

lit. Bastardy. If a Bastard dispone his Lands, and the Disposition be delivered but not perfected by Infeftment in his Lifetime, the Receiver of the Disposition has Action against the King and Officers of Donatory, as succeeding to the Bastard, to hear and see the Lands adjudged in implement Precepts directed. In which Process the Director of the Chancery must be cited, if the Lands hold of the King; or the other Superior, if they be of a Subject. Stewart's Answers to Dillet. Doubts lit. Bastardy. Bastards wanting lawful Children of their own Body may also be named Heirs of the Testator or Provision, or Executors to other Persons: seeing they have all due to acquire, and it is the King's Interest it should be so. Such Bastards may likewise take their own Estates, or have Heirs of Tailzie, to exclude the King as in Lands disposed to a Bastard and the Heirs-male of his Body, which failing to any other Person and his Heirs Craig feud. lib. 2. tit. 9. 7. & lit. 18. §. 7. Spotswood Pratt. lit. Bastardy Hair lib. 3. tit. 3. §. 44. that Sir James Stewart answers to Dillet. Doubts lit. Bastard is in a Mistake to advance, that a Bastard cannot make a Tailzie or have an Heir Tailzie, without the King's Consent.

2. A Bastard having lawful Children, can make a Testament and name Executors to his Children without any Grant from the Sovereign Craig feud. lib. 2. tit. 18. §. 10. & March 1620 Muir contra Kimhard. Seeing the Right of a Bastard's goods is only caducuary to the King, for want of lawful Heirs, and Bastards procure Legitimation only to capacitate them to make Testaments in case they have no Children. A Bastard having Children may name a Stranger his Executor, and freely dispose upon his Dead part by Legacy Stewart. ibid. for the King has no Prejudice thereby, seeing it would otherwise have fallen to the Children and they having their Legitimie, can not complain. And tho a Bastard make no Testament, his own Children may be Heirs or Executors by Blood to him Shene ibid. Craig ibid. Hair ibid. §. 45. They will have their Legitimie, and his Relict her Share of his Moveables 7 July 1627 Wallace contra Muir Craig ibid. Stewart ibid. A Bastard's lawful Children will succeed to one another Craig ibid. But the lawful Children of a Bastard dying intestate without Issue of his own Body, and having neither Brother nor Sister, all the Goods of the Father, except the Legitimie due to the deceased Child, fall to the King by the Bastardy: and tho the said Legitimie belong not to his Majesty by Virtue of that Title, he will as ultimus heres to the Child, have Right to the same, and to his whole Estate heretable and movable 13 July 1626 L. Halero contra Somervel Shene ibid. Craig ibid. Yet voluntary Payment of a Debt without Process or Sentence to the Executor of a Bastard's lawful Son, who died childless and made no Testament, was sustained as done bona fide, to free the Payer at the Hands of a

Donatory of ultimus heres; seeing the Debtor was not bound to know or inquire, if the Creditor was the Child of a Bastard, or if there was Place for an ultimus heres, 18. March 1626 Datorson contra Exccutors of Datorson. A Father who is a Bastard may succeed to his own lawful Children, as his Children to him; the Relation being equal and reciprocal. Stewart ibid. By the Canon Law Bastardy hath also this Effect, that the Bastard is prohibited from taking Orders, and incapable of any ecclesiastical Benefices: because the Sacraments ought not to be committed to infamous Persons: and Children often inherit the Vices of their Parents.

Tit. 3.

Of Masters and Servants.

By the Law of Nature all Men are free born and do love Freedom and Liberty, which is a natural Power or Faculty to do as one thinks fit, unless hindered by Force or the Law l. 4. ff. de stat. hom. This is called a natural Power, because a Man has his Liberty from Nature, as soon as he is born, without any adventitious Right acquired by Law. A free Man is said to have Power to do as he thinks fit or what he pleases. Not as if to such a one omne quod libet liceret, or as if Licentiousness or Libertinism were indulged to him; for Liberty is a Power over our own Persons and Actions, only, in Matters indifferent, of private Utility no Way clashing with our Duty to God to our Neighbour and our Selves. A Man must not in things indifferent, which are not good or bad in themselves, be compelled even to what is advantageous to him. The Choice of what is profitable or hurtful to People having the Use of their Senses and Reason is left to themselves. The free Exercise of this Liberty, may be obstructed either unjustly or justly, without taking away the Liberty itself. The Excess of a Person's Liberty is restrained unjustly, by illegal Force, when by being confined to a private Prison, or in the Hands of Robbers, he cannot go whithersoever he would, or when he is abridged of the Necessaries of Life, as Meat, Drink, &c. or constrained to do or give what he would not, thro Menaces of Death or other just ground of Fear, which may be thought to prevail upon Persons of Resolution and Prudence. In which Cases one does not de jure lose his Liberty, but only is hindered de facto to use it for a Time. The Exercise of Liberty is hindered justly by the Law of God or Man. For Liberty doth not exempt from Obedience to our Creator, or to the publick Magistrate his Vicar on Earth; nor intitle a Wife to throw off that Respect she owes to her Husband, or Children to vilipend their Parents. Authority; nor yet empower one to kill or disable himself. And when a Man is not allowed to steal, whore, or commit Murder, or to grant effectually Rights except in the Form of Law or is committed to Prison for Debts or Offences, or his Effects arrested and seized by Diligence, at the Instance of his Creditors: these or the like