealed unless by a majority of two-thirds of the l. is Void. The Constitution of U.S. is free from this objection. it is a compact between sovereign states.

Our Constitution Requires that 2/3 of the Legislature shall convene before an Amendment can be proposed to the people but a majority of the people may alter it. Else: Is it Liable to this objection?

The law never forms a Realp. by implication. If two statutes appear Repealing one another so as to reconcile them as not to Realp. the former & unless them is a clear inconsistency the former will stand.

It is so that an affirmation it does not abrogate the Common Law. So Litt. 111. 5

But if there is a st. in affirmative terms is inconsistent with same law, 4 Bac 641

No l. Rule must be Repealed. Thus at l. 6 days notice is Required as no affirmative at that 12 days notice is necessary. Thus Repeals the l. 6.
2 Barr. 683. If a Stat. repeals a Statute in any case in which there was already a
Remedy by C.L. the 2d Stat. does not expunge the first, but the
Remedy now is inconsistent with the 2d. Both are good. The Stat. Remedies are
both good. The Stat. Remedies is here called accumulation. The party
may bring his suit to ground at the 1st or on the Stat.

If a final Stat. adds to a higher or lower Punishment, for a given

16 Mo. 337
4 Barr. 206
2 Shars. 50
4 Bl. 654
3d. 18

1 Bl. 89
2d. 25
2 Shars. 50

It is said that an affineation can never repeal a prior
affirmation. But this Rule is also unwarranting or absurd.

These Rules have been given for the convenience of Stat. which contain
no implied clause of repeal. They contemplate merely Stats. which
contain no implied repeal.

4 Barr. 688
1 Bl. 90
Barr. 4d.

If a Repeluing Stat. is Repeluded the Stat. Repeluded by the first. Remains
is Revised.
If a Stat. is Repealed by several acts of the last act is to be
Revised until all these acts of the same Revised.

If a Stat. which has been Repealed is Revised by a statute of the supreme法院 Repealing act it self Repealed. to the extent of
the inconsistency — by implication.

All acts done under a Stat. while in force, but with, is afterwards a B. 638 & a
Repealed suspend., but it is said that a Stat. which is afterwards a B. 638
denied will render by a statute of the legislature is no
justification — but a statute by legislation cannot declare the act
of another legislature void they may Repeal a prior act but
it is the province of the judiciary to declare a Stat. Void. If this
were the case no man would be safe in obeying the Stat. Laws
of his country. Such a construction might make the statute
void. that of past facts.

Retroactive Laws

Law so not to be retroactive beyond it is that if a Stat. of after
being violated is Repealed before the guilt is apt. the offender cannot
pursued. It is made for the same offense he cannot be punished
under either Stat. unless the latter Stat. continues the former Stat. as to
all offenses committed before the passing of the latter Stat. The
consequence is that when Legislatures when they Repeal a prior Stat.
pronounce it to continue that prior Stat. as to all offenses committed under its Court of Convict.

Ex. in case of qui tam forst after action commenced can the Repeal
of the Statutory the Visited Right of the P.S. Rule forst 59,

The Rule is the same in case of the Expiration of a Stat. 638 before
judgment of the offender. as when a Stat. expires by its own limitation of
an offense is committed before its expiration, but if the Stat. is not
pronounced until after its expiration the offender cannot be punished.
But there are cases in which a contract, consequently from a Retrospective Effect, this a contract to be an act which before the day of performance is declared invalid. This is not a Retrospective Law.

In such an instance it has the effect of a Retrospective Law. The contract for it revokes the contract.

On the other hand, if one contract to be an act where a subject makes it his duty to do. The contract is annulled. Yet the act is not Retrospective for the annulment or submission of the contract is not an object of the law and indeed there is a contract condition annexed to the contract that it shall not be performed if it becomes illegal to perform it.

The statute directing a contract to be illegal is afterwards declared by such a contract is made while the act is in force. The invalidity of the act does not make the contract good. Instead this is an universal rule. A contract at mere void can never be made good by any thing of post facts. Ex: under the stamp act of 1765. a note was given which was not stamped. It after the repayment of the stamp, act an act was void if it was held that it did not lie.

Ex post facto laws

2 N Y C 531. 163: If complete performance of a contract is made illegal by a statute may be enforced as if it is consistent with the law. This is a general

1 Part C. 31: While the law in equity to some extent relief may be had at law. The

2 1 P 234: In principle the same at law as in equity but the remedies

1 T 209. 254: At law is not frequently adapted to the case.

Pl. 254.
The Constitution of the U.S. forbids the several states to pass in post facto 6 U.S. Act 1 510
laws by which is meant a retroactive penal laws: It also forbids 4 Whart. 122.
the several states to pass any law impairing the obligation of contract 209.
It has been settled that the resident laws of the states with discharge 6 Whart 13
the debt (unless property was surrendered identical) but as far as they
discharge the person of the debt in they are constitutional. For
this does not discharge or even affect the debt it merely affects
the solicitude of the remedy.

This led Dixon v. St. Regismen that while it is absolutely unjustifiable 136 91
the said 37 is void. Such a 37 has not been vitiates never been made but according to the theory of the 6 2 if there were any such they were invalid.

It has been said that a 37 contrary to Reason of divine law is void. 5 Co 114.
but this is an indefensible opinion, for while it is power that can. 267 7 9
authoritatively pronounced that any 37 of the Legislation is void
contrary to Reason of divine law. More where essential to enforcing
some unreasonable law a 37 occurs a C'ty of Eq. 7. may Remon 139 23.
1 36 21 91
cf. it on the ground that it was not the intention of the Legis-
lation to carry the law into effect under those circumstances.
And this Rule supposes that the intention of the Legislation is clear;
not clearly contrary to Reason or the divine law, the two cases therefore
stand on different grounds. Every legislative act contrary to the written Fed. 4 97.
constitution of a state is void for constitutional law is permanent
to law it is settled that it is the province of the C'ty to determine
the constitutionality of a statute.

If a 37 makes a new Rule concerning an old offense it appoints
a part of the jurisdiction to execute the Law the Court of B R. 2 Salk. 564
is not vitiates if it jurisdiction for the amount jurisdiction of C'ty of
good jurisdiction is not to be vitiates by implication.

1 8th of 9 11 14
9 113
But if a statute creates a new offense and appoints a certain jurisdiction for the trial of it, the jurisdiction of the courts of general jurisdiction is excluded. Thus a statute that creates a new offense shall be a felony or misdemeanor it enacts that every person shall have cognizance. The jurisdiction of the court is excluded. 2 Hale 212 (n). For that it had no prior jurisdiction. Nothing is here taken away by implication—nothing at all is taken away in any manner.

If a statute confers a special authority on certain persons affecting the property of individuals, the power must be strictly pursued and it must appear on the face of the proceedings that their authority was strictly pursued or their proceedings are void. They become trustees for those title in derogation of the rights of third persons and are therefore to be strictly construed pursued.
Municipal Law (No 3)
Authorities confirmed by statute.

The statute enables a certain body of men to do certain things by vote of a majority. It points out that a certain number shall be a quorum. The vote of a majority of the quorum is not sufficient unless it is a majority of the whole. (This Rule applies to the body not to be a corporation.) For each body, see 522.

2. The continuance of the act law is only necessary except as an injury given or necessarily incidental to the power necessarily incidental on such as are necessary to their existence and the preservation of the power necessarily given. Now the power of binding the whole by a majority of the quorum is not necessarily given nor in the case above stated is it necessarily incidental.

If a private authority is given by it to two the authority is joint unless the expressly said that it shall be joint and several. If one cannot execute the authority alone neither does it survive to the survivor of one dies.

But if a public authority is conferred by it upon two or more it is joint and several. And on the death of one the authority survives.

5. By private authority is meant a power affecting merely individuals.

If the authority given by it to several is of a public nature the act of a majority all being present is the act of all.

If the authority given by it to several is of a private nature all must probably concur.

In the case of Corporations the Rule is that of all the corporation are summoned the vote of the Majority of those present will bind the whole.

Actual summonses does not appear to be necessary when the meeting is regularly illegally convened.
The rules on this subject in the books are exceedingly confused chiefly from the want of language. The cause of it has been the confounding of the two "pleading" "counting upon" & "reading" a Stat.

3 Ed Ray 11
221
2 6th 11 Indi
Deft merely says non est pertinent infra se annos. Again to plead the Stat of limitations the Deft merely says non est pertinent infra se annos. Again to plead the Stat of frauds citing the Deft merely says no note or memorandum demin in writing. Again to plead the Stat of assuring the Deft merely says that the Pla agreed to take if the Deft begin'd by it interest to 50.

Counting upon a Stat consists in applying the St. or Referring to it in order. Thus as the form of the St in such case made it necessary to be or by other words adapted to the case as by Virtue of the St. in such case made it necessary.

Pleading a Stat is quoting its contents.

4 Cr. 76.

Of Public stat the Judges are bound to take judicial notice. Therefore it is not necessary to Read a public Stat. The Rule is generally expressed that he must not Read a public Stat. But any one intending to take advantage of a public Stat. must Read it that he need not Read it. The facts with being the case within the Stat. must be alleged.

3 Ed 1236
1 Bl. 86.
10 660 37.
2 Mc. 57.
2 Pelle 466.
1 Boc 38.

On the other hand Acts of Justice cannot take judicial notice of private Stat. A party with meaning to take advantage of a private Stat. must Read it either Without or Substantially. If its existence is denied it must be proved.

Its existence is denied by the dear record & title.

Records
In this state, a man may be defined under a private suit with Municipal Law specially pleading & Resorting it occurs at Common Law but here as well 4 Co. 76 as in England, if an action is lost on a suit, the suit must be pleaded 10 Co. 67 & Resort. The power in Court of giving a private suit in India 2 East 321 under the general issue arises from our suit of pleading, but the private Bac Hs. Statute must be Read in evidence before a Suit.

Suits & when required to be pleaded must not be pleaded in general issue. Where this suit must be pleaded & whether it is the ground of claim or of defence. The reason is that the judges are bound to take notice of public statutes Bac. Hs. 51. 1 Trench 25 510. 4 Co. 76. 10 Co. 57. 2 East 341.

But, a misrecital of a public suit may be fatal even after Verdict. Coke 494.

It is said that if a public suit is misrecited in an immaterial part it is cured by a Verdict.

But this does not appear to be the Rule.

The misrecital of a public suit does not appear to be fatal unless the pleader puts himself up to the suit as recited as by the words to contain form a statute's produce.

But if he misrecites a public suit concludes by counting upon it equally as controverts form a statute. The judge will take particular notice of the true suit & the misrecital hence material will not be fatal.

And in case the party does thus, himself up to a suit it is ill after Verdict.
Municipal

2 M. N. S. 117

P. Ray 312

1531 356

241

5 Co. 596

119 a

3 Sa. 391

Ab 72

It is laid down that a public act to which to be used as a defence must not be specially pleaded, but there are comprehensive exceptions. 1

When it is to be pleaded in defence of a specially the 6t must be specially pleaded in the facts with which the specially and must be specially pleaded for the defence furnished by the 6t. It is not consistent with the view from the limits. If the says because the law states to highly of a specially that it cannot be defeated except by a specially plea, which seems to be no Reason at all.

15 and 26. And instead otherwise the defence furnished by a 6t is inconsistent with the quiet and in the action the 6t must be specially pleaded.

Ch. 7 107

Imple Bill 145

In this state a 6t when to be used by way of defence may universally be given in evidence under the quiet and this by virtue of our set of pleading, but notice must in quiet be given to the adverse party.

4 Co. 76

In declaring on private 6t, it is necessary not only to plead the 6t but also to prove it. The 6t of may be either literally or substantially. the latter is the more proper mode; for the 6t cannot to the judicial notice of private 6t.

16 Co. 57

If a 6t is in part public and in part private, the former must be pleaded and the private must be limited.
But it is never necessary in any case to state the title of real or in

3 Co 38

4 Bae 655 &

any part of the law itself; it merely explains the Reasons why the

4 H 2 655

is made, but the not necessary yet the misnatur of the title on

5 Bae 2 77

frequent in public & may be fatal but there are contranty

Hard 324

of Opinions (same definition as in case of public & equally.

6 Mod 62

vide ante & in the misnatur is fatal when the party lies himself

4 Bar 658

up to the St. as Recited (ante)

6 5 6.

Where by Rules of pleading the Recital of a St. is necessary the Reci
tal of the St. must contain the date of the St. & the place where

2 Hawk 246

it was executed & these are essential for a private. It is deemed as

6 Cro 211

much a private document as a deed or bill of exchange. And a

6 Bar 232

mistake of this kind is fatal on quiet demurror. The document

Brown 674

is not suf how described. It is not identified.

Lynym Dig

act on 6 5.

To the Def. on a private St. the Def. may plead misn. the Recid

4 Co 76

so the Def. when the Def. pleads a private St. for the existence of a

2 Mod 257

private. It is matter of fact. (same public St.) the party pleading

8 Co 28

it must prove its existence.

Cro & 355

4 Bae 655

If then the St. is not plea'd on a public St. & Recites it incorrectly the Defid

8 Co 28

the cannot not plead misn. the Recid for eternity a St. pleaded

Cro & 355

exists or not is not matter of fact but matter of law.
Counting upon Statutes

It is a rule that a statute must not be counted upon as a matter of law in all cases.

1. Bac. 38
2. Bac. 18
3. Bac. 407
4. East 341
5. East 126
6. 1 Vin. 104
7. 7 R. 521
8. 505
9. 656
10. 634
11. 339
12. 334

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It is a rule that a statute must not be counted upon as a matter of law in all cases.
When a public st merely extends an old action to a new case, it is not necessary to extend it to the st. Thus the 24th Edw. 1st reenactment an Est. to maintain trespass and harm he has suffered from the property of the tenant during the tenant's life time.

In actions then on public st not final. Counting upon the st is necessary except where it gives a new action or realises there is a concurrent remedy at coron. law.

If then a st creates a right or duty it gives new damages for its violation there is no aid of counting on the st.

Again when a st not final creates a right without expressly giving any remedy the st may not be counted upon because in both these cases the c. & e. supplies the remedy and there is no other remedy.

If one st merely prosecute one act or illegal and another st prescribes the remedy the remedy must be counted upon by him whose prescription for the remedy was the better one, and for the right of recovery is given by statute of the st alone.

So if one st inflict a certain penalty and another st invalidates the penalty it must be counted upon by him whose prescription for the penalty was the better one, for the right of recovery is given by statute of the st alone.

An officer may be laid in one of the same indictment as agt. Cor. E. and agt. a st, but this must be done by two counts.

The count framed as agt. Cor. E. will conclude agt. the paper of evil example. The other agt. the form of the st.

When one continued trespass is in part a wrong at C & E. and part in wrong by st. Hene may be, but one count. If that st conclude contra formam etc. This will refer merely to the st. officer.
A temporary justice. It has infixed it is continued by a statute or a common law. 

2 East 533. This omission is always fatal even after verdict.

If an indictment or other process concludes with contra formam stat. When the offence was only at C.B. the words contra te may be regarded as surplusage. But in fact this question has always occurred after verdict. On demurrer J.G. thinks that the omission would not lie. He says the demurrer would reach it not being within the 3d of quo warrant. While Repeated a special demurrer in case of objections to mere matter of form in all cases against indictments.

When there is an omission in the naming clause of a statute this omission must be negatived in a complaint or in a suit but an omission in a distinct clause or in another suit need not be negatived. In the former case the omission must only extend to the description of the offence or the Right of action, but in the latter case the omission is matter of defence for the deft. like the defence on a bond. When material if the omission is not negatived the omission is fatal. 1 St. 197.

Exem. by Engl. game laws it is provided that no person not professing such a sport shall kill such game. It shall be alledged that the deft. not professing such a sport shall kill such game it is a distinct clause a mercy that persons having such a profession shall not be within the st.

2 Inst. 1866,
3 Boc. 494,
5 St. 63 Hot. 2,
2 East 533,
Municipal Law

Reading Statutes

When there are two or more Remedies or sanctions one by
at the other by C.L. the party complaining may find his
complaint on either

And in such a case, if the P.Q. takes the C.L. remedy but finds that
he cannot make out his case under the C.L. he may still in the
same suit claim at C.L. & P.Q. at C.L. if he can make out
his case at C.L. & at P.Q. to restrain the trespass in the
right season. A favoring condemnation may be made on the C.L.
but he cannot make out that the trespass was committed in
the right, yet under the suit the P.Q. may recover as at C.L.
The Court will reject the action from new suit as supected.

(The same Rule in cases of public prosecutions) formerly held
that the Rule did not hold as to criminal prosecutions

A strong case of this kind occurred in Litchfield County
on the State of Basham.

Where there are concurrent Remedies at C.L. & at C.L.
mode of proceeding at C.L. Remedy may be found by the at
points out a mode of proceeding different from that at C.L. for
this particular mode of proceeding is considered as the mode
to be pursued unless the at Remedy is taken.

But if that mode was no offense at C.L. is made illegal by at & the
Partition the mode of prosecution - this mode of this only it is
said can be pursued.

Here no Conv. C.L. Remedy is to be resisted

The Rule obtains when the particular mode of Proc. is pros
cribed in the prohibitory or enacting clauses.
1 Burn. 500. § 3 and II. When there is no prohibiting clause in the 5th or any person
2 Burn. 803 who does so shall be punished so to be sued for by information.
805.

In such cases the offense and the punishment are so blended that
they cannot be separated they are created together.

But where the particular mode of prosecution is provided
in a distinct substantive clause the 5th mode of proceeding
may be pursued or any proper C.L. mode of proceeding
4 J. R. 205 may be adopted for an independent clause creates an
offense. With that mode was punishable by any proper
C.L. mode. The subclause cannot exist by implication
in the Kennedy while the C.L. had before provided.

6, Mod. 26 If a it creates an offense there can be no mode of pursuing
1 Burn. 64 it. By the 5th, the C.L. will lend its aid to pursue the offense.
3 Eu. 290 and it will in such case punish it as a misdemeanor.
Doug. 425 Thus it shall not be lawful for any person to do so.
10 Lo. 75 If any one violates such a law the C.L. calls it a misdemeanor.
16 Burn. 553 open the punishment as such.
4. 75.

The Rule is the same when the 5th creates a Right but proceeds
1 Burn. 544. no remedy. The common law will lend its aid to enforce
the Right in any action adapted to the case.

Doug. 425 or 445. To obstruct the execution of powers granted by it is an offense
at C.L. it may be prosecuted by any proper C.L. remedy as
by indictment in 5th case the indictment is.
not conclude contrary from any other: for it is not a statute.
offense but a C.L. offense.
A public officer as such cannot be prosecuted by any individual in his own name for the offense is not the public. The remedy for every wrong belongs to the party injured. In English, this is in such case the prosecution should be in the name of the King. But individuals do prosecute in English but it is in the name of the King. And in such case the informer frequently prosecutes when no informer is to be prosecuted. The informant this is the practice in English, even in cases of felony or the case of indictments. This is the practice but there is no Rule sanctioning the practice.

This practice has never obtained in this state where no informer is to be prosecuted. There is known a mixed species of prosecution partly public partly private, which informer here is in English. *Vejia qui tam prosecution, here the prosecutor always claims some damages to which the law obliets him (the prosecutor).

A qui tam is then a prosecution brought partly for the prosecutor and partly for the King. Here the individual prosecuting is the 2d party, and the prosecution is in behalf of the King. The very form shows this. "Quia tam fove Domine Regi. Quam fore se idem in hac parte sequitur."

*Quia tam* an either by action or by information. The difficulty is that the informer is carried on by each proof by writ due to the latter. Carried on by a criminal process. Via a finding without the debt. To be imprisoned or sent to jail.
A qui tam pros. - The Qui tam power is exercised by bringing a
civil suit to recover a penalty or forfeiture of some kind.

1. Bac. 37. 7. A qui tam prosecution is now used at L. & L. to recover
a penalty or forfeiture given by the C. L. It is used merely
to obtain a penalty given by S. - When the statute makes
an individual the one to retain part of the penalty.

3. Bac. 160. A regular action is one given by P. & P. to any one who will sue
for the penalty incurred by the violation of a moral duty. In some
cases the whole penalty is given to the informer; in other cases
the King is to have it, and in both cases the action
is called regular.

Popular actions & qui tam are sometimes confused, but they are
not the same. A qui tam is not always qui tam as when
Action of E. & P. the penalty is wholly given to the prosecutor, here the action is not
qui tam. A qui tam may not be popular as when part of
the penalty is given to the individual injured by the officer.

If an individual is civilly injured by an officer prohibited by
the statute, he may have his civil Remedy by a civil action on the
Statute, which requires him, to recover only the injury given for it is expressly given for it is explicitly given
by the Statute. This is neither qui tam nor popular.

3. Bac. 437.

4. Bac. 653.

S. R.
Whenever as it forbids or commands a thing for the protection of 
private rights an individual may have an action on the at for 
wrong done to him by its violation. The at in such at it 
severely gives him redress, but in this at the last case the 
action is not qui prime it is an action in the common form for the 
civil injury. Ex private nuisance at.

When a at inflicts a penalty on any one for disobeying another of 
his right or interest in such at if the penalty is not appropriated to 
the person injured by its violation of at it is said the penalty 
thus inflicted may have his civil action such as the at supplying for the at on at 
for enforcing the right or penalty created by the statute. The principle is that each must have been the intention of the legislation.

In what cases will qui prime prosecutions be?
If a at gives a penalty or part of a penalty to any person who will 
not prosecute it for an offence immediately injurious to the public 
only then any individual may have an action qui prime for 
the penalty. The statute severally gives any person the power of 
bringing an action or at least severally gives its remedy to.

If a at inflicts a fine or penalty it then gives a sum certain to the indi 
vidual who will prosecute for it, any person may bring an action in such 
case the penalty the sum certain is recoverable to that person who prosecutes and all above 
the person who brings the sum certain if pays over to the at the at the penalty. All 
then the action is qui prime.
The principle is when not a at inflicts a penalty of any kind and gives to any 
individual who will prosecute for it any interest in proceeding it gives 
the whole or part of a penalty or the reward any one may bring 
The action.
26c. 10P: 100**

When the whole penalty is to be to the party injured &c.

2d. 10th. 77
1. Buse 37 (w)
2. Haw. fid. 265

When a statute forbids an act immediately injurious to the public, only an individual can prosecute on it in his own name under the penalty, or some part of it, or some other recovery is assigned by the statute, who shall prosecute. The prosecution must be commenced by the Attorney General, because the former bringing the action has no interest. Moreover, if done in open robbery or militarily by the St. Nemo in such case can prosecute in his own name. But the King or individual may perhaps prosecute in the name of the King. (see 49) supra.

3. Haw. 77
1. Buse 37
2. Bo. 13, 4
3. Bo. 121
3. 36. 101
66th, 134.

2. Bute. Pl. 77. But if the whole penalty is to be to the party injured &c. Thinks that at 117 (4th) 96 the action shall not be a qui tam. He may have an action indeed on the St. but in his own name and not on behalf of the King.

act 27, 1.

n. Bute. 77. When a statute specially directs all to the penalty to the party injured by the

3. 160; 7. When a statute providing no form of action for the recovery,

Reps. 175
1. Buse 663
3. 1. 10.

of the whole penalty of such action is debt, for the penalty is made a debt by operation of law. It may be also a special action.

on the St., which is called action on the St. act 27, 1.

* 22. Will Debt be where the penalty is not due in money? See Diet. 1. 10.
It was once held in this state that in debits, a sum paid would be to Rees 2 Harr 252a penalty to a st. [New London by dep't.] but it will not be in Eng'.

Carr 792

So a sum paid was not for the recovery of such claim for sum paid.

Eq't. Big 7

is an equitable action. Besides it is not adapted to such a case. Other is no form of an eminent with reaches the case. The stat. is quasi a Record

& quidem has not for a debt due by a Record.

When a penalty is given by st. partly to the King partly to the owe 3 Will 162.

shall promote the King by his proper Officer to sue for the recovery 2 Moz 192

11 Co 65 166

7 116 386.

We have a st. sufficiently sanctioning that the estate may recover in such cases.

A bona fide conviction on a qui tam prosecution either by action

or information is a bar to every other prosecution for the same 3 260 2

offence. This Rule holds 2 convivus as a public prosecution

11 Co 65 166 a

1 116 41

Act on 81 2.

3 260 262

13 100 262

convivus Big. Attach.

Is also a bona fide acquitted on a qui tam prosecution by action 2 260 2 276 2

or information is a bar to every other prosecution for the same

offence 260 2 2 convivus

2 160 392.

But Note The conviction or acquitted must be bona fide. The fact that

it was not bona fide is a good Replication to the plea of a prior convicted

or acquitted.

The prosecution of a qui tam action may be pleaded in 2 160 391

abatement to any subp'n prosecution for the same offence. The Rule is laid down 3 Bunn 1823.

1 160 41

But the prosecution may be pleaded in bar to, but this is abused for nothing.

261

If a quid pro quo is done by a plea not barred it is barred forever.

1 160 269

The Rule how must be the same as in civil cases where a prior pending

action is always pleadable in abatement only.
Under a law of giving a penalty or suit to anyone who will
prove it, no one individual can have an exclusive right to prosecute.

2 Bl 287

2 Haw 390 until the Commencement of the suit; but on the Commencement of the suit,

2 Le 411 he has an exclusive Right to Recover, while Right becomes consummated

Hawt 1169 on the foot of Before the Commencement of the suit then the Right to:

3 Bun 1023. prosecute is like property in a state of nature due to the first

2 Hsb 310: 11 occupant)

Bun 37 -

2 Hsb 310 Where the penalty of a suit is given to a person injured by the offence.

He has an exclusive Right to prosecute.

2 Haw 392. From the Rule first laid down it follows that the King may bar

Bro E. 135 all action by a Release to the offender or by a pardon before suit

583. commenced but after a judicial action commenced the King,

11 Le 656 cannot Release the Prosecutors part. for the Prosecutor has

Hawt. 82 vested in himself an exclusive Right of Recovery by commencing

an action.

2 Blc 437

2 Haw 392

Now in such case can the Attorney General enter a Moz

now except as to the part given to the state.

2 Haw 392. Nor can the King in any way discharge or suspend the suit so as to

2 Blc 437 have the Right of the prosecutor. But Blc says that Parliament can do

this if it does it is because it is constitutional. So Legislation in this Country

can do it, unlike by Revoking the Law.

Dec. Suppose the Act is Repealed or the party in a qui tempos can the Off. Recover: Hence 25
And where the penalty is given to the party injured by the officer, the King cannot sue before action bought. Release the part. 2 Hake 392. If given to the party injured, because as to him the king owns, S. of Ch. 106, the law is, that his right accrues before action. 2 Hake 341.

--identity on Conviction of the Officer. This is true where the penalty is to his account in sedition. The case is like a debt due by contract, 2 Hake 341, the King cannot interfere.

The prosecution in a popular action might at Common Law, Release his part of the penalty after conviction but not before. 1 Rolle 38. Release before conviction. 2 Hake 392. conviction is not to have any effect in barring a suit to action. 2 Rolle 103. for the Cap had no right at the time of the release at least no consummated right. But 2 H. 37 states that no common Recovery in a popular action shall bar a suit to action, 1 Rolle 103. that no Release before or after conviction. 2 Hake 192. conviction having the suit shall have no effect. 2 H. 37. An action of the E. L. for the C. L. in laying down the Rule supposed. 5 & 6 37. That there was to be nocommon Recovery. Therefore that a common Release 1 Bumm 395. will be void at, E. L. as well as to a common Recovery.

By st 15 Eliz. the prosecution shall not commence the prosecution until the debt shall appear in the suit. it shall have placed before it, without leave of the Court. and it is discretionary with the Court to give leave or not. if it is under severe penalties. 2 Hake 397

But this composition when allowed by the Court extends only to the fines. 4 Bumm 1829. To release part. If when the Court gives the leave to compound it is only on common Dig condition that part of the penalty which belongs to the King shall be taken at E. 2 be lost into burst. The part belonging to the King can never be compounded.

And after verdict found leave to Compound is not given except on the ground of the Debt's poverty. Common Dig.

Act 15 E. 2. 56 Eliz 167.
Municipal Where in Court no similar st to those two.

Law.
2 Haw. 292 2. If a Party in a regular action dies - Releases with 10 or
11. Co 65. 6. But after a judgment the State may proceed with the prosecution
9. Co 66 b. or commence a new suit.
3 S. C. 162.

2 Haw. 393 But when the party is given to the party injured by the offense the
Nov. 100. dies to funding the suit the King cannot continue the suit. nor
Nov. 65. commence a new suit. See Dish the Right of action go to the
Representations of the Party injured.

If in each case half of the penalty is given to the party injured & half to
the King, the party injured due funding to. The King may sue for
his suit by the allow of Govt by commencing a new suit.

When several of offenders are convicted on a of prosecution for the
same offense in some cases the whole penalty is Recoverd agt each of
the offenders & in others the whole is Recoverd agt all. see the penalty's print.

Bail
But Nov P. 189
Coo E. 458.
Salk 182.
Rom. 2006
Conpr 660.
2 Com. 329.
B. A. Whit.
Mr E.

2 Est. 573
And II. Where from the plainctory of the 1st it is apparent that the Legislation
4 J. R. 409.
intended only a single servility for the whole. Es. "he or they shall forth way
Salk 682.
V "contrary" if this the wording shall Respectivefying the wording shall each or
differently pay the. The intention of the Legislation where found must understandly
182.
When the jurisdiction does not decide it to be born in mind that at q. 3 each offender suffers the whole penalty. This Rule must of course prevail unless good Reason can be shown to the contrary. While it is to be sought for on the intention of the Legislature.  

3. But in the language of the Act seems to contemplate but a single penalty, yet if the Offence were punishable at Corn. Is. & that the Act is a mis-entente or cumulative, the penalty under the Act will be several. As the Act being only cumulative it must have been the intention of the Legislature that the same offence be punished and punished severally as at q. 3.  

If debt is not however agt several Debtors for the penalty of a ct only one 155. the penalty can be recovered on any of the form of the action therefore Debt & East 559. & not in such case be brought, but a special action on the ct. 3. In this case the debt 1 W. 3. When there are several Debtors the Act Requires a several penalty and it has lately been decided that Debt in such case will not lie.  

Do. Will not Debt lie against one at a time?  

Sometimes any number of continued acts will constitute but one offence in law in such case only one penalty is to be recovered agt him who has committed the offence than continued acts. Ex. agt performing similar business on Sunday, suffices a main labourer not the day for making stocks for meals & this days labour is but one offence. This is a matter of Necessity, on the hand an act may constitute diff. offences.  

In regular actions according to the English law. The Off. is not entitled to costs unless it is indispensably given by the Act. These actions are 1. & 2. 4. 2. Not within the rule of giving costs. But when the penalty is given to the party injured by the offence. The Off. is entitled to costs 1. W. 3. as in an ordinary civil action.  

In this state where the prosecution Reverses he is always entitled to costs.  

Exempted on Costs.
Introduction

The subject matter of municipal law is divided into two heads, Rights and Duties. The former and the latter. First, it is necessary to understand and maintain Rights. The Rights are of two kinds. Rights of persons and Rights of things. Persons are natural or civil (artificial). The Rights of persons considered in their natural capacities as individuals are of two kinds, absolute and relative. Absolute Rights are such as individuals are entitled to enjoy independently of the Regulations of civil society. These absolute Rights comprehend the Right of personal security, personal liberty, and private property.

The Relative Rights of persons are those which grow out of the Relations of Society.

And these Relative Rights from which Relative Rights Result are either public or private. The Relative Rights of a public nature vide 186. The private Relations from which Relative Rights Result are four: viz. that of Husband and Wife, that of Parent and Child, Guardian and Ward, Master and Servant. These are usually called the Domestic Relations.

Marriage is regarded by Law and by our Laws as a civil contract vide 185 in Roman Catholic Countries it is otherwise. The immediate effect from 186. is the legal union or unity of the parties for so many years. Hence, 186. is always regarded as one person (not always in the same sense).
Legal effects of the Contract

286 435. The laws by marriage become in quod an absolute owner of all the wife's personal chattels in possession & may thereon of the personal chattels in possession is meant a chattel own—distinguish from a sole & separate personal chattel in action, which is a right to recover by action some property (pos) thing not already in help. And noth. is necessary to be done by the husband to consummate his right.

306 Litt. 351. A law for personal chattels in possession, he may dispose of them.

1. Be. 209. He may dispose them away from the wife or give them away.

Be. S. 3. He is the absolute owner.

If he dies intestate, the representatives of the deceased have the personal chattels.

Be. 3. Be. in possession with the owned before marriage or what came to her during marriage.

Husband's Right to recover wife's property.

The laws have the control of property with the owns in another's Right, but he has no beneficial interest in it. He must maintain account for it.

1. Be. 209. Indeed a man marries an en. He assumes the trust.

Be. 29. He has the legal title to the property formerly as if he was the Executor.

Sal. 25. He is also entitled to such personal chattels in possession as come to the wife during possession, he is entitled with all his interest in them.

Thus, if a distributive share in an intestate estate comes to the wife during the same, the husband has all the Right in this share while she would have been entitled to had she been sole.

Sal. 114. He is entitled to the proceeds of her labor tenuously as if earned by her own labor.
With regard to her personal chattels in action, the husw. may recover 60 L 351 of them at pleasure during their joint lives. He does not by marriage 565 516 become absolute owner of them, but he has the legal power to make them his 3 Wils 55.

his own during cov. he must convert them absolutely into his own 1 Beech 13 3 130

reduce them into possessions or do something equivalent to it during their 1 Beech 289.

living only by a settlement he has purchased them. The last

satisfies persons only in Equity. If he does neither of these the husw.

dies first the wife surviving is entitled to them.

husw's Right to B over Wife's choses in action.

She can not then reduce them into possessions or do anything equivalent to her personal Representative by C. law. if she dies the husband 1 Wils 315

living, even if not for the st. 29 Car. 2. (vide post)

1 Beech 289

2114 431

1st. P. 21

1st. q. b. 3.

The rules of our law are undoubtedly as above. 

By the Princ. in ch. 289

law of breach they do on her death go to her Representative (post) 3 Urd. 173.

By 31 Ed. 3. 29 Car. 2d the husw. is entitled to administer on Roll ROY. 2834. 178

the choses in action on her death & by 29 Car. 2d he may 2114 315 administer the 3d. time & shall not be obliged to distribute. 1 Rol. 254

the choses in action with the leaves to his next of kin 1 Wils 36

but himself shall take as next of kin.

1st. P. 21

With regard to the origin of the husw. Right to administer as above.

The Act differ much. 31 Ed. 3. Cannot that in case of intestacy in gen.

administration shall be given to her next 3 most lawful friends.

According to some under this the husw. is entitled to administration according to others he is entitled by C. law to manage, that this 31 Ed. 3.

contradicts no such case. The latter opinion appears impracticable for Administration were not known at L. at L. the property in such 4 Co. 57.

Case went to the Ecclesiastics. not liable to account.
We have no case similar to 29. Car. 2. Here if a married woman dies before her heir leaving chose in action they go to her Repr. 29. & if of the heirs\: takes administration he must distribute to her next of kin. This is the Opinion of the profession & clearly correct the\: then are no authorities.

So Litt 357. But the heir can not during the life of the wife bequeath his choses in action unless he has procured them by a settlement because a 29. & 357. bequest is not a disposition of them which takes effect during the marriage, even in case of sale & assignment, etc.

So Litt 357. The heir, this under the 29. Car. 2. is not an administrator to distribute his choses in action & he must pay his debts to the vent of them for a married woman can contract debts.

If another person on the wife's death takes out administration on behalf of the heir, the chooses must pass to the heir as next of kin. The Act 536. & 357. of the choses in action after debts paid. The Rule is well settled.

1 Wills 168. & the heir is not next of kin so considered in the law. 1 P. Wms. 381.

1 P. Wms. 381. This Right of heir as next of kin is Torres mischievous to his Rep. who must pay his debts to the shares in action after debts paid. The Administrator of the wife are entitled to administration but they are trustees to the Representation of the 1 P. Wms. 381. & the heirs who are entitled to the Partnership. This Rule of course occurs from Dyer 116. 17. The wife dies first & that third the heirs. This with a settlement, etc. 1 P. Wms. 381. & 357. administration, this is merely following the principle of the last Rule. This strange kind of law it shows how women had no agency in making laws.

Poe in ch. 62. Settlement made by the heir or the wife is said to be an absolute widow of all her choses in action, so that he has them at all events, even if\: survives.
Husbands Right over Wifes choses in action

This is a Rule of Equity alone.

The latter opinion do not support the Rule to this extent. The Amb 692
Rule now is that the settlement is not a purchase with an 3 P.M. 199 (n)
specific or implied agreement to that extent. (Implied in each case PRI in 10th 209
as the settlement in consideration of the wife's fortune) 1 Herr 64

But lotless than rules confute all settlement made before marriage
But where the settlement is made after marriage it will not be deemed
a purchase if there is an express or implied agreement to that extent. 2 H.B. 408
And if a bond of Chancery shows the settlement adequate to the Rents 1 Rob. 285 (n)

...and a lot of Equity can appoint the choses in action to the

...adequacy of the settlement.

A lot of Equity will not bind the wife by her contract unless the
contract is perfectly reasonable having good cause with the lot of Equity.

Process of Rent: due to the wife while she is in the same 4 Le 51 a
...fostering as choses in action and by 32 Hn 8. By marriage the Rents 187 a 18th 21
due to the wife becomes absolutely the husbands. (cost 79)

In New York it seems arrears of Rent due to the wife durn full a 15 John 679
must be sued for by her and wife jointly. But for Rent accruing 18th 181
from wives land during coverture he was may sue alone. 2 Tann 181

15 of an annuity R[v] 68 181. 2 Tann 181

1 of a debtor of the wife is sued by the husband wife jointly. 1
Med 179

Judgment in Recoverd and there are 2 actions of the
judgment. The consequence is that if either of them die
before collection the survivor takes his whole. 12 Id 337.

19th 189 (n 79)

...tell the Clerk the Clerk will hold ag the conditions.

# Under this Rule in this Rule will hold ag the conditions.
Has been said that he is in that State. But now on the death of either the survivor takes one moiety of the Reformatory, if the
10 John 49, deceased will take the other moiety. In both cases, in use was
accommodated. 8 May 1850, dismantled 18 Brown.

In such a case, if he survives both him & his child, there is no Right of
usufruct, so if the wife survives, but we cannot each must account
to the Reformatory of the other, for one moiety. This is the common
rule of a Reformatory surviving to the survivor wherein the survivor must
account to the Reformatory.

If either die, after judgment, but before Est 2 Est will not
secure with a deed for — Vide title Est 2.

The Trust may assign the legal choses in action during the con-
tact of valuable consideration (in Equity, for choses in action are
not assignable at law). The Reason of the rule is that the assignor
can assign only in Equity and as a Voluntary assignment it ineffect
5 June 1850, quod the wife that Est will not support it.

It has been held that a Voluntary assignment is such an act as is
a Reduction of the choses in action into his possession, but this is
not law. There is a kind of Absurdity in saying that an act which
is void as being inequitable, found the like which yet supports the wife.
Suppose the assignment of a note to the assignor who then solicits
it without resorting to a Court of Equity.

But the trust may assign the legal choses in action without
consideration — for he has the legal force of disposing
2 Atk 208 of them as he chooses & a Release, 2 Atr, 5,265
1 Stat 397, 4 of Equite cannot destroy it —
Husbands Right over Wife's property sold

The juror's chart that of some sole Wife are in possession of another by bailment or finding they on marriage become absolutely his to he may sue for them in his sole name. (some confusion in the books on that subject) (The Rule supposes merely a bailment by deposit where she has a right to countermstand in it) Goods belonging to her in the possession of another by bailment or finding merely where there has been no unlawful taking or conversion are in her constructive possession. And therefore they are his and if they are afterwards convicted he must as J.G thinks see alone. but in the books there are 3 Opinions on the subject (Vide post)
1. The three gruvins mentioned him are these –
2. The House may sue alone. The wife must
   join the wife. But he must sue alone. (p. 356)

3. Right of action in the wife at the time of the marriage?
   Certainly not. The right was not a chose in action. But she
   must have been in her constructive possession if so then they become
   absolutely hers & she must sue alone.

4. But if goods belonging to a wife she have been converted during her life
   she dubs the right of the husband in suing for them for in this
   case her right at the time of Marriage is clearly a chose in action.

Husbands Right over Wifes Chattels Real

5. If one is bound by Contract to the husband, to pay money to the wife
   this bond he is subject to the control of the husband. Pay it to the husband
   will discharge the Contract but the Contract gives her no other
   right but merely to receive the money. The bond is as if

6. To the husband. The House in the 5th Article in this Case the Contract
   being by bond the husband must sue alone. Vide supra part 9th
   Vide Contracts

7. Chattels Real

8. (p. 345) Once three when united in their the husband has a more extensive
9. Right than over her choses in action they are liable during the

10. (p. 364) marriage to the husband's debts – may be taken in Eq – The suffices
    that the wife's title is a legal title. This in Court in some cases
    may be taken in Eq. Vide Eq. They are not absolutely in the hand of the
    husband by marriage.

11. How then can there be taken in Eq. For the husband debts
    the husband has power in law to assign them
    for the payment of debts as there he has thus found the law
    will dispose of them in favor of his Eq.
In this state on the death of the wife the husband surviving it has been decided that they go to her representatives. This was by the Act of South England. The Act of 25th April 1670 was also not now be law. This is not the Rule of the

23 * 26

C.L. If when at C.L. there will be a 1st tenancy over 62 and in


tenancy in Common: but according to this Rule they are tenants of tenants in Common:

By C.L. motto: the husband can arrange his chattels Real. One in ch 813

2 V: 270

For the Right of the survivor is as in other Cases of 1st tenancy subject to the Right of the devisee.

In this state it would seem from the case above that the wife

might devise them

The first may by not executed devisee of them during the marriage for 8 287
to vest in heirs after his death by Lease or assignment for this is 1 Roll 334 not a limiting devise or if it supervenes a Right of further enjoyment.

This Right supposes intention.

They are not liable for the husband's debts after his death of the wife surviving 1 Roll 369

here, like in other case of joint tenants. For Right by survivorship 62 5288

is paramount to the Right of Creation it is prior. So by devisee 62 235 1670 could not charge them with the payment of debts the 62 3 Bar 289 10 could not be the same thing.

Nor by C.L. are they liable for the wife's debts if she dies first

for the same Reason. His Right is paramount by survivorship 1st tenancy.

But here they will be liable to her debts if the case of Events 2 D 38

Chattels is law.
to Sec. 115. And in a former sale being a Grant of a Chattel Real, with a
Right to use the premises therein mentioned, than is the stranger saving
the whole of the Chattel - But in this case the lessor had
by c. 327. during the coventancy the same power to secure the lessor as he if
have had had the remaining sale.

1. Sec. 7. 7. The loss of a new during coventancy alone the wife chattels Real even
2. Sec. 270. in Equity with a consideration. This does not mean that next it will
3. P. 295. 30. before such an assignment as in the wife. It means merely that
the let of chattels cannot be set aside - The assignees having given at
law a lot of by cannot interfere.

Husband's Right over the Wife's Real estate of inheritance

1. Lid 11
10. 20. 02
1. Bar 128
121. 419
1. R. 304
1. 1. 440
176669. 70
1. 1. 128
1. 1. 129

Nov can the less. & wife by their joint claim her inheritance each by joint
Lett 569. 7. 1. Remain. for 91 the wife as supposed to be under the control of the lessor.
Bac Ns 9. he assigning he is merely said & therefore their joint dead to the death of the lessor
above which cannot claim her inheritance.

In this estate q.m.d. howver the estate of the wife may be claimed by the dead
of the two jointly, not by any direct estate but by a joint estate
upon the parents.

Let 5. 625. 874. If the lessor during coventancy grants a larger estate than for her own life then is no
9. 10. 100. for the lessor all other cestui for life by so doing forfeit their estates.
2. R. 279. For the coventancy of the wife declares her from claiming the forfeiture at the lessor
6. Let 326. Besides of the she? Remain the husband's Right of instantaneous commencing as of
Bac Ns 131. (c) an estate acquired by the wife during Coverture. 2. Can wife's her
claim the forfeiture? No (45)
In such case the grant will cease as a grant for his life or during coventric according as he is or is not entitled to Countcry.

And if the lessee makes a lease it will be valid as long as the husband lives if he 5 to 9 is left by countcry of not until wife dies

s & by 2d 89. 3d 74. Husband & wife may make a pt lease for 5 lives of her 378

indwntium

2d & 40. 3d 126. 49

If the husband dies first her Real estate vests also lately in the wife on the other hand if the wife dies first the indwntium descends immediately to

Lett 335. 52

husband. The wise uses if the wife has by him a child born alive during

Lett 30

her life of the wife capable of indwntum is entitled to a life estate in the wife's indwntum of which she is seised.

Aid the husband entitled in such case to countcry in the wife's equitable estate as in Equities of Realms

Pett. Mt 112. 115

Mt 63. 603

1 Pl 127. 30

In rem the husband has countcry without iune and the term of Countcry lands as granted by the charter in counting but not in a pt in count the 6:1 Rule with Respect to Countcry

By the birth of a child capable of indwntum to the husband is termed to Countcry 30 by countcry iune iute & it is consummated by wife death

2 Pl 28

Rent accruing out of the wife's Real property during Countcry 39. 57 to the survivor at 6:1. But by 32 Hen. 5th 162 1 has accrued before countcry the husband is entitled to it

1d 2s 97

Ambl 692

1 Pett. 350.
Husband's Right over Wife's Real Estate

Husband & Wife

A common law cannot at its hand property to the wife in separate use, and this she now may, yet it is by virtue of the Law of Chamway.

1. Form 84: 5
2. Act 270
3. Rom. 103

Property held to the sole and separate use of the wife is such as she holds protected from all marital Rights whatever. Chamway protects this property at all events, if under all circumstances it is every vestige.

2. Mo 191
3. Rom. 36:
4. Act 270
5. Rom. 123

At this time a gift to her sole and separate is protected in Chamway, and the claims of the husband, he cannot have equitable dominion over it. Nor indeed any Rights whatever.

2. Act 695
1. Rev. 500
3. Act 393

Over such property, the wife in Equity may receive as absolute a power as if she were sole with the single exception that she cannot devise it directly if it is Real property, & in her at 40 this:

2. Act 695
3. Rev. 337

But the wife may make a testamentary disposition of it by way of declaring a trust & thus Virtually devise it. Vide Post & Divine.

1. Rev. 500.
Husband & Wife (No. 2)

The husband cannot by his defect defeat a gift to the wife defective unless by Litt 36. The wife by her gift but he may defeat any other gift or purchase unless made by her wife and in her name. By marriage taken from the husband 363 wife vested in him. C. Law.

But he cannot defeat a descent of property to the wife for the law casts the descent on no agent is necessary in such case. The wife of a former sole c. not by defect defeat the descent.

The wife's power of defeasance is also suspended during coae. She may after 1 Rol. 309 death of hus. Defect from or destroy any purchase made during coae. during the defect (or defect) of the hus. does not bind her after his death 1 Bigg 358 (c).

But suppose the husband and defendant the survivor will his defect bind her. How can she by actanting make it her own. It has been held that if a wife sold during usufruct of a trust tenement for years 1707, p. 95 110th 7, 10 2 Vend. 270 by the husband upon marriage 2. St. 6, 2, 21 by the marriage he marries.

Husband's Right over Wife's property.

Her representatives may also after her death defeat provided she does not during her life defeat.

But when the husband without express and defeasance to her purchases made before 2 Bigg 358 during coae. they are good during coae. after coae. the may defect or 1 Bigg 358 (a) as she pleases. Their defect and defect during coae. unless and both valid.

It has been held that if a wife sold during usufruct of a trust tenement for years 1707, p. 95 110th 7, 10 2 Vend. 270 by the husband upon marriage 2. St. 6, 2, 21 by the marriage he marries.
2 Bar 235. But this is more serious and the old rule appears unreasonable.

2 Bar 514. The law has the legal title of a tenant to her sole separate interest.

112. all parties to the trust have no rights in it.

For voluntary conveyance by wife before covenant. Vide fraudulent conveyance.

Rights of the Wife over the Husband's Property.

1 \

2 Bar 515. In every state but the English there is a distribution. 

2 Bar 514. under which if a dies intestate leaving issue she is entitled to one third.

2 Bar 237. 8. of the personal property of the husband and if he dies leaving no issue she

is entitled to one half of the personal property of her husband.

This distribution is made after debts are paid.

S. 30. By & L The wife is entitled to a life estate in 1/3 of all the inheritable property.

2 Bar 129, 131. With the husband living at any time during covenant, and

with the assent of the wife, the husband would be entitled.

10 Bar 69. And the trust cannot at all by any alienation bar the wife of this trust.

2 Bar 129, 130. she may bar herself by joining with the trust in such recovery but

Plead 375. not by joining in a deed with him of it, for the assigning the of

the wife is nicely void.

Cower

In the act of 1754 and Mary by virtue of the trust in a deed given these states the wife is inheritable as to its been her sole

act free act 46. he.

In this state the Rule is that the wife is entitled to a life estate in one third of

the real estate with his own death and thereby the trust may

by his own deed bar her right of cower.
Wife's Right to Husband's Property

Dower

When she does not come herself, then the Rule is that if any person with whom she might have held 207 have inherited any Real property of that Real property she is entitled to dower but not otherwise.

If there are estates limited to a Wife to the issue of her body by her wife, 13. Litt. 553

his wife is not entitled to dower of this property.

2. 176. 181

To entitle her to dower however she must have been the wife of the Dec'd husband at the time of his death. If divorced him a vinculum matrimonii she cannot have dower, for such a divorce renders the marriage void ad

omnitiis the children are illegitimate.

A Divorce a mensa et thoro does not bar her of dower for such a divorce does not destroy the relation of husband & wife. The children are not

illegitimate & therefore may inherit

in Court may have dower the divorc'd, if the son the innocent party (1st. Litt. 553)

If the husband was at the time of marriage & death under the age of legal consent

10. a 13. Litt. 553

the wife is still entitled to dower because the marriage was but voidable

now not been avoided for he is not void before he became 10 days after his

death it cannot be avoided for it is an universal Rule that a marriage

cannot be avoided after the death of either party.

The must however be over the age of 9 when he died or she is not entitled to dower, but she cannot be too old to be entitled to dower.

2. 11. 131

Litt. 516

1. Litt. 33. 120 a

1. Rolfe 675

It was ansomely held that the wife of an idiot ought to be endowed, but the Rule 2. 11. 130

is now altered, it was always held that the wife was not entitled to

court of the wife was an idiot

To entitle the wife to dower the marriage must have been legal. 1. 12. 11

Bulver 136

Epšt. 214. 145

in Court living with him at the time of his death, or practical

in Court to dower. 2. 176. 181
Wives Right to Husband's property.  Dover

The Widow's Right of Dover is paramount to the Right of the Husband. She has the advantage of the mortgage where mortgages were made during marriage. The Widow's Right is in some cases amount to the Condition of Dwelling.

But her Right to the personal property of the Husband is lost, not to the Right of her Legacies. Hence.

In this state her right of Dover is paramount to the Right of the Husband, but not to that of mortgages. She may indeed recover. The law of Dover in this state is regulated by that of the words of our next.

But the construction which is given to our next makes it unsound, any that the husband who is wrong if in more it is just. Died intestate in his own Right.

The husband cannot be bound by devising away his Real Estate in the Right of Dover nor can be bound by any mode of alienation which is to take effect after his death.

The husband makes a deed to take effect after his death, this will not defeat Dover. The husband was owner at his demise.

In case of a woman dies without leaving an estate competent to support herself, it has no Relations fixed by law to support her. The laws of her husband

Hence we are bound to support her during her minority if her dowry is not sufficient.

The wife is not entitled to Dover in her husband's Equity of Redemption. This Rule is applicable to cases where the mortgage is made by the husband before marriage.
How Power may be Barred.

The Right of Power is barred by a divorce under the manumission — again by
the same law if a man marries an alien — in such case, it is usual 216 130. 6. 7. to obtain a jointure, that enabling him to hold Power.

If married a foreign woman becomes naturalized, she has Power as a natural commoner.

Again her Right of Power is barred by adultery's infringement. This is in St. Rule, 6. 4. 7.

The principle is that a woman ought not to be allowed to claim any Right on account of a relation: the Laws of China she has violated.

If the Rule in a life time has been attained to treason the wife loses her Right of Power — for the heir at law loses his Right. The widow can never have Power where the heir loses their Right in the Property. For she holds by a species of debasement from the heir.

If by felony of the husband the wife is barred of Power by 216 130. 6. 7. 1. Edw. 6. This is allowed.

There last two Rules cannot apply here for such a Rule is contrary to the Constitution of the U.S.

At C.L. the seizure forfeits her Power by Retaining the title deeds at least.

During the duration of the possessor's fertility the law is perfectly.

As you, she brings an action for her Power of the heir in possession duration of the title deeds, she denies the claim it found and her title is perfected.

If in an action she abstains the title deeds by the heir she looses 28.5 6th. 7. 5. 216 126.

That she does not have Power in her possession the claim is fulfilled by Burdick 15. 6. 17. 8. she entirely loses her Power.
2 Bl. 136. 2. Again, if the wife is in fear for the life of any other person than herself, such an attempt is itself a forfeiture. This by C. Litt. 5. 415, 1 Ed. 4, 1st, A.D. or 1st, A.D. 1029, Rule. It. 270. 5.

2 Bl. 137. 8. The may also be barred by accepting a pension from the husband.
1 Ed. 4. 173.
2 Bl. 135. 106.

Dower how barred.

She may bar her dower by joining in a suit or cause of action of her husband's estate. The principle is not that a fine could convey away her own dower in land or bar her right of dower by conveyance; but on the simple principle of estoppel. The husband includes her from arising that she was a fine court at the time.

We have a at that a total divorce shall bar her of dower only when she is the party cause of the divorce. — Even at suit to dip vice versa a suit for an action of dower. Living apart from the husband at the time of his death without his consent is not estopped to dower.

The criterion then in each is either of the wife proves by her application in divorce she is entitled to dower, or unless she receives a portion of his lands property in the divorce.
In choosing the wife has a Right to retain other articles entitled “her paraphernalia” with consist of Alp and bedding from above, his Right to these appears to be recognised only in Equity.

The Distinction between her paraphernalia’s personal property to her sole & separate use is important.

A wife paraphernalia in many the form of things as he pleasure during his life, but once property given to her sole & separate use he has no control —

Property to her exclusively in a form except as to evidence all the hand 2 Rights, 3 1Hh 392 must be given to her sole & separate use, but no particular form of words is absolutely necessary. Whether it was intended to give Property to her sole & separate use is in quint to be determined by the words used, but that 1 12th 98 indication may be inferred from the nature of the property from common returns. Thus things articles of this kind, watching plate, jewels, trinkets, etc intended as private or separate have been given by the father of the 3 1Hh 393 husband to the wife on the marriage — it was determined that no words 12th 98 manifested the indication that these were intended for her sole separate use, so if they were given by a stranger — by the husband on the marriage.

Wife’s claim to Husband’s property, paraphernalia

But when property shall be paraphernalia, a property to her sole separate use must depend on the indication of the donor.

But when articles of this kind are bequested to her by the husband cannot be regarded as property to her sole separate use — the latter as legitimate man by — Of course these may be subject to his debts. It is not even her para

paraphernalia in his Case.

Where articles of this kind are given by the husband during their lives 1Hh 390 there are not regarded as to her sole separate use. The Rule (sake) contemplates gifts to made at the time of marriage in which case the Rule is void.
Paraphrase: one of two kinds. I. Apparel & bedding. II. Plate [female ornaments.

The Husband owning his life may dispose of the 2\textsuperscript{nd} Claps as he pleases. Whether he might plume them but as the law now stands he cannot.

But the 1\textsuperscript{st} Claps may be taken in Ex\textsuperscript{c} by the Esq. of the Husband.

But the 1\textsuperscript{st} Claps cannot be taken by his Act nor can the husband dispose of them. The Rule contemplate mystery, mystery apparel. And they, indeed, the selling of all his apparel has been held a misdemeanour — mystery means suitable to two Parties.

With regard to 1\textsuperscript{st} Claps in Court, to me is no need to resort to Equity, for we have a provision which protects them from Ex\textsuperscript{c} both before and after death.

**Paraphernalia 2\textsuperscript{nd} Claps**

The 2\textsuperscript{nd} Claps are objects for the want of Debts in the hands of Ex\textsuperscript{c} to whom there is a deficiency of other personal property. But before we come to this, the claims of the wife are paramount to all rights against them of Ex\textsuperscript{c}.

1. Roll 911
2. 381 635. 6th
   3. Cony. 219
   4. 381 635. 6th
   5. 381 635. 6th

So, in regard to 1\textsuperscript{st} Claps in Court, it is no need to resort to equity, for we have a provision which protects them from Ex\textsuperscript{c} both before and after death.

2. 381 635. 6th
3. 381 635. 6th
4. 381 635. 6th
5. 381 635. 6th
6. 381 635. 6th
7. 381 635. 6th
8. 381 635. 6th
2nd class of paraphernalia.

A settlement or portion on the wife before marriage if refused to be in consideration of the exclusion of all her demands on the husband's property, 2 Vend. 49, 53. She has no claim on the 2nd Shop. Same if made after marriage, in 4th H. 642.

Consideration of agreement made before marriage.

But a settle or portion made after marriage is not in pursuance of articles made before marriage. No, it contains the clause in bar of all demands on the husband.

It will not estop him from her claim to the 2nd Shop.

It has been held that she has the same claim as the husband of her heart. 3 T. & R. 395.

3dly, as at the heirs, when his paraphernal have been taken to pay the husband's debts. 2nd H. 281.

This Rule has lately been questioned. It is.

It cannot be why a reason why not stand precisely on the same footing as at the legacy?

The heirs' rights to these paraphernal during his life to a bit, on his death, 3 T. & R. 395.

She can not the estate has the right to receive it of the debts, if

As a surplus of personal property, she is entitled to enable her to redeem the paraphernal.

But the estate is insolvent, the loss may remain.

The evidence right to claim property or paraphernal the disposition of the husband is distinctly personal. If then she does not claim, 2 Vend. 246, 7.

With her representation after her death cannot claim the same. 2 Vend. 343, 6.

And if the husband had begun to them to live for life, remainder 1 Rolf. 911 to a third person, if she does not affect her absolute claim to them, but acquiring her heirs to cannot claim them after her death.

In sum, in addition to her distributive share of the property, she is in certain circumstances allowed a certain share of furniture to this at in lot of probate has been very much extended.
Husband & Wife (1:3)

The husband's liability for the wife.
1. He is jointly liable during coverture for all debts due
2. After death, unless the husband has already paid the debt.

Ex. Dig. 122 has been recovered against the husband before the death.
1754 100
3. 1754 170

But if judgment was obtained against the husband for any of her debts while she was alive, the judgment cannot be enforced against the wife.

Ex. Dig. 357. If she dies before the husband and before judgment is obtained, the husband must pay her debts, even if she had no assets. This rule holds
1754 268
Ex. Dig. 122.

3. 1754 269. If she dies first and he survives, she becomes sole de facto in case of judgment.
1754 129
Ex. Dig. 122. Hence obtained against the husband, if the estate of the husband is not liable.

The principle of the husband's liability is this: if she by marriage loses much of her property, she has no means left by which to secure herself from arrest, imprisonment.

1754 269
2. 1754 720
3. 1754 129
1. 1754 109
5. 1754 120
6. 1754 307 (7)

Ex. Dig. 353. But this rule does not hold when she has been sued while sole & marries without his act.
1754 413
Ex. Dig. 353. But if judgment is obtained against her, the court shall issue a new writ against her, enabling her to discharge herself, in such case the C.T. may proceed against her as before.
1754 314
Ex. Dig. 353. But she is liable to be liable above 1 may be taken & committed on C.T. alone.