

and to divide the Price on the same Foot: But if this Mixture hath been made voluntarily by the Owners of the Things, the Engagement in this Case is formed by Auction, and the Master is commission unto them according to the Conditions which they have agreed on §. 27. Just. de rer. divis.

Tit. 9.

The Quasi-Contract between Masters of Ships, Innkeepers, Hostlers and Passengers and Travellers.

Masters of Ships Innkeepers and Hostlers are answerable in Passengers and Travellers for exact Diligence in preserving the goods and Baggage of Passengers or Travellers brought into their Ships Inns or Stables, and to make up any Loss or Damage therein. Albeit the Things were neither known nor shewed to the Master of the Ship Innkeeper or Hostler, nor yet the Passenger or Traveller had free Quarters C. 6. pr. ff. Nautic. Coup. Tabularij &c. Which Engagement is formed usually without any express Contract by the Passenger or Traveller bare entering into the Ship or Inn, and depositing his Baggage or other Things into the hands of the Master of the Ship or Inn, or of those whom he appoints to take Care of it: For an Innkeeper is accountable for the Fact of those of his Family and of his Domesticicks according to the Functions in which they are employed. Thus when a Traveller gives to the Servants who have the Keys of the Chambers a Cloak bag or other Things, or when he puts his Horse into the Stable under their Care, the Master of the Inn is answerable for them: But if a Traveller upon his arrival delivers a Bag of Money to a Child or a Scullion out of the Master or Mistress's Sight, the Innkeeper will not be answerable for a Bag of this sequence deposited in such a Manner C. 1. §. 3 & 5. ff. Naut. Coup. Stab. C. un. §. ult. ff. Just. advers. Nautic. Coup. And the Master of a Ship or other Vessel who undertakes to carry by Sea Persons, Baggage or Merchandise is accountable for all the Loss or Damage that shall happen either on Board his Ship, or on the Key, if the Goods are received there C. 1. §. 2 & 3. C. 3. pr. ff. Coup. Naut. Stab. By the Deed of his Mates or other Agents, and of the Persons employed in the Service of the Ship and for navigating her C. 1. §. 2. ff. exsec. act. C. ult. pr. ff. Naut. Coup. Stab. Altho' Innkeepers are not paid in particular for watching or keeping what is deposited in the Inn, but only for the Lodging and other Things which they furnish to Travellers; yet they are nevertheless bound to take the same Care, as if they were expressly paid for watching the Goods. For this is necessary to the Commerce which they drive: And it is for the Interest of the Publick considering the Necessity under which Travellers are to trust Innkeepers, that they be bound to an exact and faithful Care of the Things committed to their Custody: that they be made answerable even for Thefts. For if otherwise, they might with impunity commit the Thefts themselves C. 5. C. 1. §. 1. ff. Naut. Coup. Stab. C. un. §. 1. ff.

The Master of the Ship, Innkeeper, Hostler, or Landlord is answerable for the Goods of the Passenger or Traveller.

ff. Just. advers. Naut. Coup. It was sustained relevant to make an Innkeeper liable for 700 Merks contained in a leather girdle stolen from one who lodged a Night in his House, that the Lodger at his Entry to the House handed the girdle to his Host, and declared to him next Morning that it was taken away from under his Pillow while he slept. The White count. Vindict. An Innkeeper in Birmingham was obliged to pay for a Cask lost in his House without Necessity upon the Owner of the Cask, to prove either that it was delivered to the Master of the House, or to an Servant, or that they stole it. January 1687 Master of Forster contra Host. An Innkeeper was liable to a person received and lodged in his House for the Value of a Jewel of Breeches and what was in them, stolen from the Lodger before the next Morning & June 1707 Brewster contra Leach. Value of goods brought into their Inns Ships or Stables by Lodgers each Man took to his own Goods unless the Innkeeper or Passengers consent C. 7. pr. ff. Naut. Coup. Stab. Which Consent is intended from their Silence at their first Entry, when it is free to enter or not, but not by their subsequent Silence to such an Breach given to them by the Stepper or Innkeeper. For they may see the Travellers taking their Goods to their Inns or Inns where his Goods are, which is one way in which a Traveller is to see the Hosts Stab. C. 1. §. 3. Vers. By Nautic. Especially seeing there may be other Keys <sup>or ways of getting at them</sup> which the Lodger cannot know of.

But Innkeepers Masters of Ships and Hostlers are not liable for Loss or Damage happening to Things brought into their Inns Ships or Stables by an Accidental, or such as the greatest Care could not have prevented viz. Robbery Piracy or Shipwreck C. 5. §. 1. ff. Naut. Coup. Stab. The Engagement of an Innkeeper for the Fact of his Domesticicks is limited to what is done in the Inn, and the Engagement of the Master of a Vessel is restricted to Loss and Damage done on board it: And if any of his Servants steals any Thing or does any Damage in another Place, the Master is not accountable for it C. ult. pr. ff. Naut. Coup. Stab. One in Company with others in an Inn made Show of a Purse of Gold to those that were at the Table without telling any Servant of the House thereof. As the Purse of the Purse was going to his Bed in his Chamber in the Inn he was advised by a Servant of the House to lock or bolt the Door of his Room, but neglected to do it: And when he rose next Morning he exclaimed that he was robbed of his Gold, and the empty Purse was seen lying upon the Table in his Room. He pursued the Innkeeper for his Gold upon the Dict Nautic. Coupons &c. Who pleaded in Defence, that he found Action upon the said Dict. The Goods abstracted must have been visibly brought to the House in View of the Innkeeper or Servants intrusted by him; or at least these must have been told thereof: Whereas here no Person belonging to the House saw or knew of the Purse's leaving such a Purse about him. 2. It must be proved that some other Person than the Owner took the Goods a missing out of the French Chamber. Whereas here the Purse which was in the Owners own Possession, might have been found