found empty upon the Table without another's touching it. 3. The Guest lays no Place where the Traveller was bid look to his own Goods, and tacitly consents to do it by not gainsaying. Nor here the Partner whom advised to take care of what might be about him by locking or bolting the Door, having suffered Loss thro' Neglect of this Caution, may blame himself. For the Innkeeper his Servants were not obliged to sit up all Night and watch the Purses to answer for Loss occasioned by other Passengers whom he provoked to abuse him by exposing to them his Purse. It was replied for the Pursuer 1. The Civil Code doth not require Travellers to propale to their Hosts what they have in their Pockets the Custody whereof were to expose them to the greatest Temptation that such Improbum genus hominum ill Men are capable of viz. to have their Persons and Lives attacked by their Fellows in Order to get what he knows to be in their Purses and so to be a Prey to him. But Innkeepers are answerable for the Safety of their Guests and every Thing they can answer they had about them. Because Innkeepers have it in their option to receive not any Persons whose Fidelity they doubt unless they show what they have with them, and if they do not require them to do so, are presumed to trust their Oaths as to what they shall afterwards pretend to want in their Chamber. 2. Law doth not exact from the Innkeeper upon his giving to the Lodger the Keys of his Room, and locking him in look to his every Thing; unless he accustomed him consent to run the Risk and be under his own Protection C. 7. pr. 4. Naut. Caupo. Stab. But his locking the Door is understood to be only for the more Security and not to free the Landlord: Especially seeing there may be other Keys of the Room unknown to the Traveller. The Lords sustained the Innkeeper's Defence and absolved him from the Pursuit 22 June 1704 Kay Sheriff Clerk of Aberdeen contra Williamson Innkeeper in Kinghorne

If the Servant of a Guest or any that comes with him steal his goods, the Host shall not be charged for them.

A Passenger or Traveller is allowed to prove his having had such Goods and Cast them in the Ship Inn or Stable proût de jure: And that being proved in Jure in Litem is taken upon the Quantity or Value of them 4 Decemb. 1601 White contra Crocket. 6 June 1707 Browster contra Lees. ex necessitate Juris; which the Lords will modify if it seem extravagant. So if one delivered locked or sealed Clodebag to his Host, tho the Things therein were not shewed to him if he do not restore the Clodebag, or restore it open or unsealed, the Owner is allowed to prove the Value of the Clodebag, or of what he wants out of it by his Oath in Litem Prosp. Farin. Tragm. Grim. Part 5. Arg. Caupon. [redacted] si Caupo fuerit dala &c. n. 95. But albeit an Oath in Litem be allowed here it is refused where any other Proof can be had. Therefore in a Suit at the Instance of the Freighter of a Ship against the Owners, for Damage in the Cargo occasioned by the Skipper's Fault, the Pursuer was not admitted to swear in Litem si the Goods might have been proved by the Skippers Bill of Loading and the Oaths of those who carried and delivered them into the Ship.

Decemb. 1672 Carnegy contra Napier. Because the Quantity and Worth of

Those



Those who let out furnish Chambers for Hire, are liable in the same Manner to their Lodgers, as Masters of Ships Innkeepers and Stablers are to Passengers and Travellers Scrap. Farin. Gl. Arguim. Caupones Nautæ &c. n. 24.

All Carriers by Sea Land or fresh Water are bound to that Care Prudency and Experience which their Profession requires. Thus the Master of a Ship who should sail up a River without a Pilot, and a Land Carrier who should be benighted travelling in the Night Time or out of the common Road in a dangerous Place, would be liable for the Accidents which should happen, if such Faults has given occasion to them. Stair. Inst. de Leg. Aquil. L. 2. tit. 8. § 5. Leod. L. 13 § 12. Ulpian. L. 36. § 1. si res vi rapta. A Skipper was liable for the Damage of Wares in his Ship by spoiling of the Pumps, albeit the Ship was sufficiently tight at the commencing of the Voyage, and the Owner thereof was on Board. Seeing a Spell or Rift in the Pump was broke in the Voyage without any Stress of Weather, and it belonged not to the Merchant and to the Skipper to make any Inspection of the Ship; the Merchants are neither obliged to know nor to prove the secret Intrinsick of Ships. 7 November 1677 Laurie contra Angus. Perishable Goods in a Ship being spoiled by the springing of a Leak while the Ship was in the Road the Master of the Ship was put to make up the Damage. 24 July 1680 Lamont contra Duncan. Because ordinary Hazards arising from emergent Accidents in the Ship and her Furniture did not free any Error or Breach of Weather which cannot be prevented, by upon the Skipper and his Owners, who should have the Ship sufficient at their Peril.

## Tit. 10.

### The Quasi Contract of those who carry on any other Trade by Sea.

The Owners or Freighters of Ships, or they to whom the Profit thereof belongs, (called in the Civil Law Exercitores Navium) are obliged by the Deeds of the Ship Master or Supercargo, whether Major or Minor, Man or Woman, (seeing he who made Choice of a Minor or Woman ought to blame himself for the Consequences of his Choice) and of those substituted by them, in what relates to the Commerce or Business over which they are placed, and for all the Consequences and necessary Expences thereof, as for repairing or subrigging the Ship, maintaining the Company, paying the Seamens Wages, or any other Thing for the Use of the Voyage or of the Affair committed to his Management. They are obliged by the Deeds of Persons substituted by the Shipmaster or Supercargo altho' he had no Power to substitute another in his Place. For the Necessity of treating with him who seems to have the Charge of the Ship or Cargo, together with the Power which he has received from the Person that was first intrusted, and the reasonable Presumption, that it was by Order of the Owner of the Ship or Lading, that he exercises his said Office, gives to what he does the same Force, as if the Thing were done by the Owner of the Ship