



THE JOURNAL OF LAW

“IGNORANCE OF THE LAW EXCUSETH NO MAN.”

Conducted by an Association of Members of the Bar

IN PRESENTING TO OUR FELLOW CITIZENS the first number of a new work, it is proper to state the views and purposes with which it has been undertaken.

It is always important that the inhabitants of a country should possess a general knowledge of the laws by which they are governed, and especially of those regulations which affect them in the pursuit and transaction of their ordinary business. In the United States, where *the people* exercise so controlling an influence on legislation, it is emphatically necessary that *they* should be, to the greatest attainable extent, instructed in the philosophy of general jurisprudence, and in the state and leading principles of our own. Unless such instruction be widely diffused, what is good in our system cannot be secure from innovation; what is evil cannot be properly amended.

It is believed too, that any effort must be deserving of encouragement, which may tend to produce a greater degree of uniformity in the regulations of the different states, on those subjects which are not of merely local interest. In our private intercourse and relations of business, or otherwise, we are one people, while as far as regards

Editors' note: This is the first issue of the Journal of Law, published in Philadelphia on July 7, 1830. The star paging indicates page breaks in the original. The last issue of the journal directs, "All communications relative to the Journal of Law . . . to the Literary Rooms, No. 121, Chesnut street; Henry H. Porter, Proprietor." 1 J.L. 384 (June 22, 1831).

Members of the Bar

the laws by which our conduct and contracts are for the most part regulated, we form twenty-four distinct communities, in each of which a rule of action is prescribed, differing more or less from that which prevails in any one of the others. Inconvenience from this source, to a certain extent, is already felt; and unless the dissimilarities and contradictions of our respective codes be prevented from increasing, inconvenience to a much greater extent must be expected. [*2]

In endeavouring to be useful we desire to be entertaining also, and have therefore embraced in our scheme the introduction of a suitable quantity of the lighter matter which is usually found in the pages of a literary journal.

Our aim will be to afford to our readers instruction without tediousness, and amusement without frivolity.

The *Journal of Law* addressing itself to *the People of the United States*, will be principally devoted to the exposition, in popular language, of the philosophy, history, and actual state of law and government in different countries – of our own constitutions, state and national – laws, civil and criminal – judicial systems and modes of procedure – together with particular essays on those branches of the law, a knowledge of which may be most practically useful to men engaged in active pursuits; as for instance, the law of corporations, patents, insurance, bills of exchange, and commercial and other contracts, in all their varieties, real estate, with the modes of conveying it, insolvency, wills, descents, intestacy, &c. &c. &c.

We shall endeavour always to inculcate those principles of sound *morality*, the preservation of which is the legitimate purpose of all laws, though it is to be feared that no existing system is, in all its parts, exactly adapted to that purpose. Defects in the principles, provisions and administration of our own, shall be candidly and fearlessly noted.

Reports of interesting decided cases, biographies of eminent lawyers and others, medical jurisprudence, sketches of the legal, literary and benevolent institutions of various countries, anecdotes, and the various topics of general literature will be considered within the scope of this Journal.

To our professional brethren in the different states, we appeal with confidence, for assistance in the present undertaking. Arrangements have been made for procuring aid from competent persons in the various quarters of the union, and the liberality of the publisher enables us to offer to distant contributors, a suitable remuneration for their labours. [*3]

CODIFICATION – REVISION OF STATUTES

We are not among the number of those, who would exalt the common law, “as the perfection of human reason.” While we would fully investigate its merits, for the purpose of remedying its defects, we would not prosecute the inquiry, had we no view, other than that of pulling down a venerable system, which experience, the surest test of the wisdom of all things, has, during ages, demonstrated to be admirably adapted to meet the wants of society; accommodating itself with a happy facility, to the various exigencies produced by activity and enterprise, and adequately protecting life, liberty and property. It is not a bad maxim, to “let well enough alone.” Too much legislation has been well said to be worse than none at all; and perhaps the example of our own country has afforded additional reason to yield full belief to the truth of this position. Much as may be said “of the glorious uncertainty of the law,” we would ask, whether vastly more has not been said on the subject than is warranted by truth. The modern rage is in favour of codification or generalization. Within just limits, regulated by wise heads, and conducted with great caution, there are many branches or departments of the law, where we are ready to admit, much benefit may result from revision and systematic reorganization. The subject is, however, both delicate and dangerous. The effects of the present system we understand tolerably well. Where particular mischief is discovered, we possess the means of remedying it, by suitable legis-

The Journal of Law will appear in numbers of 16 pages each, octavo, on the first and third Wednesdays of every month, at the *Office of the Journal of Health*, 108 Chesnut Street, Philadelphia. Price \$1.50 per annum, payable in advance.

J. DOBSON, *Agent for the Proprietor.*

Members of the Bar

lation. But no human foresight is long enough – no human wisdom is deep enough, to discover what will be the operation and influence of any new general code. Among the arguments in favour of the laws as they now exist, not the least powerful is this – that they are familiar to the people, who have long acquiesced in them, and have accommodated themselves, their contracts and their business to their provisions. It is an easy thing to pull down that which it has taken many years to erect; the rust of antiquity affording no protection against the modern passion for innovation. We conceive ourselves to be truly a wise generation. Easy as it is to destroy, it is far more difficult to build up – to replace by a better system, a theoretical perfection, that which has been discarded as no longer suitable for the more liberal, enlightened and advanced [*4] state of modern society. The construction of a single law cannot be clearly foreseen, even by the law makers, at the time of its enactment. How many statutes have been framed which have counteracted the very end they were designed to promote? If this be true of a single statute, how much more forcible is the reasoning, when applied to a whole system. While we would, with all our power, uphold these general views, we wish not to be considered as the enemies of reform. Every thing which time has shown to be unwise, we would remedy. Every thing which the march of mind has manifested to be good, we would adopt. But we would not entirely abandon the navigation of those ancient seas which we have long found to be safe, and enter on an ocean whose shoals and hidden rocks no mariner has discovered, whose depths no line has fathomed. While therefore, we dread any thing like an indiscriminate attempt at codification, we cannot perceive that our remarks will apply to a revision of the statute law of our country. From its peculiar situation many laws have been enacted at different and distant times, by distinct legislatures, for the purpose of repairing particular evils and of supplying deficiencies. These laws, it almost necessarily follows, are often inconsistent with each other, and difficult to reconcile. We cordially approve those acts which have been passed, making provision for the speedy accomplishment of an object so desirable as their revision, by eminent and learned men. The labours of such men will

have a tendency to restore beauty, and to give harmony to a system, now too much marred and defaced, by at times hasty and ill judged legislation.

MARKS OF A GOOD JUDGE

It was remarked by Selden, that there could be no mischief done in the commonwealth without a judge. This is true in the main, for where the laws are administered with justice, promptness and impartiality, the remedy for the evils produced by the vices, passions or irregularities of men, is always at hand, and the knowledge of this tends to keep those causes of moral evil in check. On the contrary, when the judges are indolent, of [*5] small learning, or want courage and honesty, the law becomes the very reverse of what it ought to be, and is a shelter to those who offend, a terror to those only who have occasion to require its aid.

Bacon in his advice to Sir George Villiers, says, Because the life of the laws lies in the due execution and administration of them, let your eye be, in the first place, upon the choice of *good judges*. These properties had they need to be furnished with: to be learned in their profession; patient in hearing; prudent in governing; powerful in their elocution to persuade and satisfy both the parties and hearers; just in their judgments; and to sum up all, they must have these three attributes; they must be men of courage, fearing God, and hating covetousness; *an ignorant man cannot, a coward dares not be a good judge.*

And again;— If any man sue to be made a judge, for my own part, I should *suspect* him; but if either directly or indirectly he should *bargain* for a place of judicature, let him be *rejected with shame.*

So much for the selection of judges. Of the rules which should govern their conduct on the bench, we have never seen a better summary than the following, which is given by the writer already quoted, in his address to Justice Hutton. To represent unto you the lines and portraiture of a good judge:

The first is, *that you should draw your learning out of your books, not out of your brain.*

Members of the Bar

2. That you should mix well the *freedom* of your own opinion, with the *reverence* of the opinion of your fellows.
3. *That you should continue the studying of your books, and not to spend on upon the old stock.*
4. That you should fear no man's face, and yet not turn stoutness into bravery.
5. That you should be *truly impartial*, and not so as men may see affection through fine carriage.
6. That you should be a light to jurors to open their eyes, but not a guide to lead them by the nose.
7. *That you affect not the opinion of pregnancy and expedition, by an impatient and catching hearing of the counsellors at the bar.*
8. That your speech be with gravity, as one of the sages of [*6] the law; and *not talkative, nor with impertinent flying out to show learning.*
9. That your hands, and the hands of your hands, I mean those about you, be clean and uncorrupt from gifts, from meddling in titles, and from serving of turns, be they of great ones or small ones.
10. That you contain the jurisdiction of the court within the ancient Merestones, without removing the mark.
11. Lastly, that you carry such a hand over your ministers and clerks, as that they may rather be in awe of you, than presume upon you.

JUDICIAL LEGISLATION

Judicial legislation has at times occurred in the history of the law, and has invariably provoked just animadversion. In all countries, where a regard is manifested for the principles of freedom, and especially in our own, it has been regarded of paramount importance, that the line of separation should be strongly marked between the executive, legislative and judicial departments of government. There is, however, an apology for the assumption of prerogative by the judiciary, to which neither of the other two departments can lay claim.

Were the executive to attempt the passage of a law, or the construction of an act of Congress, to rule thereby a controversy between citizens; or, were the legislature to erect itself into a high court of appeal, for the correction of the errors of the judiciary, the general voice would condemn, and the general power punish the assumption. No excuse could be found, arising from the intimate connexion of the two branches; it could not be argued, that the boundaries of the provinces approached so close, that an incautious or negligent step had inadvertently passed the line. There is no similitude between the authority which makes or executes, and that which construes the laws. Let it, however, by no means be inferred, that we mention the excuse which the judiciary may plead, as any justification for the judges, when they do assume legislative powers.

The error arises from the peculiar nature of the common law. [*7] Undoubtedly, that law has the property and the merit of adapting itself to the varying wants of man, and to the changes produced by time in the situation of a people: and the judges will in many instances in administering its functions, find it difficult to distinguish the gradual, yet legitimate expansion of its provisions, from the formation of an entirely new rule of action. What to one may appear but the necessary consequence of some previously well settled maxim, the reason of which would apply to and direct a new combination of circumstances, to another might seem a clear usurpation of the exercise of the sovereign power of the state – that of making the laws. Distinguished men have differed upon this point; while some have held with Lord Mansfield, the almost infinite expansibility of the common law, with others “*stare decisis*,” has been the guide and limit of their decisions. However our readers may think upon this important point, we trust that all will agree in an opinion of the impropriety of a legislative judgment.

The idea of the legislature constituting itself a tribunal for the correction of the errors and reversion of the judgments of the regular courts of the country, is one we can scarcely realize. It has in it as much of the ludicrous as the terrible. The decision of a knotty point of law by a body of men, most of whom have never turned their attention to the subject, in the slightest degree, can only be

Members of the Bar

performed by cutting the Gordian knot with the legislative sword, for its intricacies can never be unravelled. For we hold, that if any science demand from its votaries, a life of untiring patience, and unwearied assiduity to attain proficiency, it is the law. And that same legislative sword may sunder rights secured, if any thing can be secured, and rendered sacred by the voluntary acquiescence of centuries. The distinction is at once perceived between the formation of laws, to stand as the rule of future actions, or the construction by affirmative statutes of past regulations, which are in nowise to affect by-gone transactions, and the authoritative declaration of what the law is, in opposition to the deliberate judgment of the tribunal whose province it is to pass upon the subject; which declaration is most injuriously to affect privileges secured by and arising under provisions in full force at the time of the formation of the contract.

We have always held as axioms the following propositions. [*8] That the constitution, based upon certain great truths, is the expressed will of the people, and that the three departments of the government are but different organs to execute that will in the manner and with the limitations prescribed by the charter. That the Omnipotence of the legislature is with us an unintelligible phrase. That a law, therefore, passed by that body may be void, when it contravenes the provisions of the constitution. That the divesting a vested right or declaring that one shall not enjoy a right, to which he was fully entitled by the laws in force at the time his contract was formed, (which laws derive their whole validity from the voluntary acquiescence of the people,) by the passage of a law after the facts occurred, which originated that right, is a violation of the constitution.

It may be thought a waste of time to record these truths; as plain, however, as they appear, some of them do not meet the approbation of all.

It is instantly perceivable how a course of legislation, such as we have adverted to, would open a door to injustice of every kind. If it were once known that our causes were not to be decided in our courts, and that a decision of a point of law by the supreme court

would not settle a litigated right, but that the way was still open to a judgment by the legislature, in the form of an act, declaring what the law should be in regard to cases then pending, frightful would be our situation. No law would be fixed – no principle certain – the records and evidences of the law, would become valueless and deprived of all their sanctity, and the citadel of man's rights, guaranteed and defended the constitution of our country, would fall at once before the breath of the legislative trumpet.

CONSTRUCTIVE CRIME

Crimes ought to be defined with such clearness, and accuracy, that none may be deceived. There should exist no subtle refinements, no unmeaning distinctions, no technical jargon, to puzzle and mislead; but all should be so plain, that no offender may urge in extenuation of his crime, that he erred through ignorance, being led astray by the vagueness and incomprehensibility [*9] of the law. It cannot be expected that any but the educated lawyer, should comprehend the laws which regulate real estate, descents, matters generally of property, and rights merely civil. To understand these, hard study, great learning, and deep thought are requisite. It is not important that it should be otherwise. But where the liberty or the life of the citizen is involved, it is widely different: In every country which professes to guard these with a watchful and jealous eye, they should never be exposed to the hazards of construction, which must be always doubtful, and liable to vary, with the variety of temperament, disposition and mind of different judges. The citizen should feel that he may walk securely, and that he is not in danger of the sword of justice, unless he wilfully expose himself to its keen edge by his guilt. In arbitrary governments it may be fit that the intricacies of the criminal law should resemble the perplexed windings of a labyrinth, and that involved in the mazes of its obscurity, the subject should wander constantly exposed to the tyrannical exercise of power. We regret, that in this country, we cannot claim an entire exemption from the doctrine of constructive crime. Some of the distinctions growing out of it are so purely artificial and so truly unreasonable, that none unless well imbued with prejudice, will

Members of the Bar

maintain or defend them. The doctrine of constructive larceny strongly illustrates the view we take of this subject, to which we shall probably recur hereafter.

If a man obtain a horse, from a keeper of a livery stable, under the pretext of *hiring* him for a day, but at the time, fraudulently intending never to return the horse, and he be subsequently caught and arrested, he can be indicted, tried and punished as a thief.

If another man obtain a horse in like manner, with only this difference, that he get possession of him, under the pretence of *buying* him, such man will be guilty only of a breach of contract, and will not be liable to be indicted, tried or punished as a thief.

Hence, it will appear that to play the rogue with safety, not only cunning is required, but no small degree of shrewdness and knowledge. Dr. Johnson could not call this “a distinction without a difference.” [*10]

CLAUDE DU VALL

This celebrated highwayman was born at a place called Domfront, in Normandy. His father was a miller, and his mother the daughter of a taylor. By these parents, he was brought up strictly in the Roman Catholic religion, and his genius was cultivated with as much learning as qualified him for a footman.

Neither father nor mother took any notice of young Claude, after he was about thirteen years of age. Perhaps their circumstances might then oblige them to send him abroad to seek his fortune. His first stage was at Rouen, the capital city of Normandy, where he fortunately met with post horses, to be returned to Paris, upon one of which he got leave to ride, by promising to help to dress them at night. At the same time falling in with some English gentlemen, who were going to the same place, he got his expenses discharged by those generous travellers.

They arrived at Paris in the usual time, and the gentlemen took lodgings in the fauxbourg St. Germain, where the English at that time generally quartered. Du Vall was willing to be as near as possible to his benefactors, and by their intercession he was admitted to run on errands, and do the meanest offices at the St. Esprit, in the

Rue de Bourchiere; a house of general entertainment, something between a tavern and an ale-house. In this condition he continued till the restoration of king Charles II. in 1660; at which time multitudes of all nations flocking into England, among them came Du Vall, in the capacity of footman to a person of quality.

The universal joy on the return of the royal family, made the whole nation almost mad; every one ran into extravagances, and Du Vall, whose inclinations were as vicious as any man's, soon became an extraordinary proficient in gaming, drunkenness, and all manner of debauchery. The natural effect of these courses is want of money; this our adventurer experienced in a very little time, and as he could not think of labouring, he took to the highway to support his irregularities. In this profession he was within a little while so famous, as to have the honour of being named first in a proclamation for apprehending several notorious highwaymen. And here we have reason to complain that our informations are too short for our assistance in writing [*11] the life of such a celebrated offender. However, such stories as have been delivered down to us, we shall give our readers faithfully, and in the best manner we are able.

He had one day received intelligence of a knight and his lady, that were travelling with four hundred pounds in their coach. Upon this he took four or five more along with him, and overtook them on the road. The gentry soon perceived they were like to be beset, when they beheld several horsemen riding backwards and forwards, and whispering one another; whereupon the lady, who was a young sprightly creature, pulled out a flageolet, and began to play very briskly. Du Vall took the hint, and played excellently well upon a flageolet of his own, in answer to the lady, and in this posture made up to the coach door. "Sir," said he to the knight, "your lady plays charming, and I make no doubt but she dances as well; will you please to step out of the coach, and let me have the honour to dance one courant with her on the heath?" "I dare not deny any thing sir," the knight replied, "to a gentleman of your quality and good behaviour; you seem a man of generosity, and your request is perfectly reasonable." Immediately the footman opened the door, and the knight came out; Du Vall leaped off his horse, and handed the lady

Members of the Bar

down. It was surprising to see how gracefully he moved upon the grass; scarce a dancing master in London, but would have been proud to have shown such agility in a pair of pumps, as Du Vall showed in a great pair of French riding boots. As soon as the dance was over, he waited on the lady back to the coach, without offering her the least affront; but just as the knight was stepping in, "sir," said he, "you have forgot to pay the music." His worship replied, that he never forgot such things, and instantly put his hand under the seat of the coach, and pulled out a hundred pounds in a bag, which he delivered to Du Vall, who received it with a very good grace, and courteously answered: "Sir, you are liberal, and shall have no cause to repent your being so; this hundred pounds given so generously, is better than ten times the sum taken by force; your noble behaviour has secured you the other three hundred pounds, which you have in the coach with you." After this he gave him his word, that he might pass undisturbed, if he met any more of their crew; and then very civilly wished them a good journey. [*12]

Another time, as Du Vall and some of his companions were patrolling upon Blackheath, they met with a coach full of ladies. One of them had a young child in her arms, with a silver sucking bottle. The person appointed to act in this adventure, robbed them very rudely, taking away their money, watches, rings, and even the poor baby's sucking bottle. The infant cried, as was natural on such an occasion, and the ladies entreated him only to return the bottle; but the surly thief refused to give an ear to their request, till Du Vall observing that he staid longer than ordinary, rode up, and demanded what was the matter. The ladies, hereupon, renewed their petition in behalf of the child, and Du Vall threatened to shoot his companion, unless he restored what they required – adding these words: "Sirrah, can't you behave like a gentleman, and raise a contribution, without stripping people; but perhaps, you had some occasion for the sucking bottle, for by your actions one would imagine you were hardly weaned." This sharp reproof had the desired effect; and Du Vall took his leave of the ladies in a courteous manner.

A little after the above mentioned action, another lucky turn in Du Vall's favour happened, as much as that to his advantage. In the

course of his rambles, he came into the Croup Inn, in Beaconsfield, where he heard great singing, dancing, and playing upon the haut-boy and violin. He instantly inquired into the reason of it, and found that there was a wake or fair kept there that day, at which there were present most of the young men and maids for several miles about. This, he thought, was a promising place; and, therefore, he set up his horse for that evening, went into the kitchen, and called for a pint of wine. Here he met with an old rich farmer, who had just received a hundred pounds, tied it up in a bag, and put it into his coat pocket. Du Vall was very attentive to all that passed, and by this means he heard the farmer tell an acquaintance what money he had about him, which our sharper immediately set down for his own; more especially did he depend upon it, when the countryman asked leave to go into the room where the music was, to see and hear the diversions. It was his next business to ask the same favour, which he as easily obtained, and very innocently to all appearance, entered to see the country dancing, making an apology to the company when he came in, and telling [*13] them that he hoped it would be no offence. They replied as courteously, that he might stay there and welcome.

His business now was more to watch the old farmer's bag of money, than to mind the diversions of the young people; and after considering for some time, for a way to execute his design in the most dexterous manner, he observed a chimney with a large funnel, which he thought would favour his project. Having contrived the whole affair, he went out and communicated it to the hostler, who, being a downright rascal, consented for a reward of two guineas, to assist him. He was to dress up a great mastiff dog in a cow hide, which he had in the stable, placing the horns directly in his forehead, and then by the help of a ladder and a rope, to let him down the chimney. All this he performed while the company were merry in the chamber. Du Vall being returned from the yard, the dog, howling as he descended, came down the chimney, and pushing among them in this frightful manner, they were all put into a hurry and confusion. The music was silenced, the table withdrawn, and the drink spilt; the people all the while screaming and crowding

Members of the Bar

down stairs as fast as they were able, every one struggling to be foremost, as they supposed the devil would unavoidably take the hindmost. Their heels flew up, and the pipe and the fiddle were trod to pieces. While they were in this condition, the supposed devil made his way over them all, and got into the stable, where the hostler instantly uncased him; so that when the company came to examine the matter, as they could hear no more of him, they concluded he was vanished into the air.

Now was the time for Du Vall to take care of the farmer's hundred pounds, which he very easily did by diving into his pocket. As soon as he had got the money, he took horse, and spared neither whip nor spur, till he came to London, where he thought himself safe.

One time Du Vall met with Roper, master of the buck-hounds to king Charles II as he was hunting in Windsor forest. As their rencontre happened in a thicket, Du Vall took the advantage of the place, and commanded him to stand and deliver his money, or else he would shoot him. Mr. Roper, to save his life, gave our adventurer a purse full of guineas, containing at least fifty, and Du Vall afterwards bound him neck and heels, fastened his horse by him, and rode away across the country. [*14]

But the proclamation, which we spoke of at the beginning of this life, and the large reward that was promised for taking him, made Du Vall think it unsafe to stay any longer in England; whereupon he retired into France. He had not long been here before he relapsed into his old disease, want of money, which obliged him to have recourse to his wits again. He had an uncommon talent at contrivance, particularly at suiting his stratagems to the temper of the person they were designed to ensnare, as the following instance will prove.

A learned Jesuit, who was confessor to the French king, was as much noted for his avarice, as he was for his politics; by which latter, he had rendered himself very eminent. His thirst for money was insatiable; and though he was exceeding rich, his desires seemed to increase with his wealth. It came immediately into Du Vall's head, that the only way to squeeze a little money out of him, was to

amuse him with the hopes of getting a great deal, which he did in the following manner.

He dressed himself in a scholar's garb, to facilitate his admittance into the miser's company, and then waited very diligently for a proper time to make his address, which he met in a few days. Seeing him alone in the piazza of the Fauxbourg, he went up to him very confidently, and said: "May it please your reverence, I am a poor scholar, who have been several years travelling over strange countries, to learn experience in the sciences, purely to serve my native country, to whose advantage I am determined to apply my knowledge, if I may be favoured with the patronage of a man so eminent as yourself." "And what may this knowledge of your's be?" replied the father: "if you will communicate anything to me, that may be beneficial to France, I assure you no proper encouragement shall be wanting on my side." Du Vall, emboldened by this answer, proceeded: "Sir, I have spent most of my time in the study of alchymy, or transmutation of metals, and have profited so much at Rome and Venice, from great men learned in that science, that I can change several base metals into gold, by the help of a philosophical powder, which I can prepare very speedily."

The father confessor appeared elated with joy at this relation: "Friend," said he, "such a thing as this will be serviceable indeed to the whole state, and peculiarly grateful to the king, who, as his affairs go at present, stands in some need of such a curious [*15] invention. But you must let me see some experiment of your skill, before I credit what you say so far as to communicate it to his majesty, who will sufficiently reward you, if what you promise be demonstrated." Upon this he conducted Du Vall home to his house, and furnished him with money to build a laboratory, and purchase such other materials as were requisite, in order to proceed in this invaluable operation, charging him to keep the secret from every person, as long as he thought proper; which Du Vall promised to perform.

The utensils being fixed, and every thing in readiness, the Jesuit came to behold the wonderful operation. Du Vall took several metals and minerals of the basest sort, and put them into a crucible, his

Members of the Bar

reverence viewing every one as he put them in. Our learned alchemist had prepared a hollow stick, into which he had conveyed several sprigs of pure gold, as black lead is in a pencil. With this stick he stirred the preparation as it melted, which with its heat melted the gold in the stick at the same time; so that it sunk imperceptibly into the vessel. When the excessive fire had consumed in a great measure all the lead, tin, brass, and powder, which he had put in, the gold remained pure to the quantity of an ounce and a half. This the Jesuit caused to be assayed, and finding that it was really fine gold, he was immediately so devoted to Du Vall, and blinded with the prospect of future advantage, that he believed every thing our impostor could say, still furnishing him with whatever he demanded, in the hope of being at last made master of this extraordinary secret; the whole fame as well as profit, of which, he did not question would redound to him, as Du Vall was but an obscure person.

The confessor was as open as Du Vall could wish. He showed him all his treasure, and among it, several rich jewels, which he had received as presents from the king, hoping by these obligations to make him discover his art the sooner. In a word, he grew by degrees, so importunate and urgent, that Du Vall began to apprehend a too close inquiry, if he denied the request any longer: And, therefore, he appointed a day when every thing was to be communicated. In the mean time, he took an opportunity to steal into the chamber where all the riches were deposited, and where his reverence generally slept after dinner, and finding him at that time fast asleep, with his mouth wide open, he gagged and bound him, then took his keys, and hoarded [*16] as much of his wealth, as he could conveniently carry out unsuspected; and thus bade farewell to both him and France.

Du Vall had several other ways of getting money, besides those already mentioned, particularly by gaming: no man living could slip a card more dexterously than he, nor better understood all the advantages that could be taken of an adversary; yet, to appearance, no man played fairer.

He was remarkable for laying wagers, and no less successful in

this particular, than any of the former. He made it a great part of his study to learn all the intricate questions, deceitful propositions, and paradoxical assertions, that are made use of in conversation.

How long Du Vall followed his vicious courses in England, after his coming from France, before he fell into the hands of justice, is uncertain. At length he was taken when drunk, at the Hole-in-the-wall, in Chandos street, committed to Newgate, arraigned, convicted, condemned, and (on Friday, the 21st day of January, 1669-70,) executed at Tyburn, in the 27th year of his age.

Crowds of ladies, among whom were many of rank, visited him in prison, and interceded for his pardon: And not a few accompanied him to the gallows, under their vizards. After he had hung the usual time, he was cut down, and, by well dressed persons, conveyed into a mourning coach. In this he was carried to the Tangier Tavern, at St. Giles's, where he lay in state that night. The room was hung with black cloth, the hearth covered with escutcheons, eight wax tapers were burning, and as many tall gentlemen attended with long cloaks. All was in profound silence, and the ceremony would have lasted much longer, had not one of the judges sent a messenger to interrupt the pageantry. [*Cel. Trials.*]

E. LITTELL, N.W. corner of Seventh and Chesnut streets, has constantly for sale, *Reports of Cases in the Supreme Court of Pennsylvania*; by William Rawle, Jr. Charles B. Penrose, and Frederic Watts, Counsellors at Law. Vol. I. No. 1.

NICKLIN & JOHNSON, Law Booksellers and Publishers, No. 175, Chesnut Street, have constantly for sale, a large stock of Law Books.

The fourth volume of Kent's Commentaries, which has recently been published, completes, it is understood, the labours of the venerable author, for the present at least. The work thus finished will be useful not merely to professional men, but to every citizen who may wish to possess such a knowledge of the laws of his country, as his interest as well as duty requires.

Agents for the *Journal of Health*, are requested to receive subscriptions for this work. *Postage the same as Newspapers.*