

shall intirely belong to such as fish them up in the Sea or find them  
 ling: But if they find them upon the Sands they shall have but one  
 the rest shall be equally divided between the King or those deriving Right  
 him, and the Admiral. In England Gold or Silver or other Things of Value  
 found in the Sea, belong to the Finder take 2 Inst. 168. Goods which once  
 long'd to some Body and have no present Owner who appears to claim them  
 either Things which have passed out of the Owner's Custody without any  
 to part with them, or Derelicts, Goods which have passed out of the Owner's  
 session without any Intention <sup>on his part</sup> to want them, are either Treasures or Things lost  
 by Negligence or Chance. The Law concerning Treasures is explained in  
 the Place (vid infra pag. 1328) He who has found a Thing that is lost by  
 negligence or Chance, as what drops from a Person in the High Way, or out of  
 Travelling Coach &c. is obliged to preserve it and take Care of it, in order  
 restore it to the Owner. If he does not know to whom it belongs, he ought  
 form himself by such Ways as are in his Power; even by making public  
 stimation of it, in Order to find out the Owner if the Thing be worth the pains  
 and if it consist with Prudence, to take that Course. For if he keeps it  
 in Intention to restore it, or without endeavouring to discover the Owner he  
 commits a Theft l. 43. §. 1. ff. de furt. Jo. Voet. Comm. ad Tit. ff. de acq. v.  
 rer. dom. n. 9. Star Lib. 1. Tit. 7. §. 3. By the civil Law, when a Thing found  
 is restored the Finder cannot demand any Gratuity from the Owner for  
 having found it, tho he may honestly receive what is voluntarily offered  
 him d. l. 43. §. 9. ff. cod. Junet. l. 15. ff. de prescript. verb. That is, tho  
 fit to give him: But it would be very dishonourable in any other Person to re-  
 ceive the least Thing whatsoever on that Account. Yet by the modern Consti-  
 tution of Nations, a Gratuity may be required, tho not offer'd Jo. Voet. l. 1. de  
 Part. to repay the Money that has been laid out either in keeping the Thing  
 or in delivering it to him, as if it was some strayed Beast, which it was ne-  
 cessary to feed, or that the Carriage of the Thing from one Place to another  
 had obliged the Person in whose Custody it was to be at some Charges; or if  
 any Money has been laid out in Advertisements or having the Thing cried  
 out, in Order to give Notice to the Owner. And if he who delivers the Thing to the  
 Finder, not being the same Person who found it, gave any Thing to get it  
 the Finder, he will recover it from the Owner. *Plac. Arguitas suggerit* l. 2.  
 §. 5. in fin. ff. de aqua aqu. p. b. The Finder of a Thing that was lost, if  
 after having done all that was possible to discover the true Owner, cannot learn  
 who he is, the Finder remains Master of it till the Owner appears and  
 proves his Right Jo. Voet. l. 1. de Star. l. 1. de. Because if the Owner cannot be found  
 it is the same Thing as if the Thing belonged to no Body. Derelicts are  
 Things wilfully thrown away and abandon'd by the Owner, with an Inten-  
 tion to leave them for ever. Which by the civil Law belong to the Person that finds  
 them

them, as if no Body had ever been Master of them. §. 47. Inst. de res.  
 divis. This is not only understood of Movables, which may be thrown away  
 as being commonly of small Moment, but also reacheth Immoveables or Land,  
 which upon the Owner's leaving the Possession thereof with a View  
 to have it any longer accounted Part of his Estate (perhaps because the taxes  
 and other publick Burdens chargeable upon it exceed the profits) returns  
 to its former Condition and is subject to the first Occupant l. 3. §. 6. ff. de  
 acquir. vel amit. poss. Jo. Voet. l. 1. de. n. 10. It is with much greater Reason, that  
 those who gather up Pieces of Money or other Things, which Princes or Nobles  
 throw away among the Multitude out of Magnificence, or some extraordinary  
 Occasions, acquire what falls into their Hands. For besides the Possession of a Thing,  
 which he, who was Master of it, is not willing to keep any longer, they have  
 Intention, which makes over the Things to those who take them up  
 res. divis. l. 9. §. 7. ff. de acquir. rer. dom. Nov. 105. cap. 2. §. 1. But in  
 derelicts we are not to comprehend Things thrown away upon Necessity, as  
 goods out of a Ship to lighten the Burden of it in a Tempest, which are not  
 wilfully thrown away. Some contend that Derelicts now pertain to the Fish  
 Ryple. Not. jur. Belg. Tit. de jure fisci. Cypriani reques. cens. jur. Belg. ac  
 §. 47. Inst. de res. divis. Dorez. ad Tit. l. de bon. vacante n. 23 } and thence  
 conclude, that this Acquisition of Derelicts by Occupancy is in Disuse. de  
 cording to others (Paul Voet Comm. ad §. 47. Inst. de res. divis. Jo. Voet Comm.  
 ad Tit. ff. de acquir. rer. dom. N. 10. Groenweg. de legib. abrog. ad l. §. 47.) It  
 is still in Observance, and any Disuse as to Derelicts is to be attributed to the  
 Temper of the Age we live in; that is more apt to covet the Things of others,  
 than to abandon its own. Huber (De jure civit. Lib. 2. Sect. 4. cap. 3. N. 11.)  
 distinguishes betwixt Movables or Things of small Moment and Immove-  
 ables or a whole Estate abandoned by the Owner; thinking that the former  
 both belong to the Occupant, and the latter to the Fish. By the Law of Eng-  
 land, no Man by simply forsaking his Goods or Estate loses the Property  
 of them, but he may always resume them; Wood's Inst. of the civil Law  
 pag. 109. The Lord Stair seems to understand, that Property may be lost by  
 Dereliction, when he insinuates, that Things relinquished by the Owner be-  
 long to him that finds them, only when they are not appropriated to the  
 Publick, Inst. Lib. 2. Tit. 1. §. 5. And that Things are esteem'd relinquish'd  
 when thrown away in some common Place, where they cannot miss to  
 be taken up, or when another is suffered quietly to possess them as his own; or  
 when the Owner hath for a long Time neglected to signify his Inten-  
 tion to retain them by any possessory Act, the Import of which Circum-  
 stances is left to the Arbitrament of the Judge l. 1. §. 20. But that learned  
 Author doth no where, that I know, give his own Opinion expressly, whether  
 by our Law Derelicts go to the Finder, or to the King and neither shall I  
 presume to offer mine.

Specification