

EMBARGO

ham Lincoln, declaring that all persons held in slavery in certain designated states and districts were and should remain free.

EMBARGO. A proclamation or order of state, usually issued in time of war or threatened hostilities, prohibiting the departure of ships or goods from some or all the ports of such state until further order. The William King, 2 Wheat. 148, 4 L.Ed. 206. For the use of the term as applied in a loose sense to the government's control of coal exports during a strike, see Ernesto Foglino & Co. v. Webster, 216 N.Y.S. 225, 237, 217 App.Div. 282.

Embargo is the hindering or detention by any government of ships of commerce in its ports. If the embargo is laid upon ships belonging to citizens of the state imposing it, it is called a "civil embargo;" if, as more commonly happens, it is laid upon ships belonging to the enemy, it is called a "hostile embargo." The effect of this latter embargo is that the vessels detained are restored to the rightful owners if no war follows, but are forfeited to the embargoing government if war does follow, the declaration of war being held to relate back to the original seizure and detention. Brown.

The temporary or permanent sequestration of the property of individuals for the purposes of a government, *e. g.*, to obtain vessels for the transport of troops, the owners being reimbursed for this forced service. Man. Int. Law, 143.

EMBASSADOR. See Ambassador.

EMBASSAGE, or EMBASSY. The message or commission given by a sovereign or state to a minister, called an "ambassador," empowered to treat or communicate with another sovereign or state; also the establishment of an ambassador.

EMBER DAYS. In ecclesiastical law. Those days which the ancient fathers called "*quatuor tempora jejunii*" are of great antiquity in the church. They are observed on Wednesday, Friday, and Saturday next after Quadragesima Sunday, or the first Sunday in Lent, after Whitsunday, Holyrood Day, in September, and St. Lucy's Day, about the middle of December. Brit. c. 53. Our almanacs call the weeks in which they fall the "Ember Weeks," and they are now chiefly noticed on account of the ordination of priests and deacons; because the canon appoints the Sundays next after the Ember weeks for the solemn times of ordination, though the bishops, if they please, may ordain on any Sunday or holiday. Enc. Lond.

EMBEZZLEMENT. The fraudulent appropriation to his own use or benefit of property or money intrusted to him by another, by a clerk, agent, trustee, public officer, or other person acting in a fiduciary character. See 4 Bl.Comm. 230, 231.

The fraudulent appropriation of property by a person to whom it has been intrusted, or to whose hands it has lawfully come. American Life Ins. Co. v. U. S. Fidelity & Guaranty Co., 261 Mich. 221, 246 N.W. 71.

Embezzlement is not an offense at common law, but was created by statute. "Embezzle" includes in its meaning appropriation to one's own use, and therefore the use of the single word "embezzle," in the indictment or information, contains within itself the charge that the defendant appropriated the money or property to his own use. State

v. Wolff, 34 La. Ann. 1153; State v. Hudson, 93 W. Va. 435, 117 S.E. 122, 125.

Embezzlement is common-law larceny extended by statute to cover cases where the stolen property comes originally into the possession of the defendant without a trespass. Moody v. People, 65 Colo. 339, 176 P. 476.

Embezzlement is a species of larceny, and the term is applicable to cases of furtive and fraudulent appropriation by clerks, servants, or carriers of property coming into their possession by virtue of their employment. It is distinguished from "larceny," properly so called, as being committed in respect of property which is not at the time in the actual or legal possession of the owner. That is to say, that in embezzlement the original taking of the property was lawful or with the consent of the owner, while in larceny the felonious intent must have existed at the time of the taking. Tredwell v. U. S., C.C.A. Va., 266 F. 350, 352. Both words, however, may be used, as in a bond, as generic terms to indicate the dishonest and fraudulent breach of any duty or obligation upon the part of an employee to pay over to his employer, or account to him for any money, securities, or other personal property, title to which is in the employer, but which may come into the possession of the employee. National Surety Co. v. Williams, 74 Fla. 446, 77 So. 212, 222. Under statute declaring guilty of a felony an officer or clerk of a state bank who "embezzles, abstracts, or willfully misapplies" its funds, "embezzle" refers to acts done for the benefit of the actor as against the bank, "misapply" covers acts having no relation to pecuniary profit or advantage to the doer, while "abstract" means only to take and withdraw from the possession and control of the bank; and while "embezzlement" may include the offenses of abstraction and willful misapplication, either of those offenses may be committed without embezzlement. Ferguson v. State, 80 Tex. Cr. R. 383, 189 S.W. 271, 273. See, however, Winkelmann v. State, 114 Neb. 1, 205 N.W. 565, 566.

EMBLEMATA TRIBONIANI. In the Roman law. Alterations, modifications, and additions to the writings of the older jurists, selected to make up the body of the Pandects, introduced by Tribonian and his associates who constituted the commission appointed for that purpose, with a view to harmonize contradictions, excise obsolete matter, and make the whole conform to the law as understood in Justinian's time, were called by this name. Mackeld. Rom. Law, § 71.

EMBLEMENTS. The vegetable chattels called "emblements" are the corn and other growth of the earth which are produced annually, not spontaneously, but by labor and industry, and thence are called "*fructus industriales*." Reiff v. Reiff, 64 Pa. 137. See Crop.

The growing crops of those vegetable productions of the soil which are annually produced by the labor of the cultivator. They are deemed personal property, and pass as such to the executor or administrator of the occupier, whether he were the owner in fee, or for life, or for years, if he die before he has actually cut, reaped, or gathered the same; and this, although, being affixed to the soil, they might for some purposes be considered, while growing, as part of the realty. Wharton.

The term also denotes the right of a tenant to take and carry away, after his tenancy has ended, such annual products of the land as have resulted from his own care and labor.

Emblements are the away-going crop; in other words, the crop which is upon the ground and unreaped when the tenant goes away, his lease having determined; and the right to emblements is the right in the tenant to take away the away-going crop, and for that purpose to come upon the land, and do all other necessary things thereon. Miller v. Gray, Tex. Civ. App., 108 S.W.2d 265, 267, 268.

Where a life tenant, having leased the premises, died, and the remainderman did not recognize the lease, the lessee of the life tenant was entitled to the emblements,