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New Law-Dictionary:

CONTAINING

The Interpretation and Definition of WORDS and TERMS used in the LAW; and also the WHOLE LAW and the PRACTICE thereof, Under all the HEADS and TITLES of the same.

Together with

Such Informations relating thereto, as Explain the History and Antiquity of the Law, and our *Manners, Customs, and Original Government.*

Collected and Abstracted from

All Dictionaries, Abridgments, Institutes, Reports, Year-Books, Charters, Registers, Chronicles, and Histories, Published to this Time.

And fitted for the Use of

Barristers, Students, and Practisers of the Law, Members of Parliament, and other Gentlemen, Justices of Peace, Clergymen, &c.

The Seventh Edition.

The LAW-PROCEEDINGS being done into *English*, with Great Additions and Improvements, to this Time.

To which is annexed,

A TABLE of References to all the Arguments and Resolutions of the Lord Chief Justice HOLT; In the several Volumes of the Reports.

By G I L E S J A C O B, Gent.

In the S A V O Y:

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W. Musgrave

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The Earl-Perceval's being done to England with
Great Addition and Improvement to the

A TABLE of Histories of the several Kingdoms and
of the said Great Britain in the

BY G. H. B. R. S. & C.

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To the RIGHT HONOURABLE

Sir *ROBERT RAYMOND*, Knt.
Lord Chief Justice of *England*.

My LORD,

AT length, by your Lordship's generous Encouragement, vouchsafed me on a former Dedication to your Lordship, my New *Law-Dictionary* appears to the World committed to your Patronage and Protection, and as You are universally allowed to be the most proper Patron for a Work of this Nature.

It hath been often observ'd to be a Commendation to any Person, to attempt any Great and Useful Undertaking; but it is not every One who engages in it, is Able to perform it: Whatever Censure, in this Particular, is pass'd upon me by the Readers, my Judges, I have one very great Satisfaction; which is, that your Lordship is at the Head of them, whose powerful Influence and kind Interpretation will silence others into Candor and Good Nature.

To say, That every Thing Praise-Worthy belongs to your Lordship, is not to pay the Debt of Compliment, but of Merit: As by indefatigable Study and Application to Business, Reputation ever attended You; so on your Advancement to the Supreme Station of the Common Law, your Behaviour therein hath evidently

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evidently gain'd You univerfal Approbation. There have been Many who have filled the prime Offices of Judicature, which must always be supply'd with a Succession of Men, tho' few that have adorned them; But 'tis your Lordship's Glory to do both: And after the Great *Lord Chief Justice HOLT*, it is the Happiness of the present Age to boast of a RAYMOND.

My Lord, Applause and Popularity Court You, whilst You endeavour to shun them, for they are the natural Reward of doing impartial Justice; and those who least seek them in Publick Authority, by their great Integrity and consummate Abilities have the largest Share of Them: It is impossible to be otherwise, than that your Lordship should be a Favourite of Mankind, when your whole Conduct is so exceeding Just and Upright, as to merit the Highest Honour; and give me Leave to observe of You, what every One finds who Approaches your Lordship.

On a Character so very considerable as your Lordship's, much more might be enumerated; but I am conscious of my Inequality to the Task, and therefore desist from it, my only Aim being to shew how much I am,

My LORD,

Your Lordship's

Most Dutiful, and most

Obliged Humble Servant,

Giles Jacob.

THE
P R E F A C E.

ALL Prefaces to Treatises, are intended by Authors either to Explain the Works to which they belong, and set forth the Reasons of their Engaging in them, or to Vindicate their Writings and Reputations from those Reflections which may be cast upon them by the Critical Part of Mankind; and I think it Necessary for me to say something on these Heads, in my Preface to this Work.

According to a great Writer, the Study of the Law is not rendered easy by numerous Volumes, but by reducing the Sense into a compleat methodical System; and the Difficulty and Disagreeableness of this Study, is not to be imputed to any material Defect in it self, but to the Manner in which the Books that contain this Learning are Written: The Justice of this Wise Observation, hath been always acknowledged; As our Abridgments of the Law abound with Tautologies and Confusion, and are generally speaking very voluminous to little Purpose, which has been a Principal Reason for my Attempting the following Sheets.

This large Work now published, contains the Derivations and Definitions of Words and Terms used in the LAW, and likewise the whole Law, with the Practice thereof, collected and abstracted from all other Books in an easy concise Method; for the Universal Use of all Counsellors at Law, either in their Chambers or on their Circuits, Students of the Inns of Courts, and Practisers of the Law, and other Persons of what Degree or Profession soever, and for all Studies and Offices, being a Kind of Library; so that although I have the Interpretation of Words, to give it the Title of a Dictionary, yet my Scheme is very different from the other Law-Dictionaries: And the Great
a Lawyer

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Lawyer Sir EDWARD COKE having observ'd, that the Forms of Writs, and judicial Proceedings, do much contribute to the Right Understanding of our Law; Therefore these, together with Forms of Deeds and Conveyances, illustrating the Practice on that Head, are here inserted: Further, the Reader will find interspersed, taken from the most ancient Treatises of the British, Saxon, Danish, and Norman Laws, such Informations as Explain the History and Antiquity of the Law, with our Manners, Customs and Original Form of Government.

As in this Age it is become common for Arts and Sciences to be comprehended in Dictionaries, I have pursued this Method, and the Knowledge of the Arts themselves, cannot be improper to follow the Terms and Definitions of them. Under the Heads of Law, by the Advice of my Learned and Judicious Friends, I have gone through and gather'd every Thing I could find any ways Useful; and there is nothing Collected, but some Benefit may be drawn from it, either as immediately to the Purpose, or Explanatory of what the same hath Relation to: In my Larger Heads, where they interfere with others, I have but just touch'd upon the Matters interfering; and left the particular Learning to the more proper Heads where 'tis expected to be found, at the same Time some Notice being required under the general Titles.

I may with great Truth affirm, that considerably above two Thirds of my Work, with some Hundreds of very material Words, are intirely New in a Performance of this Kind; and the remaining Part is greatly Improv'd, although Abridg'd as to Quantity by omitting a great Deal of Obsolete Matter. There is not any Thing in the following Dictionary, directly the same as appears elsewhere, but in such Cases only where it was absolutely Necessary for my own Justification; though the Compilers of the other Law-Dictionaries have generally transcribed verbatim from each Other. The Law-Latin in many Instances differing from other Latin, I have purposely used and followed it, as those have done who have gone before me. Likewise several Words of Use, especially relating to Country Affairs, are here still preserv'd from the Law Interpreters, though they may seem a little foreign to my Subject.

As to the other Dictionaries, let who will for the Future Write or Enlarge them, it must be always confess'd, that it was I who first attempted a BODY of the LAW, in any Dictionary. This I

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ought to mention, in Justice to myself; That it may not at any Time be affirmed I have wholly built on other Writers, but They on Me as to any Additions, if they should fill up their Works in my Method beyond what they were in the Year 1720, when I first began this elaborate Treatise. And if I have borrow'd from my Own Writings hitherto Published, I have assumed no Freedom in so doing, but such as Authors of the best Reputation have thought fit to take; who have had Occasion to treat subsequently on their former Subjects, in any larger or more general Work: Also I have every where inserted References unto them, sometimes Pointing out the Best Editions, where One Impression is esteem'd better than another.

I have now made deeper and closer Searches into the Knowledge of the Law, and taken a long Journey of Observations and Improvements on those Things which I had but just seen at a Distance before; which however painful to my self, I am confident I have struck out therein a much easier Path for Others than they had before to Walk in. I have endeavour'd to make a Right Choice of Matter, as well as to follow an exact Method, which, with the Reduction that was necessary to avoid Prolixity, I found no small Task; And of this I may say with Virgil,

Hoc Opus, hic Labor est.

'Tis indeed True that my great Work is chiefly Collection; but let this be Consider'd with it, That Collecting on the Subject of the Law, is infinitely more difficult than upon other Subjects; because most other Subjects are treated of with Order and Connexion, but the Law of England is not, by reason of the great Number of its Branches, and the various Heads thereof.

As for what I have already written, a prudent Author will commonly attempt many of the smaller Matters, by Way of Trial of his Abilities, and See their Success, before he will have Courage to venture upon Larger; and if I had not Experienc'd what hath fallen in my Way, it would have been Impossible for me to have perfected the ensuing Treatise with that Advantage it is now handed to the Publick. And thus much I am obliged to say farther in Behalf of this Dictionary; That if notwithstanding the infinite Pains I have here taken, it be not in it self Authority, it carefully refers to Books of the greatest, which is all as can be asserted in Favour of any of the Abridgments of
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the Law. But where there is such great Variety of Learning and abundant Quantity of Nice Matter, with the utmost Care, there must be some Faults and Failings to be Pardon'd by the Reader.

In this Seventh Edition, all the Law-Heads throughout are compleatly filled up, and some others added, from the new Books of Reports, and the many late Statutes enacted which have alter'd our Law, down to this Time; I have also now inserted Variety of Select CHANCERY CASES, that have been lately adjudg'd in the most settled Points, dispersed under all the Heads where they were any Ways proper or material. The Forms of Writs and other Law Proceedings, with several curious additional Precedents, appear likewise carefully Translated into English, pursuant to the Act of Parliament; but the ancient Customs remain in Latin, the Language I found them in. I thus have render'd my Useful BOOK full and perfect in all Things; and 'tis no small Pleasure to me, that the Second, Third, Fourth, Fifth and Sixth Editions were very Successful, and the greatest Part of a large Impression of the Work, as I had at first Compiled it, sold off in the Space of a Year's Time, by the Approbation of my Great Patron, and favourable Acceptance of the Publick.

I hope upon the Whole, it is here fully apparent that I have done every Thing in my Power to compleat this Great Undertaking, and which I doubt not by my often repeated diligent Endeavours, will continue to answer its good End propos'd, so as to give entire Satisfaction to all Persons whatsoever.

G. J.

A New

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The Whole Law, and The Practice thereof, under all the Heads and Titles of the Same.

A B

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A.

A, The first Letter of the *Alphabet*, which being prefix'd to words in *English*, signifies as much as *un* in *French*, as a Man, *un Homme*.

Ab, From the Word *Abbot*, and in the Beginning of any Place signifieth that the Place belong'd to some *Abbey*.

Abacot, A Cap of State, wrought up in the Form of two Crowns, worn by our ancient *British* Kings. *Chron. Angl. 1463. Spelman's Gloss.*

Abactors, (*Abactores*, derived *ab abigendo*) Stealers and Drivers away of Cattle by Herds, or in great Numbers. They are thus distinguished from *Fures*: *Nam qui ovem unam surripuerit, ut fur coercesur, qui gregem ut abactor. MS.*

Abacus, *Aritmetick*, From the *Abacus* or Table on which the Ancients made their Characters. — *Omnium liberalium artium peritus, Abacum præcipue, lunarem computum & cursum rimatus. Knighton's Chron. lib. 1. c. 3.*

Abandum, (*Abandonum*) Any Thing sequestred, proscrib'd or abandon'd. *Abandon, i. e. In Bannum res missa.* — A Thing *bann'd* or denounc'd as forfeited and lost; from whence is to *abandon*, desert, or forsake as lost and gone.

Abarnare, From the Sax. *Abarian*, to discover and disclose to a Magistrate any secret Crime. — *Si homo furtivum aliquid in Dome sua occultaverit, & ita fuerit abarnatus, rectum est ut inde habeat quod quæsit. Leg. Canuti Reg. cap. 104.*

Abate, As derived from the French *Abater* or *Abatre*, signifies to prostrate, break down or destroy; and in Law to *abate* a Castle or Fort, is interpreted to beat it down. *Old Nat. Brev. 45. Westm. 1. c. 17. Abater Maison*, is to ruin or cast down a House, and level it with the Ground: And as he that puts a Person out of Possession of his House, Land, &c. is said to *disseise*; so he that steps in between the former Possessor and his Heir, is said to *abate*; and this is a Term in its special Signification. *Kitch. 173. Old Nat. Br. 115. To abate a Writ*, is to defeat or overthrow it, by some Error or Exception. *Brit. c. 48. In the Statute De conjunctim Feoffatis*, the Writ shall be *abated*, that is, shall be disabled and overthrown. *34 Ed. 1. Stat. 2. The Appeal shall abate*, and be defeated by Reason of Covin or Deceit. *Staundf. Pl. Cr. 148.*

And the Justices shall cause the said Writ to be *abated* and quash'd. *Anno 11 H. 6. c. 2.*

Abatement, (from the French) in *Latin* *Intrusio*, or rather *Interpositio*, to distinguish it from *Intrusion* after the Death of Tenant for Life; is used in that Sense for the Act of the *Abator*, as the *Abatement* and Entry of the Heir into the Land before he hath agreed with the Lord. *Old Nat. Br. 91. Abatement* when it relates to Writs or Plaints, is the quashing or destroying of the Plaintiff's Writ; and under this Signification, which is most general, it is an Exception alledged and made good in our Law; being as much as *Exceptio dilatoria* with the Civilians. *Brit. c. 51.* And this Exception may be taken either to the Insufficiency of the Matter, or the Incertainty of the Allegation, by misnaming the Plaintiff or Defendant, or the Place; to the Variance between the Writ and the Specialty or Record; to the Incertainty of the Writ, Count or Declaration; or to the Death of either of the Parties before Judgment had; or for that a Woman Plaintiff is married before, or hanging the Suit, and for many other Causes, upon which the Defendant prays that the Writ or Plaint may *abate, viz.* That the Suit of the Plaintiff may for that Time cease. *Terms de Ley 1.* Some Causes of *Abatement*, are where the Plaintiff is incapable of maintaining his Writ, by the Defendant's being under the Protection of the Law, as being an Infant, &c. or by the Plaintiff's misconceiving his Action; or asserting a material Thing that is false, so that it appears of his own shewing, he ought not to maintain his Writ in that manner, but intitle himself in a better Way. *Mod. Entr. Engl. 25. On Abatement of Suits*, all Writs and Proses must be begun *de Novo*: And one great Reason for the *Abatement* of Writs is, that the Party prosecuted may not be twice charged or vex'd for one Debt; as where the Plaintiff hath another Action depending for the same Matter, &c. *3 Lev. 304. In an Action of Debt, &c. another Action depending in the Courts of Westminster*, for the same Matter, is a good Plea in *Abatement*: But Plea of Action in an inferior Court is not good, unless Judgment be given. *5 Rep. 62. In an Appeal, Information, &c. it is a good Plea in Abatement*, that another Prosecution is depending, but not on Indictment. *2 Hawk. Pl. Cr. 190, 367. Error depending in the Exchequer Chamber is a good Plea in Abatement to Debt on Judgment in B. R. 5 Mod. 68.*

B

A Suit

in the House: And it may be *in Gros*; but it does not give any Right to the Land, Trees, or Mines. It cannot exclude the Owner of the Soil. 1 *Inst.* 4. 4 *Rep.* 37.

There is a *Common* or Liberty of digging *Coals*, and *Gravel*, *Sand*, &c. as well as *Turf*.

Common Bench, (*Bancus Communis*, from the Sax. *Banc*, Bank, and thence metaphorically a *Bench*, high Seat or Tribunal.) The Court of *Common Pleas* was anciently called *Common Bench*, because *Communia Placita inter subditos ex jure nostro, quod Commune vocant, in hoc disceptantur*: That is, the Pleas or Controversies between common Persons are there tried and determined. *Camb. Britan.* 113. In Law Books and References the Court of Common Pleas is writ *C. B.* from *Communi Banco*. And the Justices of that Court are stiled *Justiciarii de Banco*. See *Common Pleas*.

Common Day in Plea of Land, Signifies an ordinary Day in Court, as *Octabis Hillarii, Quindena Paschæ*, &c. It is mentioned in the *Stat.* 51 *H.* 3. concerning general *Days in Bank*.

Common Fine, (*Finis Communis*) A small Sum of Money, which the Resiants within the Liberty of some Leets pay to the Lords, called in divers Places *Head-Silver* or *Head-Pence*, in others *Cert Money*; and was first granted to the Lord, towards the Charge of his Purchase of the *Court-Leet*, whereby the Resiants have the Ease to do their Suit within their own Manors, and are not compellable to go to the *Sheriff's Turn*: In the Manor of *Sheepshead* in the County of *Leicester*, every Resiant pays 1 *d.* per Poll to the Lord at the Court held after *Michaelmas*, which is there called *Common Fine*. For this *Common Fine* the Lord may distrain; but he cannot do it without a Prescription. 11 *Rep.* 44. There is also *Common Fine of the County*.—*Quod Communes Misericordiae, vel Fines Comitatum amerciatorum in Finibus itinerum Justiciariorum*, &c. *Fleta*, lib. 7. c. 48. See *Stat.* 3 *Ed.* 1. c. 18.

Commons House of Parliament, Is the Lower House of Parliament, so called, because the *Commons* of the Realm; that is, the Knights, Citizens, and Burghesses returned to Parliament, representing the whole Body of the Commons, do sit there. *Crompt. Jurisd.* See *Parliament*.

Common Intendment, Is common Meaning or Understanding, according to the Subject Matter, not strained to any extraordinary or foreign Sense: *Bar to Common Intendment* is an ordinary or general Bar, which commonly disables the Plaintiff's Declaration. There are several Cases in the Law where *Common Intendment*, and Intendment take Place: And of *Common Intendment* a Will shall not be supposed to be made by Collusion. *Co. Litt.* 78.

Common Law, (*Lex Communis*) Is taken for the Law of this Kingdom simply, without any other Laws; as it was generally holden before any Statute was enacted in Parliament to alter the same: And the King's Courts of Justice are called the *Common Law Courts*. The *Common Law* is grounded upon the general Customs of the Realm; and includes in it the Law of Nature (the Law of God, and the Principles and Maxims of the Law: It is founded upon Reason; and is said to be the Perfection of Reason, acquired by long Study, Observation and Experience, and refined by Learned Men in all Ages. And it is the Common Birthright, that the Subject hath for the Safe-guard and Defence, not only of his Goods, Lands, and Revenues; but of his Wife and Children, Body, Fame, and Life also. *Co. Litt.* 97, 142. *Treatise of Laws*, p. 2. According to *Hale*, the *Common Law* of *England*, is the common Rule for administering Justice, within this Kingdom, and asserts the King's Royal Prerogatives, and likewise the Rights and Liberties of the Subjects: 'Tis generally that Law, by which the Determinations in the King's Ordinary Courts are

guided; and this directs the Course of Discents of Lands; the Nature, Extent and Qualification of Estates; and therein the Manner and Ceremonies of conveying them from one to another; with the Forms, Solemnities and Obligation of Contracts; the Rules and Directions for the Exposition of Deeds, and Acts of Parliament: The Process, Proceedings, Judgments and Executions of our Courts of Justice; also the Limits and Bounds of Courts, and Jurisdictions; the several Kinds of Temporal Offences and Punishments; and their Application, &c. Sir *Matthew Hale's Hist. of the Law.* pag. 44, 45, and 24. As to the Rise of the *Common Law*, this Account is given by some ancient Writers: After the Decay of the *Roman Empire*, three Sorts of the *German People* invaded the *Britons*, viz. the *Saxons*, the *Angles*, and the *Jutes*; from the last sprung the *Kentish Men*, and the Inhabitants of the *Isle of Wight*; from the *Saxons* came the People called *East, South, and West Saxons*; and from the *Angles*, the *East Angles, Mercians* and *Northumbrians*: These People having different Customs, they inclined to the different Laws by which their Ancestors were governed; but the Customs of the *West Saxons* and *Mercians*, who dwelt in the Midland Counties, being preferred before the Rest, were for that Reason called *Jus Anglorum*; and by these Laws those People were governed for many Ages: But the *East Saxons* having afterwards been subdued by the *Danes*, their Customs were introduced, and a third Law was substituted, which was called *Dane-Lage*; as the other was then stiled *West Saxon Lage*, &c. At length the *Danes* being overcome by the *Normans*, *William* called the *Conqueror*, upon Consideration of all those Laws and Customs, abrogated some, and established others; to which he added some of his own Country Laws, which he judged most to conduce to the Preservation of the Peace: And this is what we now call the *Common Law*. But though we usually date our *Common Law* from hence, this was not the Original of the *Common Law*; for *Ethelbert*, the first Christian King of this Nation, made the first *Saxon Laws*, which were published by the Advice of some wise Men of his Council: And King *Alfred*, who lived 300 Years afterwards, being the first sole Monarch after the *Heptarchy*, collected all the *Saxon Laws* into one Book, and commanded them to be observed through the whole Kingdom, which before only affected certain Parts thereof; and it was therefore properly called the *Common Law*, because it was common to the whole Nation; and soon after it was called the *Folk Right*, i. e. the *People's Right*. *Alfred* was stiled *Anglicarum Legum Conditor*: And when the *Danes* had introduced their Laws on the Conquest of the Kingdom, they were afterwards destroyed; and *Edward the Confessor* out of the former Laws composed a Body of the *Common Law*; wherefore he is called by our Historians *Anglicarum Legum Restitutor*. *Blount*. In the Reign of *Edw.* 1. *Britton* wrote his learned Book of the *Common Law* of this Realm, which was done by the King's Command, and runs in his Name, answerable to the *Institutions of the Civil Law*, which *Justinian* assumes to himself, though composed by others. *Staundf. Prerog.* 6, 21. This *Britton* is mentioned by *Gwin* to be Bishop of *Hereford*. *Bracton*, a great Lawyer, in the Time of *Hen.* 3. wrote a very learned Treatise of the *Common Law of England*, held in great Estimation; and is said to be Lord Chief Justice of the Kingdom. And the famous and learned *Glanvil*, Lord Chief Justice in the Reign of *Hen.* 2. wrote a Book of the *Common Law*, which is said to be the most ancient Composition extant on that Subject. Besides these, in the Time of *Ed.* 4. the renowned Lawyer *Littleton* wrote his excellent Book of *English Tenures*. In King *James* the First's Reign, the great Oracle of the Law, Sir *Edward Coke*, published his learned and laborious *Institutes* of our Law, and Commentaries

ries on *Littleton*. About the same Time likewise Dr. *Cowel*, a Civilian, wrote a short Institute of our Laws. And in the Reign of King *George the First*, Dr. *Tho. Wood*, a Civilian and Common Lawyer, and at last *Divine*, wrote an Institute of the Laws of *England*, which is something after the Manner of the Institutes of the Civil Law.

Common Pleas, (Communia Placita) Is one of the King's Courts now constantly held in *Westminster-Hall*; but in ancient Time was moveable, as appears by *Magna Charta, cap. 11*. *Gwyn*, in the Preface of his Reading, says, That 'till *Hen. 3.* granted the Great Charter there were but two Courts, called the King's Courts, *viz.* the *King's Bench* and the *Exchequer*, which were then stiled *Curia Domini Regis*, and *Aula Regis*, because they followed the Court or King; and that upon the Grant of that Charter, the Court of *Common Pleas* was erected and settled in one certain Place, *i. e.* *Westminster-Hall*; and after that, all the Writs ran *Quod sit coram Justiciariis meis apud Westm.* whereas before, the Party was required by them to appear, *Coram me vel Justiciariis meis*, without any Addition of Place, &c. as he observes out of the Writings of *Glanvil* and *Bracton*. But *Sir Edward Coke* is of Opinion in his Preface to the eighth Report, that the Court of *Common Pleas* was constituted before the Conquest; and was not created by *Magna Charta*, at which Time there were *Justicarii de Banco, &c.* Though before this Act, *Common Pleas* might have been held in *Banco Regis*; and all original Writs were returnable there. Writs returnable in this Court, are now *coram Justiciariis nostris apud Westm.* But Writs returnable in *B. R.* are, *Coram nobis ubicunque fuerimus in Anglia*. The Jurisdiction of this Court is general, and extends itself throughout *England*: It holds Plea of all Civil Causes at Common Law, between Subject and Subject, in Actions real, personal, and mixed; and it seems to have been the only Court for Real Causes. In personal and mixed Actions it hath a concurrent Jurisdiction with the *King's Bench*: But it hath no Cognisance of Pleas of the Crown; and *Common Pleas* are all Pleas that are not such. This Court cannot regularly hold Plea in any Action, real or personal, &c. but by Writ out of *Chancery* returnable here, except it be by Bill for or against an Officer, or other privileged Person of the Court. All Actions belonging to this Court, come hither either by Original, as Arrests and Outlawries; or by Privilege or Attachment, for or against privileged Persons; or out of inferior Courts, not of Record, by *Pone, Recordare, Accedas ad Curiam, Writ of False Judgment, &c.* Actions popular, and Actions penal, of Debt, &c. upon any Statute, are cognisable by this Court: And besides having Jurisdiction for Punishment of its Officers and Ministers; the Court of *Common Pleas* may grant Prohibitions to keep Temporal and Ecclesiastical Courts within due Bounds. *4-Inst. 99, 100, 118.* In this Court are four Judges, created by Letters Patent; of whom the Chief Justice is a Lord by his Office: The Seal of the Court is committed to the Custody of the Chief Justice. The other Officers of the *Common Pleas* are, the *Custos Brevirum*, three *Prothonotaries* and their *Secondaries*, the Clerk of the *Warrants*, Clerk of the *Effoins*, fourteen *Filazers*, four *Exigenters*, a Clerk of the *Juries*, the *Chirographer*, Clerk of the *King's Silver*, the Clerk of the *Treasury*, Clerk of the *Seal*, of *Outlawries*, and the Clerk of the *Inrolment of Fines and Recoveries*, Clerk of the *Errors, &c.* The *Custos Brevirum* is the Chief Clerk in this Court, who receives and keeps all Writs returnable therein; and all Records of *Nisi Prius*, which are delivered to him by the Clerks of the Assise of every Circuit, &c. and he files the Rolls together, and carries them into the Treasury of Records: He also makes out Exemplifications, and Copies of all Writs and Records, &c. The *Prothonotaries* enter and inrol all Declarations,

Pleadings, Judgments, &c. and they make out all judicial Writs, Writs of Execution, Writs of Privilege, *Procedendo's, &c.* The *Secondaries* are Assistants to the *Prothonotaries* in the Execution of their Offices; and they take Minutes, and draw up all Orders and Rules of Court. The *Filazers*, who have the several Counties of *England* divided among them, make out all mesne Process, as *Capias, Alias, Pluries, &c.* between the Original Writ and the Declaration; and they make all Writs of View, &c. The *Exigenters*, appointed for several Counties, make out all Exigents and Proclamations in order to Outlawry. The Clerk of the *Warrants*, enters all Warrants of Attorney; inrols Deeds of Bargain and Sale; and estreats all Issues. The Clerk of the *Effoins*, keeps the Roll of the *Effoins*, wherein he enters them, and Nonuits, &c. The Clerk of the *Juries* makes out all Writs of *Habeas Corpora Juratorum*, for Juries to appear; and he enters the Continuances till the Verdict given. The Clerk of the *Treasury*, keeps the Records of the Court, and makes Exemplifications of Records, Copies of Issues, Judgments, &c. The Clerk of the *Seals*, seals all Writs and mesne Process; also Writs of Outlawry and *Superfedeas*, and all Patents. The Clerk of the *Outlawries*, makes out the Writs of *Capias Utlegatum*. The Clerk of the *Errors* is for the Allowance of Writs of Error, &c. The Clerk of the *Inrolments of Fines and Recoveries*, returns all Writs of Covenant, Writs of Entry and Seisin, and inrols and exemplifies Fines, &c. The Clerk of the *King's Silver* enters the Substance of the Writ of Covenant: And the *Chirographer* ingrosseth all Fines, and delivers the Indentures to the Parties, &c. And to these Officers may be added, a *Proclamator*; a *Keeper of the Court*; *Crier*; and *Tipstaffs*; besides the *Warden of the Fleet*. There are also *Attornies* of this Court, whose Number is unlimited; and none may plead at the Bar of the Court, or sign any special Pleadings, but *Serjeants at Law*.

Common Prayer, (Preces Publicæ) Is the Liturgy, or Prayers used in our Church. It is the particular Duty of Clergymen every Sunday, &c. to use the publick Form of Prayer prescribed by the *Book of Common Prayer*: And if any Incumbent be resident upon his Living, as he ought to be, and keep a Curate, he is obliged by the *Act of Uniformity* once every Month at least, to read the *Common Prayers* of the Church, according as they are directed by the *Book of Common Prayer*, in his Parish Church, in his own Person, or he shall forfeit 5 *l.* for every Time he fails therein. *Stat. 14 Car. 2. cap. 4.* Also by that Statute the *Book of Common Prayer* is to be provided in every Parish, under the Penalty of 3 *l.* a Month: And the *Common Prayer* must be read before every *Lecture*; the Whole appointed for the Day, with all the Circumstances, and Ceremonies, &c. And by one of the *Canons of the Church*; Ministers before all *Sermons*, are to move the People to join in a short Prayer, for the Catholick Church; and the whole Congregation of Christian People, &c. for the King and Royal Family; the Ministers of God's Word, Nobility, Magistrates, and whole Commons of the Realm, &c. and conclude with the *Lord's Prayer*. *Can. 55.* Refusing to use the *Common Prayer*; or using any other open Prayers, &c. is punishable by *Stat. 1 Eliz. c. 2.* See *Church*.

Common Weal, Is understood in our Law to be *Bonum publicum*, and is a Thing much favoured; and therefore the Law doth tolerate many Things to be done for *Common Good*, which otherwise might not be done: And hence it is that Monopolies are void in Law; and that Bonds and Covenants to restrain free Trade, Tillage, or the like, are adjudged void. *11 Co. Rep. 50. Plowd. 25. Shep. Epit. 270.*

Commorancy, (Commorantia, from Commoro) An Abiding, Dwelling or Continuing in any Place; as an Inhabitant of a House in a Vill, &c. And *Commorancy*

Form of a *Writ of Latitat* out of B. R.

GEORGE the Second, by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith, &c. To the Sheriff of South'ton greeting: Whereas we lately commanded our Sheriff of Middlesex, that he should take C. D. and E. F. if they should be found in his Bailiwick, and safely keep them, so that he might have their Bodies before Us at Westminster, at a certain Day now past, to answer to A. B. in a Plea or Action of Trespass; and also to a Bill of the said A. against the said C. for one hundred Pounds of Debt, according to the Custom of our Court, before us to be exhibited: And our said Sheriff of Middlesex, at that Day returned to us, that the said C. and E. were not to be found in his Bailiwick; whereupon on the Behalf of the said A. it is testified in our Court before us, that the said C. and E. lurk and wander up and down in your County. Therefore we command you, that you take them, if they are to be found in your Bailiwick, and keep them safely, so as you have their Bodies before us at Westminster, on Wednesday next after three Weeks of Saint Michael, to answer to the said A. in the Plea and Bill aforesaid; and have you thereto then this Writ. Witness Sir Dudley Ryder, Knight, at Westminster, the Day, &c.

Latro, (Latrocinium) He who had the sole Jurisdiction de Latrone in a particular Place: It is mentioned in *Leg. Will.* 1. See *Infangthef.*

Lavatorium, A Laundry, or Place to wash in, applied to such a Place in the Porch or Entrance of Cathedral Churches, where the Priests and other officiating Members were obliged to wash their Hands before they proceeded to Divine Service: And in the Statutes of St. Paul's Church in London, it was ordained, *ut Sacrifista Lavatorium in vestibulo per servientes frequenter mundari faciat.* Liber Statut. Eccl. Paul. London. MS. f. 59.

Laudare, To advise or persuade. *Leg. Edw. Confess. cap. 39.*—*Rex Angliæ assignabat ei in terra sua ad Laudem & Consilium Regis Franciæ, &c.* Hoveden, p. 729. *Laudare* signifies also to arbitrate; and *Laudator*, an Arbitrator. *Knicht. p. 2526.*

Laudum, An Arbitrament, or Award. *Walsingham, p. 60.*

Laverbread. In the County of Glamorgan and some other Parts of Wales, they make a Sort of Food of a Sea Plant, which seems to be the Oyster-green, or Sea Liverwort; and this they call *Laverbread.*

Lancegays, A Kind of offensive Weapons now disused, and prohibited by the *Stat. 7 R. 2. c. 13.*

Laund or Lawnd, (Landa) An open Field, without Wood. *Blount.*

Laurels, Pieces of Gold coined in the Year 1619, with the King's Head laureated, which gave them the Name of *Laurels*; the Twenty-Shilling Pieces whereof were marked with XX. The Ten-Shillings X. and the Five-Shilling Piece with V. *Camd. Annal. Jac. 1. MS.*

Law, (In Sax. *Lag*, Lat. *Lex*, from *Lego* or *Legendo*, choosing, or rather à *Ligando*, binding) Is the Rule and Bond of Men's Actions: Or it is a Rule for the well governing of Civil Society, to give to every Man that which doth belong to him. According to *Bracton, Lex est Sanctio justa, jubens Honesta & prohibens Contraria:* And the Divine Schoolman says, *Lex Humana est quoddam dictamen rationis, quo diriguntur humani actus.* The Law is *Rectum*, as it discovers that which is crooked or wrong; and these three Qualities are incident to the Law, *viz.* It must be *Justa, Jubens Honesta, Prohibens Contraria:* And *Justa* requires five Properties; *Possibilis, Necessaria, Conveniens, Manifesta, nullo privata commodo.* 2 *Co. Inst.*

56, 587. *Laws* are said to be *Arbitrary*, or *Natural Laws*; the last of which are essentially just and good, and bind every where and in all Places where they are observed: *Arbitrary Laws* are either concerning such Matter as is in itself morally indifferent, in which Case both the Law and the Matter, and Subject of it is likewise indifferent, or concerning the natural Law itself, and the Regulating thereof; and all arbitrary Laws are founded in Convenience, and depend upon the Authority of the Legislative Power which appoints and makes them, and are for maintaining publick Order: Those which are natural Laws, are from God; but those which are arbitrary, are properly human and positive Institutions. *Selden on Fortescue, cap. 17.* The learned *Selden* tells us, that the Laws of any Country began, when there first began to be a State in the Land: And that we may consider the World as one universal Society, and then that Law by which Nations are governed, is called *Jus gentium*; if we consider the World as made up of particular Nations, the Law which regulates the publick Order and Right of them, is termed *Jus publicum*; and that Law which determines the private Rights of Men, is called *Jus civile.* *Ibid.* No Law can oblige a People without their Consent; now this Consent is either *Verbis* or *Factis, i. e.* it is expressed by Writing or implied by Deeds and Actions; and where a Law is grounded on an implied Assent, *rebus & factis*, it is either Common Law, or Custom; if it is universal, it is Common Law; and if particular to this or that Place, then it is Custom. 3 *Salk. Rep.* 112. The Law in this Land hath been variable; the Roman Laws were in Use anciently in Britain, when the Romans had several Colonies here, each of which was governed by the Roman Laws: Afterwards we had the Laws called *Merchenlage, West Saxonlage* and *Danelage*; all reduced into a Body, and made one by King *Edw. Confess.* *Magn. Chart. cap. 1 & 14. Camd. Britan.* 94. At present the Laws of England are divided into three Parts: 1. The Common Law, which is the most ancient and general Law of the Realm, and common to the whole Kingdom; being appropriate thereto, and having no Dependance upon any Foreign Law whatsoever. 2. Statutes or Acts of Parliament, made and passed by the King and the Lords and the Commons in Parliament; being a Reserve for the Government to provide against new Mischiefs arising through the Corruption of the Times: And by this the Common Law is amended where defective, for the Suppression of publick Evils; though where the Common Law and Statute Law concur or interfere, the Common Law shall be preferred. 3. Particular Customs; but they must be particular, for a general Custom is Part of the Common Law of the Land. *Co. Litt.* 15, 115. There is another Division of our Laws, more large and particular; as into the Prerogative or Crown Law; the Law and Custom of Parliament; the Common Law; the Statute Law; Reasonable Customs; the Law of Arms, War and Chivalry; Ecclesiastical or Canon Laws; Civil Law, in certain Courts and Cases; Forest Law; the Law of Marque and Repri- sal, the Law of Merchants; the Law and Privilege of the *Stannaries, &c.* But this large Division may be reduced to the common Division; and all is founded on the Law of Nature or Reason, and the revealed Law of God, as all other Laws ought to be. 1 *Co. Inst.* 11. The Law of Nature is that which God at Man's Creation infused into him, for his Preservation and Direction; and this is *Lex æterna*, and may not be changed: and no Laws shall be made or kept, that are expressly against the Law of God, written in his Scripture; as to forbid what he commandeth, &c. 2 *Shep. Abr.* 356. As to the Law of Nature, it is generally the Law of all Places, Persons and Times, without Alteration; and has the same Force all the World over: But it is limitable, as Circumstances re-

quire; and limited *Law* of Nature, is the *Law* now used in every State. All *Laws* derive their Force a *Lege Naturæ*; and those which do not, are accounted as no *Laws*. *Fortescue*. No *Law* will make a Construction to do wrong: And there are some Things that the *Law* favours, and some it dislikes; it favour-eth those Things that come from the Order of Nature. 1 *Inst.* 183, 197. Also our *Law* hath much more Respect to Life, Liberty, Freehold, Inheritance, Matters of Record, and of Substance; than to Chattels, Things in the Personalty, Matters not of Record, or Circumstances. *Ibid.* 137. 4 *Rep.* 124. The Use of the *Law* is to secure the Property of what we enjoy; and the Objects of it concern Persons, their Estates, Crimes and Misdemeanors, Courts of Justice, &c. See *Common Law*.

Law Hath also a special Signification, wherein it is taken for that which is lawful with us, and not elsewhere; as Tenant by the *Curtesy of England*, is called Tenant by the *Law of England*.

Law of Arms, (*Lex Armorum*) Is that *Law* which gives Precepts how to proclaim War, make and observe Leagues and Treaties, to assault and encounter an Enemy, and punish Offenders in the Camp, &c. The *Law* and Judgment of Arms are necessary between two strange Princes of equal Power, who have no other Method of determining their Controversies, because they have no superior or ordinary Judge, but are supreme and publick Persons; and by the *Law of Arms*, Kings obtain their Rights, Rebels are reduced to Obedience, and Peace is established: But when the *Law of Arms* and War do rule, the Civil *Laws* are of little or no Force. *Treat. Laws* 57. It is a Kind of *Law* among all Nations, that in Case of a solemn War, the Prince that conquers gains a Right of Dominion, as well as Property over the Things and Persons he has subdued; and it is for this Reason, because both Parties have appealed to the highest Tribunal that can be, *viz.* the Trial by *Arms and War*; wherein the great Judge and Sovereign of the World, in a more especial Manner, seems to decide the Controversy. *Hale's Hist. L.* 73, 74. Common Things concerning *Arms* and War, are under the Cognifance of the Constable and *Marshal of England*. 13 R. 2.

Law-Books. All Books writ in the *Law*, are either *Historical*, as the *Year-Books*; *Explanatory*, such as *Staundford's* Treatise of the Prerogative Royal; *Miscellaneous*, as the Abridgments of the *Law*; or *Monological*, being on one certain Subject, such as *Lambard's* Justice of Peace, &c. *Fullbeck's Parall. cap.* 3. And our Books of Reports, have such great Weight with the Judges, that many of them are as highly valued, as the *Responsa Prudentum* among the *Romans*, which were *Authoritative*. *Wood's Inst.* 10. *Authors of Law-Books*. Vide *Common Law*.

Law-Day, (*Lagedayum*) Called also *View of Frankpledge*, or *Court-Leet*, was any Day of open Court; and commonly used for the Courts of a County or Hundred. *Et quietæ sint de Scâis Comitatum & Hundredorum nostrorum, de visu Franci plegii & Lawdayorum, &c.* *Chart.* 39 *Hen.* 3.

Lawing of Dogs, Is the Cutting off several Claws of the Fore-feet of Dogs in the *Forest*. *Chart. Forest.* c. 6. See *Expediate*.

Lawless Court, Is a Court held on *Kingsbill*, at *Rochford* in *Essex*, on *Wednesday* Morning next after *Michaelmas* Day yearly, at Cock-crowing; at which Court, they whisper, and have no Candle, nor any Pen and Ink, but a Coal: And he that owes Suit or Service there, and appears not, forfeits double his Rent: This Court is mentioned by *Camden*, who says, that the servile Attendance was imposed on the Tenants, for conspiring at the like unseasonable Time to raise a Commotion. *Camd. Britan.* 441. It belongs

to the Honour of *Raleigh*, and is called *Lawless*, because held at an unlawful Hour; or *Quia dicta sine Lege*. The Title of it is in Rhime, and in the *Court-Roll* runs thus:

Kingshill in } ff. *Curia de Domino Rege,*
Rochford } *Dicta sine Lege,*
Tenta est ibidem
Per ejusdem Consuetudinem,
Ante ortum solis
Luceat nisi polus,
Senescallus solus,
Nil scribit nisi colis
Toties voluerit
Gallus ut cantaverit,
Per ejus soli sonitus
Curia est summonita:
Clamat clam pro rege
In Curia sine Lege,
Et nisi cito venerint
Citius pœnituerint,
Et Nisi clam accedant
Curia non attendat,
Qui venerit cum lumine
Errat in regimine,
Et dum sunt sine lumine,
Capti sunt in Crimine,
Curia sine Cura.
Jurati de Injuria.

Tenta ibidem die Mercurii (ante Diem) proximi post Festum Sancti Michaelis Anno regni Regis, &c.

Lawless Man, (*Exlex*) Is he that is an Outlaw. *Pro exlege tenebitur, cum Principi non obediat nec Legi, & tunc utlagabitur sicut ille qui est extra Legem, sicut Laughless Man.* *Bract. lib.* 3. c. 11.

Law of Marque, (from the Germ. *March*, i. e. *Limes*) Is where they that are driven to it, do take the Shipping and Goods of that People of whom they have received Wrong, and cannot get ordinary Justice in another Territory, when they can take them within their own Bounds and Precincts. *Statute 27 Ed.* 3. c. 17.

Law Merchant, (*Lex Mercatoria*) Is a special *Law* differing from the *Common Law* of *England*, proper to Merchants, and become a Part of the *Law* of the Realm. And the *Charta Mercatoria* 31 *Ed.* 1. grants this perpetual Privilege to Merchants, coming into this Kingdom: *Quod omnes Baliwi, Ministri Feriarum, Civitatum, Burgorum & Villarum Mercatoriarum Mercatoribus antedictis comparentibus eorum eis celerem Justitiam faciant de die in diem sine dilatione; secundum Legem Mercatoriam, de universis & singulis quæ per eandem Legem poterunt terminari.* See 13 *Ed.* 1. and 27 *Ed.* 3. c. 8. *Co. Litt.* 182. See *Custom of Merchants*.

Law-Proceedings, Of all Kinds, as Writs, Processes, Pleadings, &c. are to be in the *English* Language from the twenty-fifth of *March* 1733, by a late Act, 4 *Geo.* 2. Vide *Process*.

Law Spiritual, (*Lex Spiritualis*) Is the Ecclesiastical *Law*, allowed by our *Laws* where it is not against the *Common Law*, nor the Statutes and Customs of the Kingdom: And regularly according to such Ecclesiastical or *Spiritual Laws*, the Bishops and other Ecclesiastical Judges proceed in Causes within their Cognifance. *Co. Litt.* 344. It was also called *Law Christian*; and in Opposition to it, the *Common Law* was often called *Lex Terrena*, &c.

Laws. See *Cambricks*.

Lawyer, (*Legista, Legisperitus, Jurisconsultus*) By the *Saxons* called *Labman*, is a Counsellor, or one learned in the *Law*. And *Lawyers*, such as Counsellors, Attornies, &c. are within the Act 3 *Jac.* 1. against