

D I C T I O N A R Y

O F

L A W T E R M S I N S C O T L A N D .

F O R T H E U S E O F T H E C O M M O N P E O P L E .

A B S

Abbreviate of an adjudication, an abridgment of a decret of adjudication of Land, signed by the Judge who pronounces the decret, and registered within 60 days after the decret.

Abdication, renouncing or giving up an office.

Abettor, one who encourages another to a criminal action, or who is art and part in the performance itself.

Abiding by a writing, to hold by a deed as true, when it is alledged to be false before a court.

Ability, the power of doing certain actions in acquiring or transferring property.

Abjuration, denying upon oath that the pretender has any right to the crown of this kingdom.

Abolition, the repealing of any law or statute.

Abrogation, the annulling or repealing a law.

Absence, when a person is summoned in a civil matter, and does not appear, the court

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gives sentence in absence against him.

Abstracted multures, the dues of grinding corn, which is bound to a mill, kept back by those who are obliged to pay.

Acceptance, the accepting of a bill, or of an offer in bargaining.

Acceptor, the person who accepts a bill or offer.

Accession, the method of acquiring property, by which, of two things connected, the principal draws after it the accessory. The owner of a cow has the calf.

Accessory, is the subject acquired by accession; or the person who assists in committing a crime. He in general stands or falls with the principal.

Accommodation, the agreeable issue of a debate.

Accomplice, the same as accessory.

Accord, the accommodation between parties at variance by an offer accepted.

Accretion, the property acquired

quired in an unoccupied thing by its adhering to, or following another which is occupied. A legacy left to two persons, one of whom dies before the testator, devolves to the survivor.

Accumulation, the concurrence of several titles to the same thing, or of several circumstances to the same proof.

Accusation, the charging any person with a criminal action, in ones own name, or in that of the public. It differs little from impeachment, or indictment.

◆ *Acquiescence*, the consent of a person to the determination of another in his cause; which concludes him.

Acquisition, or acquist, the right or title to an estate got by purchase or donation.

Acquittal, a discharge, deliverance, or setting a person free from the guilt or suspicion of an offence.

Acquittance, a release, a discharge in writing for a sum of money.

Acre, the universal measure of land in Britain. In England it contains four square roods; a rood contains 40 square perches or poles, of 16½ feet each. In Scotland, an acre contains four square roods, a rood 40 square falls; a fall 36 square ells. And the Scots acre is the English acre, as 100,000 to 78,694.

Act, an instrument in writ-

ting for declaring the truth of any thing; or an order in a process.

Act of curatory, the deed of a court authorising curators who are elected by a minor, to manage his affairs.

Act and commission for taking a proof, the extracted warrant of a Judge to the person therein named, for taking a proof by witnesses, &c. and to report.

Act of parliament, the statute of the King, Lords and Commons on any subject.

Action, or law suit, or process, play, pursuit, is a demand before a Judge for obtaining what is due.

Addition, or designaton, the title of a man beside his name and surname.

Adherence, Action of, an action of a husband or wife against the other, to compel either party to adhere in case of wilful desertion.

Adjournment, putting off a court or meeting to another time.

Adjudication, a decret of the Court of Session, whereby a creditor attaches the land and other heritable estate of his debtor for payment or security. It is either general, of all the lands, and redeemable in ten years; or special, of a part, and redeemable in 5 years.

Adminicles, any writings referred to for proving an allegation in a process.

Administration, the govern-
ment

ment or management of affairs; and particularly the exercise of distributive justice.

Administrator, the power of a father over the persons and estates of his children during their minority. Or a tutor or curator for pupils, Minors, or fatuous persons.

Administratrix, a woman who acts as administrator.

Admiral High, is a Judge of supreme jurisdiction, in all maritime causes within Scotland.

Admiralty, High Court of, is the court in which the High Admiral is Judge.

Adversary, a person who is an enemy to or opposes another.

Adult, a youth between fourteen and twenty-one years of age.

Adultery, an unlawful commerce between one married person and another, or between a married and unmarried person. The punishment of open adultery is death.

Advocate, a Lawyer who undertakes the prosecution and defence of causes.

Advocate, King's, the principal Crown Lawyer in Scotland.

Advocates, Faculty of, the body of Lawyers who plead in all causes before the high courts of Scotland.

Advocation, Bill of, is a petition to the Court of Session, by a party before an inferior court, to call the action from the latter to the former.

Advocation, letters of, the decree of the Court of Session, on a bill of advocation.

Advouison, the Right of Patronage, or of presenting to a vacant benefice.

Affiance, the mutual plighting of troth between a man and woman, to marry each other.

Affidavit, an oath in writing, sworn before a person authorised to take it.

Affinity, the connection between one of the married persons and the blood relations of the other.

Affirmation, the confirming of the sentence of an inferior court, by the supreme court. Or, it is the solemn declaration of the Quakers, which is allowed for an oath.

Affray, a skirmish or fight between two or more persons.

Age, a certain period of life, when persons of both sexes are enabled to do certain acts. Twenty one, is called full age.

Agent, a person intrusted with the management of an affair.

Agent and Patient, a person who is the doer of a thing, and also the person to whom it is done.

Aggravation, denotes whatever heightens a crime, or renders it more black.

Aggressor, the person who begins a quarrel, or makes the first assault. Who was the aggressor? is the first enquiry.

Agnate, any male relation by the father's side.

Agreement, the consent of several persons to a thing done or to be done.

Aid, any kind of assistance.

Alba firma, or Album, was rent paid in silver, and not in corn, which was called black-mail.

Alibi, when a person is accused of a crime committed in a certain place, and at a certain time, and he proves he was elsewhere, it is said, he proves alibi, or elsewhere.

Alien, a person who owes allegiance to a foreign Prince, he cannot hold a feudal right in Scotland, without being naturalized in legal form.

Alienation, the making over a man's property in lands, effects, &c. to another person, by writing and delivery.

Alienation in mortmain, the making over lands, &c. to a body politic, or to a religious house.

Aliment, obligation of, the natural obligation of parents to provide their children with the necessaries of life.

Alimentary Debt, an obligation on a person to pay a yearly sum for the maintenance of another. It is not arrestable by creditors.

Allegation, a plea or argument.

Allegiance, the obedience which every subject owes to his Sovereign.

Allegiance, oath of, is taken in acknowledgment of the King as a temporal prince.

Alliance, the relation between two persons or families by marriage, or a treaty between sovereign princes for mutual safety.

Allodial goods, are those enjoyed by the owner independent of any other person.

Allodium, alleud, lands which are the absolute property of their owner, without being obliged to any service or acknowledgment to a superior Lord. There are no allodial lands in Britain.

Alluvion, the gradual increase of land along the sea-shore, or the banks of rivers.

Ally, a Sovereign Prince or State who has entered into alliance with others.

Ambulatory, such courts as were not fixed, but removed sometimes to one place, sometimes to another.

Amendment, the correction of an error, or addition of an omission made in the libel or process, before the plea is pleaded, but after it is pleaded the amendment must be made with leave of the court.

Amercement, or amerciament, a pecuniary punishment imposed on offenders at the mercy of the court.

Amicus curie, denotes a bystander who informs the court of a matter in law which is doubtful or mistaken.

Ancestors,

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a person is descended in a straight line.

Ann, or annat, is half a years stipend due to the executors of a minister, beside what was due to himself.

Annexation, the uniting of lands or rents to the crown.

Anni nubiles, the marriagable age of a woman, at 12.

Annual rent, the yearly interest, or profit due by a debtor to a creditor for the use of money.

Annual rent, right of, the original method of burdening lands with a yearly payment for the loan of money, before interest was allowed.

Annuity, a sum of money payable yearly or termly, for a certain number of years.

Annulling, the cancelling, or making void a deed, sentence, or the like.

Annus deliberandi, the year allowed to an heir from the ancestor's death, to deliberate whether he will enter heir to him or not.

Anomalous, whatever is irregular, or deviates from the rule observed in other things of the like nature.

Answer to a Petition, the return or defence made by a party to a petition of another party served upon him.

Antedate, a spurious or false-date, prior to the true date of a bond, bill, or the like.

Appertura tabularum, the

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breaking open a last will and testament.

Apparent heir, the person entitled to succeed to the estate of a defunct before he is entered.

Appeal, the removal of a cause from an inferior court to a superior.

Appearance, a defendants attendance in court on being summoned.

Appellant, one who makes appeal.

Appellee, the person against whom an appeal is brought.

Arbiter, a person to whose decision any dispute is referred by the parties.

Arbitrary punishment, such as is by law left to the discretion of the Judge, below what is capital.

Arbitration, arbitrage, or arbitrement, the power given by contending parties, to an arbiter, to settle their matters, on which he pronounces a decreet arbitral.

Arbitrator, a private extraordinary Judge, chosen by the partys, to determine controversies among them.

Arraignment, to set an action in order, or to call a person to answer in form of law, upon an indictment, &c.

Arrear, the remainder of rent, or an account, or the like, unpaid.

Arrest, to apprehend and restrain a person, in order to oblige him to be obedient to the

the law; or to attach the effects of ones debtor in the custody of third parties, till the debt be paid or secured.

Arrest of Judgment, the assigning just reasons, why judgment should not pass.

Art and part, an accessory to a deed.

Ascendant, is he who succeeds to his son, nephew, or the like; the opposite of descendant.

Affault, a violent injury offered to a man's person, being of a higher nature than battery.

Affedation, a perpetual tack.

Affessor, an inferior officer of Justice, who assists the ordinary Judge with his opinion and advice.

Assign, or Assignee; a person to whom a thing is assigned or conveyed.

Assigner, he who conveys or assigns any thing.

Assigning, the giving over a right, or in a particular sense the setting forth a reason or pointing out any thing.

Affize, the same as Jury, or inquest, 15 men.

Affythment, the indemnification made to an injured party.

Affriction, or *Thirlage*, being bound to carry and grind corn at a particular mill, and to pay the ordinary dues of multure, sequels and services.

Affylum, a sanctuary or place of refuge for criminals or debtors. There is none for criminals in Scotland.

Attainder, the art of attainting, or finding guilty.

Attainted, found guilty of a crime, as treason, &c.

Attestation, witnessing the truth of any thing in writing.

Attorney, a person who takes upon him the charge of other men's business in their absence.

Attorney, letter of, the power or warrant given in writing to an Attorney.

Auction, or *Roup*, is a public sale of any thing, by which the highest bidder is always the buyer. The seller dare not interpose to cause one bid for him.

Avail of Marriage, an ancient casualty due to the superior, by the vassal on his attaining the age of puberty, or 14 years.

Auditor, one who regularly hears, examines, and settles the accounts in many offices.

Average, a medium, or mean proportion of any thing.

Averment, declaring any thing, or establishing it in a positive manner.

Averfionem per, *Sale*, is a sale by the lump, or the whole of any thing.

Authentic, something of acknowledged and received authority; or cloathed in all its formalities.

Award, the Judgment of an arbiter, who is chosen by the parties to end their differences.

Axiom, or maxim; is a rule inferred from several cases depending

pending on the same ground of law; which is incontestible and to be received without proof.

B

Back-bond, is a bond granted by him who receives a deed in order to declare the purpose of the deed, and to bind the grantor to perform accordingly.

Back-tack, is the tack or lease granted by the wadsetter or heritable creditor of lands, to the reverser or debtor.

Bail, the surety for a prisoner's appearance to stand trial, on which he is admitted to bail, or liberty.

Bailie, a magistrate in Royal Boroughs; also a Judge appointed by a baron.

Bairns part of gear, is that portion of the effects which by the law falls to the children of a marriage on the death of either of their parents. This is two third parts, when their father dies first, and one third, if the mother.

Bankrupt, a person in trade, who becomes insolvent.

Ban, or Bann, a solemn publication of any thing. As the asking of bans, before marriage.

Bar, the inclosure in a court, where the council plead causes. Also a plea by the defendant, which bars or destroys the plaintiff's action.

Bargain, an agreement, or contract concerning sale, in

which good faith should be observed.

Baron, a degree of nobility next below a Viscount, and above a Baronet. Also one holding lands of the Crown with Jurisdiction to recover his rents and mill services; and to hold pleas of debt not exceeding 40s. and for fines not exceeding 20s. &c. Likewise an office, as Baron of the exchequer, &c.

Baronet, a degree of honour next to a Baron; it has sir, attributed to the name, and lady to his wife.

Barony, the honour and territory of a Barony.

Base-right, a right of land holden of the grantor, which is a lower and more private right than that which is held of the grantor's superior.

Bastard, one born out of marriage. He cannot succeed by course of law to his parents, nor make a testament unless he is legitimated by the King.

Battery, the striking, beating, or offering violence to another person. Battery pendente lite, is the invading, wounding, or slaying of one party by the other, during the dependence of a law-suit between them, whereby the invader loses the plea irrecoverably.

Behaviour as heir, Gestio pro herede; is the apparent heir of any proprietor of lands intermeddling

meddling with the land, rents, or writings before his entry; whereby he is liable for his ancestors debts.

Bench, a tribunal, or judgment seat.

Benefice, a church endowed with a revenue for the performance of divine service.

Beneficium competentia, the benefit of subsistence, by which a father, or grandfather is allowed as much out of the provision made by him to his children or grand-children, as is necessary for his own subsistence.

Beneficium inventorii, the benefit of inventory; is competent to an heir, who, within a year after his ancestors death, gives up an inventory of his ancestors heritable subjects. By this, he is liable for no more debt than the value of the inventory.

Beneficium ordinis, or of discussion; is the benefit competent to a simple cautioner for a debt, of having the principal debtor discussed by the creditor; or a horning denounced and registered, his moveables poulded, and his heritage adjudged, before the cautioner pay.

Bestial, or *Bestial*, all sorts of cattle, or other beasts.

Bigamy, the possession of two husbands, or two wives at the same time. Which is punishable as perjury, by confiscation of moveables, imprisonment, and infamy.

Bill, a petition to a court.

Bill of exchange, the obligation of a debtor to pay money to his creditor. It is called an inland Bill, when it is between persons of the same country.

Blackmail, a consideration paid formerly, by poor people to persons of note and power, to protect them from mostroopers, or robbers.

Blanch holding, a tenure by which the vassal is obliged to pay his superior only an elufory duty yearly.

Blasphemy, an indignity or injury offered to God, by denying what is his due, or attributing to the creature what is due only to the creator. It is punishable with death.

Bloodwite; the guilt of blood, a fine for shedding blood.

Blow, any kind of stroke, with the hand or a weapon.

Bona fides, honesty of opinion or intention in doing any thing.

Bond, a formal deed of a debtor, on stamped paper to pay money or perform a thing to his creditor, under a penalty.

Bondage, is slavery, or villanage.

Borgh, is a pledge or surety.

Borgh of Hambald, is caution found by the seller to the buyer, to make the goods sold, forthcoming.

Borough, a body corporate, made by the King, of the inhabitants of a certain tract of ground

ground, and endowed with Jurisdiction and privileges.

Boroughs Royal, are Corporations for the advantage of trade, made by the king. They generally send commissioners to Parliament, and they send yearly commissioners to the general convention of the Boroughs at Edinburgh.

Boroughs Law, caution found to keep the peace.

Bote, a recompence, or amends.

Bottomry, a marine contract for borrowing money on the bottom of a ship; or the lending of money to a merchant, for a greater sum at the return of a ship, the lender standing to the hazard of the voyage.

Bovata terra, an oxgate of land, or 13 acres, 4 oxgates make one pound land of old extent.

Breach, where a person breaks thro' the condition of a bond or covenant.

Breach of arrestment, where a person delivers money or goods to the owner after an arrestment is laid into his hand by a creditor of the owner. Whereby the breaker of the arrestment is liable for the debt, &c.

Breve or Brief, a writ from the chancery to a Judge, authorizing him to call a Jury for enquiring into the case, and to pronounce Sentence on their oath.

Bullion, uncoined gold, or silver in the mass.

Burgage, a tenure whereby the inhabitants of a borough by custom or charter hold their lands of the king, or other superior, for watching, and warding, &c.

Burglary, the breaking and entering into the dwelling-house of another person in the night time, with intent to commit some felony.

By-laws, private and peculiar laws for the good government of a city, court, or other community, made by the general consent of the members. They are to be reasonable, for the common benefit, and agreeable to the public laws.

Byr laws, are made by neighbours in the country elected by common consent in byrlaw courts. The Byrlaw men or Judges take cognisance of complaints between neighbour and neighbour, and observe the customary dutys of the tenants to their landlords, &c.

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Calling the house, in the British parliament, is calling over the members names, every one answering to his own, and going out of the house in the order wherein he is called.

Calumny, slander, or a false charge.

Candlemas, the second day of February, a term.

Canon, a rule, sometimes a few duty.

Canon-law, a collection of ecclesiastical laws, serving as the rule of church government, and other matters. It is of little use in Scotland.

Capital crime, such an one as subjects the criminal to the loss of his head or life.

Capitation, a tax on each person.

Caption, a writ to apprehend and imprison a person till he make payment, or satisfaction to the creditor.

Casualties of superiority, those duties which a superior has right to from his vassal, beside the yearly duty, in his charter, as nonentry, relief, liferent escheat, disclamation and purpference.

Casus amissionis, the specifying of an accident, by which a writing was lost, in the creditors custody, when he is suing to prove the tenor of it.

Caveat, a formal intimation to a Judge, or office, notifying, that they should beware how they act in the specified matter.

Caution, is otherwise called Bail, or surety.

Caution, Juratory, such as he who petitions for a suspension of a sentence, swears he can get.

Certification, in summonses, &c. the assurance given expressly, or implied, that if the party do not appear, the Judge will proceed as if he were present.

Cessio bonorum, an action by

which a debtor in prison obtains personal liberty, on delivering up all his real and personal estate to his creditors.

Challenge, an objection against a Jurymen, or witness, that he is not impartial; or against a deed, that it is not true, or valid.

Chance-medly, the accidental killing of a man, without any evil intention, and while acting lawfully.

Charter, a written instrument, or evidence of a thing; or it is a deed for the conveyance of land, and especially for the grant of the Feudal subject by the superior to the vassal on stamped parchment.

Chattels, all sorts of goods, moveable, and unmoveable, except such as are of freehold.

Circuit, a longer course of proceeding at law than is necessary to recover the thing sued for. Or it is the journey which the Judges take twice a year thro' the kingdom, to administer justice in criminal matters, &c.

Circuit court of Justiciary, the Court held by the Judges on their Circuit.

Circumduction, shutting up or concluding; is the order of a Judge declaring the parties barred from further hearing or proof on the points that are specified.

Civil, something which regards the policy, public good, or peace of the citizens; as civil

civil government, civil law, &c. or it is the ordinary procedure in an action of Debt, &c. opposed to criminal.

Civil law, the law of each state; or it is the Roman law which is written in Latin, and has no authority in Britain, but in so far as any part of it is adopted.

Claim, a challenge of interest in any thing, which is in possession of another.

Clandestine, any thing done without the knowledge of the parties concerned, or without the proper solemnities.

Clare-constat, *Precept of*, is the warrant of a superior for investing the heir of his former vassal in the property of the subject, without the verdict of an inquest.

Clause, an article, or particular stipulation in a contract, a charge, or condition in a testament, &c.

Clergy, the general name given to the body of Ecclesiastics in the church, in distinction from the laity.

Clergy, *Benefit of*, a privilege in the case of felonies, whereby the guilty person, instead of being put to death, is burned in the hand, or otherwise punished with less than death.

Code, a collection of the laws and constitutions of the Roman Emperors, made by order of Justinian.

Codicil, a supplement or ad-

dition made by a Testator to his last-will or testament.

Cognate, any male relation thro' the mother.

Cognitionis, Causa, Decree of; is a decree, not against the heir of a deceased Debtor, for he renounces the succession, but it is against the estate of the debtor.

Cohabitation, the state of a man and woman living together like husband and wife, without being legally married. This continued for a year and day, is deemed equal to marriage.

Co-heir, one who succeeds to a share of an inheritance, which is to be divided among several.

Coin, all manner of the several stamps, and species of money in any nation.

Collation, is the bestowing of a benefice on a clergyman by a Presbytery, who have it in their own gift. Or it is the comparison of a copy with an original writing. Or it is that right which an heir has of throwing the heritable and moveable estate of the deceased, into one mass, and sharing the same equally with the other nearest of kin.

Collegatary, a person who has a legacy in common with others.

College of Justice, Court of Session, or of Council and Session. is the supreme Civil Court of Scotland, composed of 15 Judges.

Collusion, a Secret understanding between two parties, who proceed fraudulently against each other, to the prejudice of a third person.

Commissary, a Bishops official or Judge, for the confirmation of testaments, for Actions of slander, &c.

Commission, the Warrant or letters patent granted to all persons exercising Jurisdiction, giving them power to hear and determine law suits.

Committee, one or more persons to whom the consideration of a matter is referred, either by some Court, or the consent of parties.

Commixtion, a method of acquiring property by mixing together different substances belonging to different proprietors.

Commodate, a gratuitous loan, of which the property is the lenders, and the use is the borrowers.

Common-law, that body of rules and customs received as law, before and beside the statute law.

Common, that soil, of which the use is common to this or that town or lairdship.

Commons, House of, the denomination given to the lower house of Parliament, or representatives of the people.

Commonly, lands belonging to two or more common proprietors. Or a Moor belonging to one, but on which o-

thers have had promiscuous possession of pasturage, &c.

Communion of Goods, the mutual communication of civil interests, or moveable subjects, and the fruits of heritable subjects, which take place between man and wife.

Commutation, the change of a penalty or punishment from a greater to a less.

Compensation, the meeting of mutual obligations, which extinguish one another, in whole or in part.

Competency, the power and authority of a judge for taking cognisance of any matter.

Competition, the claims of more than one person to one thing, stated before a court.

Compromise, an agreement of parties at Difference, whereby they settle the matter, or refer it to Arbiters.

Concluded cause, is where a proof has been brought, and declared by the Judge to be concluded.

Condition, an obligatory clause or article of a treaty or contract.

Confession, an acknowledgement of some truth tho' it be in prejudice of the person who makes the declaration.

Confirmation, is made by a superior's ratifying a deed in favour of his vassal.

Confirmation of a Testament, is made by the commissary approving and ratifying the testament of deceased persons.

Confiscation,

Confiscation, the adjudication of a criminal's effects to the treasury.

Confusion, the method of extinguishing obligations, where the debt and credit meet in the same person.

Congress, the trial before surgeons and matrons, to prove, whether a man be impotent, or not, before sentence for dissolving a marriage, is passed on the head of impotency.

Conjunct rights, are granted to two or more persons in joint fee.

Conjunct and confident persons, are those who receive conveyances of subjects from debtors, in prejudice of the other creditors. Such persons are generally near relations, or have the confidence of the debtor.

Conquest, is the real addition made by purchase or gift, to a father's estate, during the marriage.

Consanguinity, the Relation between persons of the same blood, or who are sprung from the same root.

Conservator, an officer ordained for the preservation of privileges of some cities and communities, with commission to Judge of their differences. As the conservator of the scots privileges at Campvere.

Consignation of money, is a deposit made, where the debt is called into question, or where the creditor refuses to receive his money. For which 5 per

cent. is generally allowed to the consignee who receives and keeps the money.

Consistorial court, is the commissaries court.

Conspiracy, an agreement of men to do evil, or falsely to indict, or cause to be indicted an innocent person of felony.

Constable of Scotland, an ancient officer of the crown, who had cognizance of crimes committed within two leagues of the court.

Constables to Justices of the Peace, are officers for executing their orders. They have power to suppress tumults, to apprehend delinquents, and those who can give no good account of themselves, and carry them before the next Justice of peace.

Constitution, the form of Government in any country or kingdom. Also an ordinance made by a superior power.

Contract, the mutual consent of two or more persons who oblige themselves to do something.

Contravention, a man's failing to discharge his obligation or duty, or transgressing the same.

Contribution of Goods, an obligation by maritime law, whereby the owners of the ship and goods, which are saved in a storm, are obliged to contribute for the relief of those whose goods were thrown

over board, for the common safety.

Convention, a treaty, contract or agreement between two or more parties.

Conveyance, a deed or instrument, which passes land or goods from one person to another, on stamped paper.

Convict, a person found guilty of a crime by a Jury or Judge.

Copartnery, or Copartnership, the state of bearing part, or possessing a share in a common stock or business.

Coroner, an officer employed for the king and crown. His duty is to enquire how any violent death was occasioned.

Corporation, a body politic, or incorporate, the members of which are qualified to take and grant, &c.

Correi debendi, two or more persons bound as principal debtors to a creditor.

Corroboration, strengthening or confirming a thing; as a bond of corroboration, is a new bond by the debtor or another person for an old debt.

Corruption of Blood, is an infection accruing to a man's state, who is attainted of felony and treason, and to his issue.

Covenant, an agreement or contract between two or more persons, to do something.

Coverture, the state of a married woman who is under the power of her husband.

Council, Privy, the primum mobile of the civil government of Britain, which bear part of the great weight that otherwise would be too heavy for the king. Of them the king has a select number, called, the cabinet council, with whom he determines the most of things.

Counsellor at Law, a person retained by a Client to plead his cause before a court of Judicature.

Counterfeits, persons who get money and goods by counterfeit letters or false tokens, and are liable to punishment.

Counter signing, is signing the writing of a superior, in quality of secretary. Charters are signed by the king, and counter signed by a Secretary of State or Lord Chancellor.

County, the same as shire; that portion of land into which the kingdom is divided.

Court, the place where Judges distribute justice, or exercise jurisdiction. Also the assembly of the Judges, Jury, &c. in the place.

Courtesy of Scotland, where a man marries an heiress infefted in Lands, and has a living child by her. If the mother and child die, he has the rents of the land during his life.

Creditor, a person to whom a sum of money is due in any way.

Crime, the transgression of a law, whether natural or positive.

Criminal

Criminal Letters, a precept from the Justiciary, containing the accusation against the person, and a command to summon him to stand trial.

Croft, a little close or inclosure adjoining to a dwelling house.

Crown, an ornament worn on the head by kings and noblemen, as a mark of their dignity. Also regal power.

Culprit, a person arraigned before his Judge.

Curator, a person appointed to manage the affairs of minors, or of those who are mad, deaf or dumb.

Current rent, is where the term for which a rent is due, is begun to run.

Cursing parents, is when children, sixteen years old, imprecate evil from God to their parents. In such case they are guilty of death.

Custom, implies such usages, as tho' voluntary at first, are yet by practice become necessary. It is a law not written, opposed to written law.

D

Damage and interest, the loss sustained by a person, thro' the hurt done to his estate, and the hinderance of profit from it.

Date, a description of the day, month and year of our Lord, and sometimes of the kings reign, on which a deed is signed.

Days of grace, those granted by the court, at the prayer of the defendant or plaintiff, in whose delay it is. Also the three days allowed for payment of a Bill of exchange, after it becomes due.

Deads part, that portion of the funds of a marriage, which upon the dissolution of it, goes to the nearest of kin of the husband or wife deceased. This is a third part in case of children, or the half, in case of none.

Dean of Guild, a Magistrate in a Royal Borough, who has the cognisance of mercantile causes, and the inspection of buildings within the borough.

Death-bed, Law of, the privilege of an heir to reduce all deeds of his predecessor, granted while on death-bed, in prejudice of the heir. And this is reckoned within sixty days of his death, if he had not afterwards gone to kirk or market.

Debta fundi, debts recoverable by an action against the debtor himself, or against his lands.

Debta fructuum, debts recoverable out of the fruits of the lands from which they are payable.

Debt, any thing due to another, as money, &c.

Debtor, the person who owes any thing to another.

Deceit, a subtle trick, or

device

device used to defraud another, which is punishable.

Decima incluse, lands *cum decimis inclusis*, or *tiends* included, are free from teind, ministers stipend, &c.

Decisions of Session, are the judgments of the court of session in particular cases, which have great weight in similar cases, but are not law strictly, beyond their own cases.

Declaration, Judicial, is made in a formal manner by a party before a judge.

Declaratory Action, is that by which a pursuer craves that some right or privilege shall be declared to belong to him.

Declinature of Judges, is refusing to submit to their Jurisdiction in the cause, in which it is pleaded.

Decree, an order of a superior power, for the regulation of an inferior. Also the sentence or Judgement of a court.

Decreet Arbitral, the sentence of an Arbitrator, in the submission or reference of a matter to him.

Deed, any legal writing, contract, conveyance, &c.

Defamation, the speaking slanderous words of another, for which the slanderer is punishable.

Defence, a Justification or apology. The defendants answer to the plaintiffs demand.

Defendant, the person accused and summoned.

Defender, an advocate, or he that defends another.

Deforcement, opposing the officers of the law in the execution of their office.

Delegation, extinguishing an obligation on a former debtor, by another becoming bound in his place.

Delict, such an offence, or breach of the peace, as is punishable by fine and imprisonment.

Delinquent, a guilty person who has committed some offence for which he is punishable.

Delivery of writings, is the delivery of deeds to the persons in whose favour they are granted, without which they are not valid, unless they contain a clause dispensing with the non-delivery.

Dememoration, the crime of depriving one of a member of his body, or the punishment of cutting off a member of the criminal's body.

Demise, death or decease.

Denizen, an alien made a subject by the kings gift.

Denunciation, a solemn publication of a thing.

Denunciation at the Horn, is the publishing a debtor to be a Rebel, because he has not obeyed a charge of horning. On this follows a caption for taking his person, &c.

Deponent, a person who makes oath before a court.

Deposit, a thing committed

to the custody of a person, to be safely kept and returned on demand.

Deposition, the contract of committing a deposit to the keeping of any person, for behoof of the owner who is called the depositor, and the other the depository.

Deposition, the Testimony of a witness on oath, before a court.

Descendants, the offspring of an Ancestor, who have particular regulations as to marriage and succession.

Descent, the transmission of any thing by succession and inheritance.

Desertion, wilful; when one of the married pair leaves and forsakes the other. If this is for four years, it is a ground of divorce.

Designation, the same as addition, or the title given to a man over and above his christian name and surname.

Designation of Manes and Glebes, the appointment of them to the parson or incumbent.

Destination, the appointment of persons or things to any particular purpose.

Deterioration, the making a thing worse.

Devolution, the falling of a right by succession into new hands.

Diet of appearance, the day to which the defendant is cited to appear in court, and every

other day on which the question is to be considered.

Diligence, the care which partys are bound to give in implementing contracts or trusts also certain forms of law whereby a creditor endeavours to operate payment from his debtor.

Diocese, a particular district under the government of a Bishop; now that district in Scotland, over which the jurisdiction of a commissary court, or Bishop's court, extends.

Discharge, an acquittance from a debt or crime.

Disclaimation, the disowning, or disclaiming of a superior by the vassal, whereby the latter lost his fee.

Discussion of debtors, the using of diligence against them for payment, by registering a Horning, and arresting, and pointing their moveables, and adjudging their lands.

Disparagement, inequality in blood, honour or dignity, in the matching of heirs in marriage.

Dispensation, the licence for doing certain actions which otherwise are not permitted.

Disposition, or Charter; the writing which contains the grant or sale and conveyance of lands; also a disposition of moveables.

Dissolution of the annexed property of the King, is the disuniting it from the crown, by act of parliament, that it may be safely sold.

Divesting, or divestiture; the sale or surrender of ones lands or effects.

Division of commouty, the dividing of land by the Court of Session, according to the valued rents of the common proprietors, or according to the interests of those concerned.

Divorce, the legal dissolution of a marriage, at the suit of the injured party, for adultery or wilful desertion.

Document, some written monument or evidence produced in proof of any thing asserted.

Dole, a malevolent intention, which is the essence of crimes.

Dome, or *doom*, a sentence judgement or decree.

Domicile, the dwelling place where a person intends to remain. It is formed by 40 days residence.

Dominion, the power to use and dispose of a thing as we please.

Dominium eminens, the power which a legislator has over private property, by which the proprietor may be compelled to sell it for an adequate price, for the public utility.

Dominium directum, the right which a superior retains in the lands, notwithstanding the feudal grant to the vassal. It is called superiority.

Dominium utile, the vassal's right or property.

Donation, a voluntary gift.

Donatary, the person to whom the king bestows his right to any forfeiture fallen to the Crown.

Donor, the person who gives a gift.

Donee, the person who receives a gift.

Dos, or *dote*, is a marriage gift or tocher good.

Dowager, a widow endowed, a title applied to the widows of Princes, Dukes, Earls and persons of rank.

Dovecote, a pigeon house, from which, and the precincts thereof, if the pigeons stray into the skaith of other people, they may be shot or poinded.

Dower, that portion which is allowed a widow out of the lands of her husband, after his death.

Dowry, the money, or fortune which the wife brings her husband in marriage.

Drawn-tiend, the tenth part of the corns after reaping, which were taken by the parson on the field.

Duelling, the crime of fighting in single combat, on previous challenges given and received. This is punishable by death.

Duke, a title of dignity, created by patent, &c. His rank is next below the sovereign, and he is called, grace.

Duplicate, a copy of any deed, writing or account.

Dureffe, where a person is imprisoned contrary to law, or

is threatned with violence, till he executed a writing.

Dutchy, the dominions of a Duke.

Dyvoor or Bairman, a person insolvent, who gives over all his substance to his creditors.

Dyvoor's habit, a party coloured habit, which fraudulent Bankrupts are appointed to wear.

E

Earl, a title of dignity next below a Marquis, and above a Viscount; created by cincture of sword, mantle of state, cap and coronet, and a charter.

Earldom, the Lordship or territory of an Earl.

Earnest or Arles, money sometimes given by the buyer, in evidence that the bargain is made.

Easement, a privilege of convenience, which one neighbour has of another, without profit, as, a way thro' his lands, a sink, or the like.

Edict, a proclamation of command or prohibition by a Prince to his subjects. Also a precept by a judge, to be served on all concerned, in certain matters.

Effects, the goods, or moveables possessed by any person.

Egyptians, forners called gypsies, who were banished by act of Parliament.

Ejection, the throwing of goods overboard in a storm; also turning out the possessor of

an heritable subject, by force, in lawful form.

Eik, an addition made to something, which has gone before. As an eik to a reversion, to an inventory in a confirmation of an executor, &c.

Elopement, where a married woman departs from her husband, and co-habits with another man.

Emancipation, the setting a son free from the subjection or management of his father.

Emergent, matters newly come to knowledge, which may be pleaded against a decree.

Endowment, the settling a dower on a woman, or a provision on a parson.

Entry of an heir, that form by which an heir vests himself with a title to his predecessor's Estate.

Envoy, a person deputed to negotiate an affair with a foreign prince or state. The same as ambassador, only he receives less ceremony.

Equity, natural justice, or to do to another, what one would wish to be done to himself. Also a mode of proceeding in Courts, whereby the rigour of law is abated, and aid given in proper cases.

Erection of lands into a Barony, is giving them the legal privileges of a Barony.

Escape of prisoners, is when they break prison and flee from Justice.

Escheat, the fall and forfeiture

ture of lands and goods to the King, &c.

Escheat, single, was the forfeiture of a debtors moveables to the crown for not obeying a charge of horning for civil debt.

Escheat, liferent, was the forfeiture of the debtors rents to his superiors, if he continued a year and day under denunciation for civil debt.

Both these are now done away.

Escheator, an officer who observes the escheats of the King.

Espousals, a promise or contract of a man and woman to marry each other.

Estate, the right, title, and interest that a person has in lands, tenements and effects.

Estates, the lords and commons in Parliament.

Estray, any beast not wild which is found, and owned by nobody.

Evesdroppers, are those who stand under the Eves or windows of a house, to listen and carry news, and raise strife in the neighbourhood. They are punishable.

Eviction, a recovery of lands or tenements by law.

Evidence, any legal proof, to make the point in issue evident to a Judge or Jury.

Excambion, is the exchange of one piece of ground with another.

Exception, or defence, is an objection, or a stop to an ac-

tion at law: exceptions are either dilatory or peremptory; under the first are exceptions to the competency of the court, and against the Judge himself. Against the form of citation, the pursuers title, and the form of the action. Against proceeding, because all parties having interest are not called. And personal exceptions to the defendant that he does not represent the original debtor. A peremptory exception or defence, is such as the decision thereof shall put an end to the cause.

Exchequer, the court for judging and receiving the Kings revenue, debts or duties, lands and hereditaments, or other profits, benefits and casualties belonging to the King. They Judge by the forms of proceeding used in England. The court consists of the Lord High Treasurer of Great Britain, a chief Baron and four other Barons, &c.

Excommunication, an ecclesiastical censure, whereby persons are separated from the communion of the church, civil Magistrates are not to be assistant in order to it, or other church censures.

Exculpation, Letters of, a writ for citing witnesses on the part of the accused, to prove his defence, or his objections, &c.

Execution, the act of accomplishing or finishing diligence in

in any thing concerning persons and substance,

Executor, the person named by testament, or appointed by law, to succeed to the moveable estate of one deceased.

Executry, the moveable estate falling to the executor.

Exemption, a privilege to be free from some service or appearance.

Exercitor, he who employs a ship in trade.

Exhibition of writings, the producing them by the havers or possessors on a summons for that purpose. They must either produce, or depose in a certain form.

Exitus terra, the profit of land.

Exoneration, the disburdening and discharging an executor, tutor or curator, factor, or the like, of their accounts and offices.

Expiration, the lapse of time allowed by law, in certain cases; as the expiration of the legal, in an adjudication, &c.

Expromissor, one that undertakes an obligation in place of the debtor.

Ex Officio, the power a person has by virtue of his office, to do certain acts without being applied to.

Extent of Lands, old and new, is a valuation of all the lands in Scotland, for proportioning the public subsidies, and ascertaining the rates of feudal casualties. And a lat-

er valuation for the same purpose.

Extortion, wresting anything from a man by force, threat, or authority. It is punishable.

Extrinsic Quality, in an oath of a party, is that which the judge rejects, or separates from the oath, as not belonging to it, or not falling within the other party's reference.

Extrajudicial, is a thing done out of court.

F

Facility of temper, an easiness of temper in one, which makes him subject to imposition, and therefore an object fit for interdiction.

Faction, a cabal or party formed in a state, city or company.

Factor, he that does business for another by special commission.

Faculty, a privilege granted to a person by favour and indulgence, of doing what by law he ought not to do.

Fair, a greater kind of market kept once or but a few times in a year, with certain privileges.

Falsehood, the fraudulent imitation or suppression of truth, to the damage of another, in weights and measures, writings, &c.

Falsing of dooms, reduction of decreets.

Family, the persons who live together in one house, under the

the direction of one head, or chief manager. The husband has the sole direction and administration of every thing; of all his wife's moveables, and rents of lands; and she can do nothing without him. He has the care and administration of his children and their affairs, till they be 21 years old, or till the daughters be sooner married, &c.

Farandman, or foreigner, on business here, should have his lawsuits speedily ended.

Farding deal, the fourth part of an acre of land.

Father, a well known term, is the head of his family, has power over his children, &c.

Fault, a failure in care and diligence on any matter. A great failure, neglect, or fault is equivalent to fraud.

Fear, such an impression on the mind of violence done, or to be done to ones person or estate, as compells him to grant a deed, which, otherwise, he would not have done.

Fee or fief, or feud, signifies a complete property in lands, and other heritable subjects. Also servants wages are called fee.

Felo de se, a person who deliberately kills himself.

Felon, a person guilty of felony.

Felony, a capital crime, next to petit treason, committed with an evil intention.

Feoffment or infeftment, or

investiture, is a grant of lands, tenements, &c. to another in fee, by delivery of seisin, or possession.

Feu, the same as fee.

Feu-duty, the yearly rent reserved by the superior, in his charter to the vassal. They are preferable debts, and do not prescribe.

Feu-farm, or Feu-holding, that tenure by which a vassal is bound to pay a yearly rent or duty to his superior.

Feuel, feal and divot, are servitudes, or services due by one estate or tenement, called the servient to another, called the dominant; the extent of which is known sometimes by writing, sometimes by possession.

Fiar, the person vested in the feudal property of a subject.

Fiar's of the year, the prices that grains shall be holden as estimated at, when there is a failure in delivery, they are ascertained by the sheriff of each county.

Fiat, a short order, or warrant by a Judge for allowing and making out certain things.

Fictio Juris, a fiction of law by which a supposition is made in law for a good reason, against the real truth of a fact in a matter possible to have been actually performed according to the supposition.

Filiation, sonship, or the state of lawful children, it is inferred by the marriage of the parents.

Fine, an amends by way of punishment for an offence committed.

Fire, the burning of an house, &c. It is presumed to be accidental, and not the fault of the possessors.

Firiot, a dry measure, of two forts. The wheat firiot contains 2197. 34 cubic inches. The barley firiot 3205. 54 cubic inches.

Fisc, the treasury of the Prince.

Fiscal, Procurator, the Advocate or Procurator before an inferior court who prosecutes in behalf of the public.

Fishing; the right of Fishing, competent to the proprietor of ground. The general mention of fishings, and 40 years possession carries salmon fishing as well as others.

Flight, a person accused and flying from justice, is holden as guilty.

Force and fear, any unlawful violence offered to persons. They are grounds for reducing deeds thereby obtained.

Foreign Deeds, of personal obligation and for moveables according to the law of the foreign place, are effectual in Scotland but not those for heritage, unless they are perfected according to the law of Scotland.

Forest, a certain territory privileged for wild beasts, or game, &c. under protection of the King.

Forestalling, the buying or bargaining for any merchandise, when coming to fairs or markets to be sold, with intent to sell the same again at a higher price, which is punishable.

Forethought felony, signifies premeditated murder.

Forfeiture, the effect of transgressing a penal law, by which lands or goods are forfeited and lost.

Forgery, is where a person fraudulently makes and publishes false writings to another's prejudice.

Foris familiaration, a child renouncing his legal title to any farther share of his father's succession, upon receiving a portion.

Form, the rules established to be observed in legal proceedings before courts or otherwise. They should be few, short and plain, and never interfere with justice or dispatch.

Forthcoming, Process of, is an action of a creditor against his debtor and the debtor's debtor, to recover payment on an arrestment in the hands of the latter.

Fraud, Deceit in grants of lands, or in bargains of goods, &c. to the damage of another person. Which is totally prohibited.

Fugitive, a person obliged to flee his country, or abode, for crimes, debts, &c.

Fungibles, such things as are estimated

estimated by number, weight or measure.

G

Game, birds or prey taken or killed by fowling or hunting, concerning which, there are divers regulations.

Games of hazard, as cards, dice, &c. Money won at those, beyond £10, at one down-sitting, is to be restored, and the winner liable to five times more, &c.

Gaol, a prison or place of legal confinement.

Gaol delivery, a commission by the King to certain persons, to deliver his gaol at such a place, of the prisoners contained therein. Used in England.

General discharge, an acquittal of all that the granter can demand. This extends not to debts of an uncommon kind.

Gestio pro herede, is behaving himself as an heir to his ancestor, by intermeddling with his estate, his title deeds, conveying his subject, &c.

Girth and Sanctuary, the privilege of retiring to a legal place of safety against captious for debt. The palace of Holy rood-house is the only sanctuary in Scotland.

Glebe, the land belonging to a parish church, beside the tithes, or fifth part of the rents.

Government, the polity of a state or nation; or an orderly

power constituted for the public good.

Grace, act of, a name given to the act of Parliament 1696, C. 32, concerning the alighting of poor prisoners for debt, or setting them at liberty.

Grace, days of, three days after the term of payment of a bill, allowed to the debtor to pay it.

Grant, a conveyance in writing of such things as cannot pass by word only.

Grass of Ministers, the grass allowed for a horse and two cows, to ministers, beside their glebes.

Gratuitous cause of a deed, is when it granted for love and favour only, without money, &c.

Groundannual, is a yearly duty payable for the ground of a tenement or house within Burgh.

Guardian, a person who has the charge of any thing, particularly of children and idiots.

Guild, a fraternity or company, in Royal Boroughs, with laws and orders for their good government, &c.

Guild Dean of, a Magistrate who is head Deacon, or Dean of the merchant company, or

Guild in Royal Boroughs, he has the inspection of buildings and the cognizance of mercantile courts, &c.

H

Habite and repute, held and reputed to be a wife, an heir, &c.

Haimfucken

Haimfucken, is the assaulting or beating a person in his own house. A capital crime.

Harmless and skaitblefs, in law-boroughs, is not to hurt or endanger those, toward whom one is bound to keep the public peace.

Hasp and staple, the entry of an heir by a bailie in a Royal Borough, by giving him the hasp and staple of the door of a burgal tenement.

Hazard or accident, in a sale, belongs to the buyer, after the contract is perfected.

Head-Borough, diligences, in certain cases must be published and registered at the head Borough of the shire.

Heir, a term applicable to all those who are entitled by law to take the right and possession of any heritable subject which belonged to a person deceased.

Heir apparent, is he who is entitled to succeed, after the ancestors death, before his entry.

Heir presumptive, is he so called during his ancestors life.

Heir of conquest, is he among brothers or uncles, who succeeds to the heritable subjects purchased by his ancestor.

Heir of line, or heir at law, is he who succeeds to his ancestor in a descending universal manner.

Heirs portioners, are daughters or sisters, who succeed e-

qually to the deceased, with a precipuum to the eldest.

Heir of provision, is he who succeeds by special destination or provision.

Heir of tailie, is he who succeeds in a long series of heirs, substituted by deed, one after another.

Heirship moveables, are the best of certain kinds of moveables, which the heir of line is entitled to take, beside the heritable estate.

Hereditary, whatever belongs to a person or family, by right of succession.

Hereditas jacens, an estate lying after the proprietors death, till his heir enter upon it.

Herezeld, or Heriot, is the best horse, ox or cow which a tenant had at his death. It is a pertinent of the fee.

Heritable Rights, all rights affecting lands, mills or other immoveable subjects.

Heritage, Lands, mills or other immoveable or heritable subjects. It cannot be settled by testament, and it descends, but conquest ascends among collateral heirs.

Heritor, the proprietor of land, or other heritable subjects in the country.

Hide of land, such a quantity as might be plowed with one plough within a year or so much as would maintain a family.

Highway, a free passage for the kings subjects, with carri-

ages, horses &c. from one place to another, with divers privileges.

Holding, the tenure by which a proprietor of land holds it of his superior.

Holograph, any deed wholly written by the hand of the granter.

Homage or fealty, the submission and service which a tenant promised to his lord, when he was admitted to the land.

Homicide, taking away the life of any person.

Homologation, the approving and ratifying any prior contract or obligation.

Horning, a writ at the instance of a creditor, commanding his debtor to pay or perform within a certain time, under the pain of being denounced a rebel, &c.

Hostage, a person given up to an enemy, as a security for the performance of the articles of a treaty.

Houserents, the mails or duties payable yearly for the possession of houses. They prescribe from year to year, in three years.

Hue and cry, is the pursuit of a person who has committed felony on the highway.

Hunting, fowling, and fishing, the right of, is restricted and regulated by law.

Husband, a man joined with a woman in marriage, he has power over his wife's person and effects, and he is curator to

her, &c. she can do nothing without his consent.

Husband land, is twenty six acres of arable land, or thereby.

Hypothec, a right of security to creditors upon the effects of their debtors, for payment of certain debts; such as rents, the freight of a ship, seamens wages, ministers stipends, &c.

I

Idiot, a person born a natural fool. He cannot contract nor make a will, and he gets a tutor appointed by a brieve and service, for the management of his person and estate.

Jedge and Warrant, the order of the dean of guild court for building or demolishing houses within a brough.

Jest, a thing spoken in merriment, without intention of being real. What is jestingly said, infers no obligation.

Ignorance, of the law of nature, or of the civil law founded thereon excuses nobody, especially in statute and criminal law.

Immunity, a privilege or exemption from some office, duty, &c. also the liberties granted to cities and communities.

Impannelling, the writing down the names of a jury, summoned by the sheriff, &c.

Impeachment, an accusation and prosecution for treason and other crimes.

Imperial, something belonging to an emperor, or independent

ent Monarch, as the imperial crown of Britain, &c.

Implead, to sue or prosecute by due course of law.

Implication, where something is implied, which is not expressed by parties, in deeds, &c.

Importance, deeds of, are those which have their subject above £8. 6. 8. in value. If the granter cannot write, two notaries must sign for him.

Impost, a tribute or custom, or the tax which is laid on goods imported.

Imprisonment, the state of a person legally restrained of his liberty, and in the custody of another, either for debt, or a crime. Wrongous imprisonment is prohibited under severe penalties.

Improbation of writings, is the annulling them before a court, as false and forged.

Incest, the crime of venereal commerce between relations who are prohibited from marriage by law.

Incident diligence, a warrant from a court for citing witnesses, producing writings, &c. for proof.

Inclosures of Land, it is allowed for them to turn about the high-way, 200 ells, on making the new road passable.

Incompetency, the want of power or authority in a Judge to determine a cause.

Inconsistency in writings, is regulated by the posterior clause

or writing, this being understood to rectify and derogate from the prior.

Incorporation, the same as corporation, which see.

Incorporeal things, are not subject to the senses, but have existence in law, as rights of all kinds.

Inculcata tutela, self-defence which is lawful and a duty.

Incumbent, a minister of a parish resident on his benefice, so called, because he ought to bend his whole study in discharge of his duty.

Indebiti solutio, the erroneous payment of what is not due, which founds the payer in an action for restitution.

Indemnity, the keeping harmless; or a writing to secure one from damage and danger.

Indictment, a summons or libel against criminals.

Indivisible, the partial interest of a pursuer, with others, in a subject who do not concur with him, and therefore he cannot warn a tenant, or prosecute a removing from the subject, &c.

Indorsation of bills of exchange, is assigning them on the back, and is in effect a new bill.

Inducia, the days allowed to a defendant between his citation and appearance in court.

Induction, the putting a clergyman into possession of a benefice, to which he is presented.

Infamy, a crime by which

one is rendered infamous, and incapable to be a witness or juror.

Infang theft, and Outfang. The former is when thieves are taken with the things stolen; the latter, when they are taken without having the thing in hand.

Infant, a person within seven years of age.

Infelement or legal possession of lands, consists of an instrument of seisin, and its warrant.

Information, a formal declaration or suit against one.

Ingratitude, unthankfulness or injurious behaviour by the receiver of a gratuitous deed to the donor, or granter, whereby the gift may be revoked.

Inheritance, a perpetual right or interest in lands.

Inhibition, a writ at the instance of a creditor, prohibiting his debtor from selling his lands, or contracting debt on them, to the creditors hurt.

Initialia testimonii, the preliminaries of a deposition, shewing whether the witness is married, and his age, &c.

Injury, any wrong done to a man's person, reputation or goods.

Inn-keepers, who keep lodgings and provisions for entertainment of travellers, are obliged to restore what is received by them from travellers, to keep.

Innovation, is where a new obligation comes in place of a former one.

Inquest, fifteen jurors for the trial of causes.

Insolvent, a person unable to pay his debts.

Instance, the prosecution of a law suit.

Institutors, they who are set over any undertaking, or branch of trade, &c. Their contracts bind their employers.

Institute of law, a book containing the elements of law.

Institution, the first of a series of persons who are appointed by a deed to the succession of an estate. The rest are called substitutes.

Institution of ministers, the same as collation of old, or bestowing the benefice on them, of which they got possession by induction.

Instrument, a public act or authentic deed, by which any truth is made apparent, or any right or title established in a court of justice.

Instrument notarial, a writing under the hand of a public notary, certifying a fact.

Insufficiency Latent, of goods sold, subjects the seller to take them back, or make up the damage.

Insurance, a contract whereby persons called insurers or assurers, oblige themselves to answer for the loss of a ship, house, goods, &c. in consideration of a premium paid by the proprietors of the things insured.

Interdict of a court, an order to prohibit a person from going on in the matter complained of,

of, till the merits of the affair be tried.

Interdiction, a legal restraint laid upon weak or profuse persons, from signing any deed to their own prejudice, without the consent of curators.

Interest, the premium paid for the loan or use of money. Also advantage, and a concern or participation in any thing.

Interest in a cause, infers disability in the Judge or witness to act.

Interlocutor, or Interlocutory, order of a Judge, the judgment or sentence of a court before the final sentence.

Interpretation of laws, and of writings, the giving the found sense of them, according to the words, the received rational usage, and the public intendment of such things.

Interrogatories, questions demanded of witnesses in a cause. They should relate only to the necessary point, and not be calculated to lead a person in what he has to say, by putting words as it were into his mouth, as, *did you not see a thing done?* They ought not to lean to one side more than to another, and therefore should be expressed in this manner, *did you see, or not see a thing done?* After a party has deposed to a general interrogatory, no special one that might infer a contradiction in the oath, is allowed. And parties are bound to confess or deny points put to them judicially.

Interruption, a stop or hindrance of any thing, by a notarial instrument, or by a summons, &c.

Intestate, a person who dies without making a will.

Intimation, legal notice of any thing given to those concerned, as of an assignation of a debt to the assignee, &c.

Intrusion, the intermeddling with any thing.

Intrusion, entering into the void possession of a heritable subject, without a title or warrant.

Inveſta et illata, into a house, furniture and other things brought into a house, which are subject to the hypothec rent.

Inveſta et illata, within a thirl, the corns brought by the inhabitants of a borough within the thirl or territory of its mill.

Inventory, a list or catalogue of the moveables which an executor gives in to court as belonging to the deceased, or it is a catalogue of the lands, &c. given in by an heir as belonging to his ancestor, upon which he is to enter.

Investiture, the writings which constitute a feudal right, or the legal possession of lands.

Jointure, the estate settled on a wife, to be enjoyed after her husband's decease.

Irritancy, a clause in a deed providing a certain thing, and declaring the nonfulfilment thereof, to make the deed void and null.

Ish, the expiration of a lease or the passage or egress from a place.

Judge, a chief magistrate appointed to hear causes impartially, fully and speedily; to receive facts as alledged and proved, to apply the laws, and to pass sentence.

Judgment, the sentence of a Judge upon a suit.

Jurisdiction, the power and authority of a Judge, and the district to which the authority extends.

Jurisprudence, the science of law.

Juror, one that serves on a jury.

Jury, a company of 15 men, sworn to try a fact before a court. They are only 12 before the exchequer.

Jus deliberandi, the right of an heir, to deliberate for a year, whether he will represent his predecessor, or not.

Jus devolutum, the right of the church, or presbytery to present a minister to a vacant parish, when the patron neglects to use that right within half a year.

Jus mariti, the right of a husband to his wife's moveable estate by their marriage, and to the rent of her lands, &c.

Jus relicta, the right of a wife to a part of the goods in communion of marriage, in case of the husband dying before her.

Jus preventionis, the preferable right of a court to judge in a cause before another court,

by having exercised the first act of jurisdiction.

Jus superveniens auctori accersit successori, a right supervening to the author accrues to his successor. As the heir apparent, before his entry sells the estate, and afterwards makes up his title. The estate and title then become effectual to the purchaser.

Justice, the inclination of the mind, and habit in action to give every man his own.

Justice, a person deputed by the King to administer justice to his subjects.

Justice of Peace, a person appointed by the King to attend the peace of the country where he lives. They judge in breaches of the public peace, and in most of the laws concerning public police; also in servants wages.

Justiciary, court of, is the supreme court for criminal jurisdiction and causes in Scotland. It consists of the Justice General, Justice Clerk, and five Commissioners of Justiciary, &c.

K

Katharins, were forners, or masterful, sturdy beggars, who went in companies and oppressed the people. There are several laws against them.

Kenning a widow to her terce, is serving the widow on the brief of terce, to the liferent of the third part of the lands in which her husband died infest.

Keys,

Keys, the Kings, is the authority which the possessor of a caption has thereby to break open doors, in order to get at the person.

Keys, delivery of, imports possession of the place and goods therein.

King, the personage who has the supreme authority, and the executive power of the state.

King's Ease, the fifth part of the true rent of an heritors tithe, allowed to him where the stock and tithe are set for distinct duties.

Knaveſhip, lock and bannock, names of the small duties payable to millers servants at grinding corns.

Knighthood, the first rank or class of dignity and honour, above that of gentleman.

Knights of the Shire, are the commissioners for the shires to serve in Parliament.

L

Lammas, a term on the first day of August.

Last, the burden or load of a ship. Also certain measures of fish and other things.

Last heir, he to whom lands or goods come by escheat, for want of lawful heirs. This is in general the King.

Latent-right, such a deed as lies concealed and not published. This among conjunct persons, has no effect against creditors.

Lavish person, is he who is such a spendthrift as cannot manage his own affairs without a curator.

Law, the command of a legislator, to do, or not to do a thing under a penalty.

Lawboroughs, is the surety which one is bound for to his neighbour, to keep the peace, and refrain from harm.

Lawyer, one skilled in the law, and authorized to practise as an advocate before a court.

Lease, or Tack, is a contract between the proprietor of lands or houses, and a tenant, for the use of the lands, &c. for a rent or Tack duty.

Legacy, a donation or gift by one person to another, to be paid after the granters death.

Legal reversion, the time in which lands that are adjudged may be redeemed. See adjudication.

Legatee, the person to whom a legacy is provided.

Legislator, a lawgiver, who establishes the laws and polity of a state. This in Britain, is the King, Lords, and Commons.

Legitimacy of Children, is presumed from the marriage of their mother with a husband.

Legitimation, children born before the marriage of their parents, are legitimated, or made lawful by the subsequent marriage of the father and mother.

Legitimation

Legitimation of Bastards, is made by letters from the king.

Legitime, is the bairns part of gear, before explained.

Le roy le veut, the king's assent to public bills or acts of parliament. This manner in French is a badge of ancient slavery.

Let, Lands to, to put them to hire, or grant them to a tenant for rent.

Letter of Attorney, a writing in the English form, by which one person authorises another to do some lawful act.

Letter of Credit, an order by one person to another to furnish a third person with goods or money.

Letters, are writs or diligences in the King's name.

Letters missive, are letters granted or sent by one merchant to another, in a mercantile affair. They are probative and binding, and they prescribe in 20 years.

Letters patent, writings sealed with the great seal, and open, authorising a man to do or enjoy, what of himself he could not do.

Levy, to gather or collect money, &c.

Libel, the declaration or charge in writing, against a person in court.

Liberation, from obligations, is either by consent of parties, or by performance.

Liberty, the power of living without any restraint but what

the law prescribes. Also a privilege held by charter or prescription.

Licence, an authority given to a person to do some lawful act.

Life pensive, or state of health, is opposed to death-bed, in making deeds.

Lieges, the subjects so called.

Life, persons are presumed to live till they be 100 years old, unless they be proved dead before that time.

Liferent, is the use of any subject given to a person during his life. It is a servitude or burden on lands or houses.

Liferent escheat, see escheat.

Limitation of Actions, the same as prescription.

Liquid, what is clear and fixed.

Lis alibi pendens, a lawsuit depending before another court.

Litigious, that which is in contest before a court.

Litifcontestation, is an interlocutor of court, admitting the libel or defences to proof.

Loan, any thing lent, in order to be returned.

Local, something fixed to a certain place.

Locality, decree of, a decree proportioning a minister's stipend among those liable in payment.

Location-conduccion, the same as, letting to hire.

Locus penitentiae, the place or power of resiling in contracts. There is no place for it in liberatory pactions.

Loosing arrestment. When an arrestment proceeds on a depending action, it may be loosed by the arrestee giving security for the debt, if it be found due.

Lord, a title of honour given to those who are noble by birth or creation. It is next below a Viscount. Also a title of office, as, Lords of Session, Lords of Justiciary, &c.

Lucrative cause, is when any thing is granted for love and favour, without money or price.

Lucrative successor, is the apparent heirs accepting a gratuitous right from the ancestor to the estate, to which he may succeed as heir. It makes him liable for the ancestors debts.

Lunatic, is a madman who has lucid intervals. He cannot grant deeds without a tutor.

Lyon, Lord, is the King of or at arms; because he has the sole power and jurisdiction concerning coats of arms, or signs armorial. He admits and deprives messengers at arms, &c.

M

Mace, an ensign of authority carried before magistrates, as before the lords of session and justiciary.

Macers, the macebearers before those courts.

Magistrate, a public officer, to whom the execution of the law is committed, according

to the extent of his commission.

Magna charta, the great charter of the libertys of Britain, and the basis of our laws and privileges.

Maiden, an ancient instrument used in Scotland for beheading criminals.

Mails and duties, are the rents and profits of lands and houses. The rents of lands prescribe, or are lost in 5 years, and the rents of houses in three years after the tenants removal.

Mains, the house and lands, which are possessed by the laird or superior.

Majesty, the title given to the king, as a term of distinction and power.

Mala fides, an ill conscience or dishonesty in any thing.

Male appretiated, wrong appraised, is said of those things that are undervalued or estimated by an executor.

Malice, ill will, or bad design, infers an exception against a witness, &c.

Malversation, in office, an evil practice, or bad shifts. It is always a good ground for deprivation.

Mandate; a judicial commandment to do some thing; or a power granted by one to another to do business for him.

Manor or Barony, which consists of government, demesnes, services, court-baron, &c.

Manse of ministers, their house

and offices furnished by the heritors, at half an acre of ground with the yards.

Marches, and march dikes, the lines and fences of division between lands, &c. They may be streighted, and for them, the highway may be cast about 200 ells. The neighbouring heritors are bound to be at equal charges in making new march dikes, &c.

Marcheta mulierum, the marchets of women on being married, were dues payable by vassals to the superior on the marriage of their daughters.

Marginal notes, or additions to a deed, ought to be mentioned in the writing, and signed as it is.

Marriage, the lawful union of a man and woman during their lives and fidelity. It cannot be dissolved by mutual consent, and it is the foundation of the human race, of families and states.

Masters of ships, have the charge of the ship, and power to contract for the freight, repairs, provisions, &c. so as to bind their employers.

Memory, before the time of memory and since, laws since James the I, may be deemed since the time of memory, and those prior to that period, before the time of memory.

Messengers at arms, officers under the Lyon King of arms, who execute the Kings writs in civil and criminal cases.

Messuage, the principal dwelling house, and ground adjacent for household uses.

Michaelmas, a term on 29 September.

Mill, is a separate tenement, and not conveyed in a deed, without special mention of it, unless the lands be in a barony.

Mines of Gold and Silver, are deemed to be reserved by the crown as regalia, unless they be specially conveyed.

Minister of state, a person to whom the King intrusts the administration of his government. Their neglect cannot prejudice his majesty's interest.

Minor, a person above fourteen years old, if a male, and twelve, if a female; but under twenty one years, or majority.

Misdemeanour, a heinous offence, particularly in the execution of an office.

Misnomer, a misnaming or mistaking a persons name which is fatal to several things.

Misprision, a neglect or oversight concerning treason or felony.

Missive Letters, vide *Letter missive*. Those delivered or sent.

Misuser, some abuse of any particular liberty or benefit.

Mittimus, a warrant of commitment to prison.

Modification, the softening or moderating any penalty or punishment.

Modification of stipends, the fixing

fixing of the amount of them out of the teinds of the parish in general.

Molestation, action of, a process competent to the proprietor of a land-estate, against those who disturb his possession. To be carried on before the judge ordinary.

Monopoly, one or more persons making themselves sole masters of the whole of a commodity in order to sell it at a very advanced price.

Mora or delay, is the debtors not performing in the time or manner agreed, or determined by law; or the creditors not accepting performance duly tendered. It has divers consequences.

Mores or manners, all agreements or obligations *contra bonos mores*, are void.

Mortancestry, Brief of, was antiently the ground of an action by an heir when excluded from his ancestor's estate.

Mortgage, a pledge of lands, &c. for money borrowed, so as if the money be not paid at the day, the land dies to the debtor, and is forfeited to the creditor.

Mortification, or mortmain, the granting of lands, or other feudal subjects, to churches, or religious societies, *ad manum mortuam*. Lands may be so granted to any lawful purpose, either by blanch or feu-holding.

Moveables, such things as

move themselves, or can be moved, in contra-distinction to heritable or immoveable subjects.

Multiplepoinding, an action by which a person who is troubled by several others pretending right to a subject in his custody, calls them all to try their rights, that he may pay safely to him that has the best right, and is preferred.

Multure, is the quantity of corn payable to the heritor of a mill for grinding. They prescribe in five years.

Murder, the wilful and felonious killing a person from premeditated malice.

Mutilation, cutting away a member of the body.

Mutuum, a loan of money or other things.

N

Nature, law of: that law written in the heart of every man and woman by their creator.

Naturalization, the naturalizing an Alien, or placing him in the condition of a natural born subject.

Negative, parties answering negatively to a general question are not thereafter bound to answer special interrogatories.

Negotiorum gestio, the manager of a persons affairs in his absence, without a mandate.

New facts, come to knowledge, may be insisted on in a process, after a decree.

Newters, the goods and ships of newters assisting our enemies, become lawful prize.

Nobile officium of a Judge, particularly of the court of session, is the high power by which they interpose, in some cases of necessity and utility, to supply the defect of ordinary law and form.

Nobility, signifies rank or dignity above the commons. It is extended in Britain to five degrees; Duke, Marquis, Earl, Viscount, Baron.

Nonage, all the time a person continues under the age of 21.

Nonentry, the heir neglecting to enter and renew the investiture of the feudal subject which belonged to his ancestor. Burgage lands, or lands belonging to corporations cannot fall into nonentry.

Notary-public, he who is authorised to attest deeds in order to make them authentic, protest bills, &c.

Notarial, some thing belonging to, or taken by a notary.

Notice, formal information given in negotiating bills of exchange, &c.

Notoriety, that which is publicly known, and held to be true in taking proof of anything.

Novalia, new improved lands, they are sometimes freed from tithes.

Novation, the same as innovation.

Novodumus, Charter, or Clause of, is that by which

the superior grants of new, *de novo*, certain subjects. Such charters have the effect of an original grant.

Nulla salsina, nulla terra, no property in lands, without legal delivery and possession.

Nullity in deeds, &c. anything, superfluous or deficient, which makes them null and void.

Nunc valent, in a retour of a special service, is the character of the new extent, or valuation of lands.

Nuncupative Testaments or Legacys, those made by word only, they are not good beyond £ 8. 6. 8.

O

Oath, a solemn affirmation, calling God to witness the truth of any thing.

Oath of Verity, is that whereby the truth of the fact is referred to oath by a party.

Oath of Credulity, that when witnesses give their opinion concerning the value of things.

Oath of Calumny is when a party gets the others oath whether he has reason to deny a point, or to affirm it.

Obedience, to the order of superiors excuses in trespasses, but not flagitious crimes.

Objection, something urged to overthrow a position.

Obligation, a legal tie, by which one is bound to pay or perform something to another.

Obreption, expressing what is false, in order to obtain a gift.

Occupation,

Occupation, or occupancy, the first seizure or possession of a thing. Occupation, is also a trade or mystery.

Offence, an act against the law, or omission where the law requires a thing to be done.

Offer, a proposal to a party, which is not binding till it be accepted.

Official, done in the course of office.

Office, Public, is a mandate, and does not imply a power of deputation, unless it be granted expressly.

Oleron, Sea Law of, laws relating to maritime affairs, made by Richard I. when he was at Oleron.

Option, choice, or election. When a party makes his election, he cannot afterwards alter.

Order, is a mandate or command. Also a method or rule.

Ordinary, Lord, in the court of session, is he who comes to the outer-house to try causes.

Ordinary, Judge, is the sheriff of a county, or magistrates of a borough.

Overlord, is a superior of lands.

Overfman, an umpire, or person named by parties or arbiters, to determine a matter.

Out-law, one deprived of the benefit of the law, and of the king's protection.

Outsucken multure, is the meal or dues paid at a mill,

for grinding, by those not restricted.

Oyes, or Oyez, is a public proclamation at market crosses, and other places in using forms of law, calling the people to hear.

P

Paction, is a promise or contract. Pactions of parties cannot derogate from the public law.

Pactum de quota litis, an agreement whereby advocates are to have a share of the profit of a depending plea. This is null and dishonourable.

Pactum legis commissoriae, in case of a pledge for money, whereby it is agreed, if the money be not paid at the term, the pledge shall be the creditors. This is disallowed by law.

Pandeets, the first part of the code of civil law.

Pannal, the place where a prisoner is put in a court to be tried.

Pannel, the person who is put into the pannal.

Paraphernalia, a Wif's, her wearing apparel, and ornaments, &c. They are not subject to the husband's *jus mariti*.

Pardon, the King's, in case of crimes, does not prejudice another, nor restore blood.

Parents, bonds of provision by them to their children are good without delivery. Parents and children are not competent

competent witnesses for, or against each other.

Parish, the precinct of a parochial church, or a circuit of ground inhabited by people belonging to one church. The heritors of a parish, are a corporation on rating themselves for the repairs of church and manse, and maintenance of the poor.

Parliament, the grand assembly of the King, Lords, and Commons, for enacting and repealing laws, &c.

Parricide, the murder of a parent.

Parson, a rector, or minister of a parish.

Parts, and Pertinents, every thing allowed by law as part of, and passing with an estate.

Passes, permission given by those having authority to soldiers in a journey, or to shipmasters in a voyage, to go or come any where.

Passengers, in ships as to their persons, are not subject to contribution, to make up the loss of goods thrown over to lighten the ship.

Passing from writings which are pursued to be disproved, does not exempt the defendant from punishment if he be guilty.

Passive titles, are those by which the apparent heir of a person, may be liable before his entry, to pay his predecessor's debt, by being charged to enter, and not renouncing;

by behaving as heir in intermeddling with the estate, or writings; and by taking a conveyance of the estate, after debt is contracted. Also the nearest of kin may be liable by intermeddling with the moveables.

Pasturage, a right to feed cattle on another's ground. It implies fewel, fail, and divot, but may be separated from it.

Patent doors, Letters of, is a writ for making open doors to get at the effects in cases of poinding.

Paternity, the quality of a father, it is established by the birth of the child after the 6th month from the marriage; or within the 10th month after the husband's death.

Patronage of churches, the right to present a minister to a vacant church and benefice, within six months after his knowledge of the vacancy, &c.

Penalty, in obligations for money, is always limited to the expenses laid out in recovering the debt.

Penal action, that process which is to recover damages and penalties, &c. as the effect of transgression. It dies with the delinquents, unless it is litifcontested in his life time.

Pension, a sum of money paid yearly for past services. It is not arrestable by creditors.

Perambulation of marches, an action on a brief, before the

sheriff,

sheriff, for settling contentious marches.

Peremptory diets of court, the days on which the summonses, &c. must be called, and proceeded in. The diets of all courts ought in justice to be kept and peremptory, without unnecessary and frivolous continuations.

Perjury, the crime of swearing falsely, when under a lawful oath, before a court. Its punishment is loss of moveables, imprisonment and infamy.

Persona standi in Judicio, a capacity to stand in judgment.

Petitory action, any personal action at law upon contracts, or other obligations.

Pickery, the theft of small things, which is punished corporally, or by banishment.

Pipe, is a roll in the exchequer.

Pirate, a person or vessel that robs on the high seas, without any commission, or authority. The punishment is death, loss of lands, and goods.

Placitare, minor non tenetur, super hereditate paterna. A minor is not obliged to answer any process that may evict his fathers heritage.

Planting, tenants are bound to preserve the growing wood and planting on their possessions, under penaltys.

Plea, is what either party alledges for himself, in a process before a court.

Pledge, is whatever moveables are delivered to a creditor

for security of debt. It cannot be disposed of without a warrant.

Pley, is a depending action.

Ploughgoods, cannot be poinded in the time of labour, unless the debtor has no other goods.

Pointing, is the taking of a debtors moveables, by diligence for payment of the debt.

Policy, is the inclosing planting and improving land.

Policy, of insurance, a contract already noticed, under insurance.

Polygamy, a plurality of wives or husbands in the possession of one man or woman, at the same time. It is the same as bigamy, and punished as perjury.

Poor, the benefit of the poors roll, before the court of session is allowed to one who has a probable plea, and no money to defray the expence, whereby he is franked.

Poor of a parish, ought to be relieved by the heritors and kirk session.

Popular actions, may be prosecuted by any person that shall sue.

Porteousroll, the roll of the crimes and criminals, which is carried about at the circuit courts, for the trials.

Portioners, Heirs, the daughters, or sisters who succeed equally to their predecessor.

Ports and Harbours, persons having the privilege of them are bound to uphold them, and have power to exact certain

dues

dues for keeping them in repair.

Pose-comitatus, the power of the county, raised upon any extraordinary occasion.

Possession, the detension of a thing, with intention to hold it as the persons own.

Possessory actions, those processes which are founded on possession of a thing, as well as the right to it.

Possessory Judgment, benefit of, is founded on seven years possession, in consequence of a feisin or tack. It secures the possessor, till his title be reduced by the court of session.

Posthumous-child, one born after the death of his father, or taken out of the body of his dead mother.

Post Office, is that where the couriers or letter-carriers, who ride by post, take up and lay down their charge. This Office has divers privileges and regulations.

Pourpresture, a wrongful encroachment upon another persons property.

Præceptio hereditatis, is the anticipation of the inheritance by the heir, who thereby becomes liable for the debt of his predecessor.

Precarium, a thing lent gratuitously, recoverable at the lenders pleasure.

Precedent, a case determined which serves as a rule for all of the same nature.

Precept, a command in wri-

ting, sent by a judge to do a certain thing in course of law.

Precept of feisin, an order from a superior to his bailie, to invest an heir with the subject which belonged to his predecessor.

Præcognition, an examination of persons, on a crime being committed, to know the circumstances, in order to a trial.

Predecessor, a person who has gone before another in the same office or employment.

Premonition, legal notice given by a debtor to a creditor to receive his money.

Prentice, or apprentice, is one bound by contract to serve another man of trade, for learning his business.

Præposita negotiis, a woman who is set over the affairs of another.

Præpositors, are persons that employ others to officiate for them in land negotiations. They are liable for the contracts of their infititors or managers.

Prærogative of the King, is whatever right and privilege he is entitled to, before and exclusive of all others.

Presbytery, a number of ministers, in the second class of presbyterian church government, who have the power of licensing, and settling ministers, and the appointing of manes and glebes.

Prescription, is the method of establishing and extinguish-

ing

ing rights, and imperfect titles, by the length of time appointed by law.

Presentation, the act of the patron of a church, in appointing a minister to that church and the benefice.

Presumption, a consequence from facts known or proved, to infer the certainty or probability of another fact. Presumptions are of three kinds, either *hominis, juris, or juris et de jure*. The first is according to the discretion of the judge. The second is, what law or custom holds to be true, till the contrary be proved. The third, of and by law, is what law presumes to be done or not, and founds itself upon, as a rule of truth.

Prevention in Jurisdiction, is a judge's right of trying a criminal, excluding other judges, by his giving him the first summons.

Price, the money given for any thing at a purchase or sale. Though it be under the half of the true value, the contract is good.

Primogeniture, the right of the first born, by which the eldest of males in the same degree excludes all the rest, in succession to heritable subjects.

Principality lands, those belonging to the Prince of Britain, or the Kings eldest son.

Principals and accessories, are all liable to punishment in crimes.

Priority, the relation of some-

thing considered as before another. And this in respect of time, nature, order, dignity, and causality.

Priority of date, is not regarded in personal rights, but that of diligence, in the most of things; but in investments, it is regarded, and regulated by their registration, excepting two or three things.

Prisoner, one who is confined in prison for a civil debt or crime.

Prisons, legal places of confinement, intended mostly for safe custody, and sometimes for punishment. Royal Boroughs are bound to have them, and to hold them sufficient.

Privateers are ships of war, fitted out by private persons at their own expence, but have commission from government.

Privilege, a benefit granted to certain persons, or orders, and places, contrary to the usual course of the law.

Privileged debt, is one to be preferred and paid before others, as house rents, servants wages, &c.

Prizes, vessels taken at sea from enemies.

Probation, proof, or evidence in general, is the legal means of convincing a judge, that the pursuer's claim or defender's is founded in fact. And this is by writing, by witnesses, or the oath of parties, &c.

Process, the proceedings in a cause from the original writ

or summons, to the end thereof.

Proclamation the King's, is a public notice given of any thing of which his majesty thinks proper to advertise his subjects

Proclamation of banns of marriage, of briefes, &c. is the solemn publication of those

Proctors or procurators, persons commissioned to manage other persons causes before courts of law.

Prodigals, or Spendthrifts, they are put under interdiction or curatory, for management of their affairs.

Progress of writs, the proper title deeds of an estate, or heritable subject, for forty years.

Promise, is a gratuitous obligation on the promiser, without a mutual obligation, or valuable consideration.

Proof, see probation.

Property, the highest right a person has or can have to any thing.

Propinquity, the nearness of relations, as to succession, &c.

Proposed, and repelled, in defences, are those reasons that have been stated and repelled and cannot be heard again.

Prorogation of Jurisdiction, is the conferring of jurisdiction by the consent of partys, on a judge who is not otherwise competent.

Prorogation of a tack, is prolonging it to any time. It should be done before the tack expire.

Protection, is a stay of diligence for debt granted to debtors for a time, that they may appear as witnesses, &c.

Protestation, a demand by a party to be assailed, as the pursuer does not insist.

Protesting a Bill, is a demand of payment by a notary, and a declaration that diligence will go for non-payment.

Protocal, a notary public's book, in which he inserts instruments of seisin, &c.

Pro-tutor, and Pro-curator, those who act as legal tutors and curators; they are equally liable as tutors, &c.

Proving the tenor, Action of, a process before the court of session, to prove the substantial parts of a writing which is lost.

Provisio hominis tollit provisionem legis, the paction of parties takes away the provision of law in many cases.

Provision, Bonds of, are those granted to children, &c. for their portion.

Public burdens on Land, are the kings cess, feu duty, ministers stipend, &c.

Punishment, the penalty which a person incurs by the transgression of law.

Pupil, a boy or girl, not yet arrived at the age of puberty, or 14 in males, and 12 in females.

Purchase, the buying lands or goods with money, &c. and not

not succeeding to them by right of inheritance.

Purgation, oath of, is the oath administered to witnesses.

Purpresture, or Purprifion, is a feudal delinquency, or an encroachment of the vassal upon the superior's lands, and inclosing them.

Purview of an act of Parliament, is the body of it, as distinguished from the preamble.

Q

Quadriennium utile, the four years after a person is twenty one years old, indulged to him to reduce any deeds granted to his hurt in his minority.

Qualified oaths, are oaths of partys containing some qualities not referred to their oaths.

Queen, the King's wife, or widow, or a woman who holds a crown singly.

Quorum, of persons in office, those without whom business cannot be done.

R

Ranking, and sale of a debtor's estate, is a process before the court of session at the instance of heritable creditors to have the estate sold, and the price divided.

Rape, the crime of ravishing a woman, or having carnal knowledge of her by force, and against her will. It is a capital crime.

Rapine, or Robbery, is the taking away another's goods

openly and by force. It is a capital crime.

Ratification, a Wife's, is her confirming on oath, and in absence of her husband, a deed granted by her and him.

Razing, in writings, if in a substantial part, will vitiate the deed.

Real debt, is that secured by infestment on land, and it is a *debitum fundi*.

Rebel, a person denounced for a civil debt, &c. And it is the taking up arms against the King, which is a capital crime.

Recognition, a casualty, or deed of the vassal, whereby his lands are forfeited to the superior.

Recompense, payment or compensation allowed to those who manage another man's business, especially to his profit.

Recompensation, is the creditor's extinguishing a debt which is pleaded in compensation by the like debt due by the debtor.

Record, a book or register of authority, or rolls preserved in a court of record.

Recourse, on Bills of Exchange, is the right of an indorsee to return upon the indorser and drawer of a bill for payment, when the acceptor fails or refuses.

Re crimination, an accusation brought by the accused against the accuser upon the same fact.

Reddendo, a clause in a charter of land, which specifies what the vassal owes, and is to perform to the superior.

Redeemable right, a conveyance or right of security, which is not absolute, but may be redeemed.

Redemption, is the actual buying again, or entering again upon lands, &c. which have been sold or given in security, on satisfying the terms.

Redhibitoria actio, is a process for annulling the sale of insufficient goods.

Reduction of writings, is a process before the court of session, whereby writings are rescinded and annulled.

Re-examination of Witnesses. A witness may recently apply to get a mistake rectified, but he cannot afterward get himself re-examined.

Re-exchange, is the money due upon a bill protested and returned, through disappointment of payment.

Reference, by one of the parties to the other, in a debatable matter, is good.

Regalia, the rights and prerogatives of the King, such as the power of executing the laws, the power of judging of peace and war, the coinage of money, &c. Also the apparatus of a coronation, as the crown, &c.

Regiam Majestatem, an ancient book of the Scots feudal law, &c.

Register, a public book of authority, in which writings are recorded.

Registration, the inserting of writings in an authentic register.

Registry, the office, &c. where writings are recorded.

Regrotor, one who buys any wares or victuals, and sells them again in the same market or fair, or within certain miles thereof.

Regress, the right of a debtor to return to his lands, &c. which were pledged for debt.

Regulations, public rules and orders to be observed in courts, in buildings, &c.

Rehabilitation, the restoring a delinquent to his former lawful condition.

Rei vindicatio, an action at law founded on the pursuer's right of property in the thing.

Relaxation from the Horn, is a form of diligence to free a debtor from the effects of denunciation for non-payment of debt.

Release, an acquittance from a debt, &c.

Relevancy, of a libel, is the sufficiency of the premises to infer the conclusion.

Relict, a Widow. She has right to the third of her husband's moveables, if there be children; and to the half if there be none; she has also right to the liferent of a third part of the lands, in the country, in which her husband died

died infest, but not to houses in a borough.

Relief, a remedy at law. One has no remedy against his own deed, or prescription, &c.

Relief, a casualty due by a vassal to his superior, at entering on the estate and relieving it from the superior.

Religiosa res, are burial places, &c.

Relocation, tacit, a set of lands, supposed and inferred by a proprietor's allowing a tenant to possess on the former terms.

Remission, the pardon of a crime, or giving up the punishment due to it.

Remit, the sending back a process under advocacion, from the court of session to the inferior court.

Removing, action of, is a process to remove tenants from lands and houses, &c.

Rent, the money or other consideration for the use of lands and houses.

Rentals, are special sorts of tacks, given to ancient possessors of land, as kindly tenants and rentallers.

Renunciation, the renouncing or giving up any right or claim, as renouncing tacks, to be heir &c.

Reparation of damages &c, that which is allowed for loss and profit by delinquencies, &c.

Repealing, the revoking or

annulling a statute of parliament, or the like.

Report, in one sense, is the reference of a cause by the lord ordinary to the whole lords, in the court of session.

Reposicion of a cedent, is restoring him to his former right by deed of the assignee.

Representation, the state of one who personates or supplies the place of another, as an heir or executor, in lands and moveables.

Representative, a person in the above state. Also a member of parliament.

Reprisals, a warrant from the King to seize the goods of the subjects of a state which refuses to do justice.

Reprive, is the suspending the execution of the law, for a time.

Reprobator of witnesses, is bringing evidence of their partiality, &c. when the same is protested for at their examination.

Repudiation, the act of divorcing a husband or wife.

Requisition, a formal requiring any person, to do something, by protesting against him.

Rescue of prisoners, is setting them free from the ministers of law, or from prison, by force or fraud. It is justly punishable.

Rescission, the annulling any deed or contract.

Reservation, a liferenter by,
has

has higher powers, than a simple liferenter, as he was fief of the land.

Reserved faculties, in a deed, may be exercised at any time, in terms of the deed.

Resettlers, receivers of stolen goods, who are as bad as the thief.

Resignation, the giving up a subject or right, in legal form, as the vassals resigning his land to the superior, or in favour of a purchaser.

Resignation, procuratory of, sometimes a deed by itself, but generally a clause in a deed, empowering one to make resignation of the subject.

Res judicata, an adjudged case, or final decree.

Resolution, one's mere resolution infers no obligation.

Resolutive clauses, those in a deed which declare the contravention thereof to annul the deed.

Respond book, is that in the chancery by which sheriffs account for non-entry duties, &c. due by vassals of the crown.

Resort last, a court from which is no appeal.

Restitution, is restoring a person to his right which was unjustly taken from him.

Retention, the right of retaining money or other things till the holder be satisfied of a debt due to him.

Retiring writings, is taking them, up on giving satisfacti-

on. Having them in custody presumes payment.

Retoured duty, signifies the extent or value of lands, returned by the inquest on a brieve, to the chancery.

Retours of services, are the answers of the inquests on brieves for serving heirs, &c. to the chancery.

Retraçtus feudalís, is the superior's option to receive an adjudger, or to undertake the debt.

Retrocession, the conveyance of a moveable subject by the assignee to the cedent.

Return, clause of, is that by which a sum of money is made to return to the granter, &c. in a certain event.

Reversion, the returning of, a right or subject lying in pledge to the owner. Or his right to demand the same.

Review, court of, that which has power to consider again, and to recal a decree.

Revocation, the act of recalling deeds done to one's prejudice. Used by minors, &c.

Revolution, the change of the King and government, which happened in the year 1688.

Right, jus, denotes property and title or claim to a thing.

Riot, the assembly of three or more persons, who commit some unlawful act with force and violence.

Robbery, a felonious taking away another man's goods from his person, presence, or estate,

by

by putting him in fear. It is a capital crime.

Roll, a schedule, parchment or paper, which may be rolled up into the form of a pipe. It is of diverse sorts as rolls of parliament, of records, of causes, &c.

Roup, or Auction, a manner of sale in which one person bids after, and more than another.

Rule of Law, is a maxim inferred from several cases on the same ground of law. It is formed from the law, and not the law from the rule.

Runrigg, lands lying so in alternate ridges, may be divided; excepting borough acres.

S

Sacra res, or things sacred, are churches, communion cups, &c. which are not in commerce.

Salaries, and honoraries of lawyers and physicians, are due without paction. They are not properly hires.

Salaries or aliments, are not arrestable. A factor clearing accounts without stating salary, passes from such claim.

Sale, the transferring our property to another for a price in money. The sale of a pupil's lands must have the authority of the court of session.

Salmon-fishing, is inter regalia. The lieges may acquire it by prescription.

Salters and Coaliers, are the only persons like slaves in Scotland. They work at coal and salt works, and the right to them is bought and sold.

Salvage money, a reward for saving ships or goods from the danger of the sea, pirates or enemies.

Sanctuary, the same as asylum.

Satisfaction of obligations, is equal to payment.

Saturday stop, in fishing on rivers; a particular manner of fishing whereby the cruives or engine across the river, must be kept open from saturday at six at night, till monday at sun rising.

Scandal, the same with calumny, or slander, being a reproachful falsehood against any one.

Scandalum magnatum, a defamatory speech or writing, to the injury of a person of dignity.

Schools public, ought to be erected in every parish. The schoolmasters to be settled by the minister and heritors, or by the presbytery. Their salaries to be paid by the heritors, who have relief of the half from their tenants.

Sea-greens, those grounds which are frequently overflowed by the sea. They belong to the persons who have used them.

Seals, the Kings, are used in place of private parties subscriptions. They are, the great seal,

feal, privy feal, and quarter feal, for different purposes.

Sederunt act of, an ordinance of the court of session for regulating their procedure, in the expeditious administration of justice, &c.

Sedition, is the raising of commotions, or disturbances in the state, between the King and his people.

Seisin, the possession of a heritable subject obtained in legal form.

Seizure, taking possession of run goods, or the like, by force and according to law.

Sentence, the decree of a court in a cause there depending.

Separation of husband and wife, the authorized state of them living asunder, but not divorced.

Sequels, in thirlage, are the small quantities of victual given to the servants at a mill for their trouble.

Sequestration, is the deposition of a thing in controversy, into the hands of a third person, to be restored to him who is found to have the best right.

Servant, a person who engages himself to serve another for subsistence and wages. Their wages are not arrestable, and they are privileged debts on the master's executory.

Service of heirs, a jury of 15 men, finding upon oath in a court, that a man is the heir of his predecessor.

Servitude, a burden affecting lands, whereby the proprietor is restrained from the full use of his property.

Session Court of, the highest court in Scotland for civil causes. It consists of a president, and 14 other judges.

Settlement, of the poor in a parish, depends on their residence for the last three years.

Setts of Royal Boroughs, are their constitution or form of government.

Sett of ships, actions of, is a process before the admiral, to get ships sold.

Sheriff, an officer in each county, invested with judicial and ministerial power.

Shipmaster, he that has the charge and the management of a ship.

Ships, are moveable goods, but are not poindable for debt, they are arrestable, &c.

Signature, a grant from the crown, which passes the signet

Signet, one of the King's seals, always in the custody of the secretaries of state.

Simony, the crime of buying or selling church preferment.

Simulation in rights, is any fraud used thereby.

Stip of execution, is a stop or stay of diligence, or other things given by the court of session.

Slains, letters of, an acknowledgment that the party concerned in slaughter, had received satisfaction from the slayers.

Slave, a person in the absolute power of a master. The only sort of slavery in Scotland, is seen in coliers and falters, who pass with the lands where they work.

Smugglers, those who conceal, or run prohibited goods, or goods which have not paid His Majesty's duties.

Society, a number of persons united together for their mutual assistance, security, interest or entertainment.

Socii criminis, are complices in a crime.

Sodomy, is the unnatural crime of buggery, which is punishable with death.

Soldier, a man engaged to fight. He has divers privileges in law.

Solemnitys of deeds, are those forms which are necessary to the constitution of deeds.

Solicitor, the King's, is a lawyer for managing the King's causes. He is assistant to His Majesty's advocate.

Sorners, are masterful sturdy beggars, who take meat and drink by force.

Souming and Rouming, in common pasturage, is the form of law for ascertaining the number of cattle that each proprietor may pasture upon a common moor.

Sovereign, is the King, or Supreme Magistrate in Britain.

Speaker, of the house of Commons, is a member of the house elected to act as chairman or president.

Specification, is the making of a new species or subject, from the materials of another. It is an industrial accession.

Spirituality of a benefice, is the tythes.

Spousals, are contracts of marriage.

Spoliation, or Spolie, is the intermeddling with a moveable subject violently, or without order of law. It comprehends both theft and robbery.

Staff and Batton, the symbol and form used in resignation of lands.

Stampduty on Deeds, that duty to the crown which is laid on paper and parchment for writing deeds upon.

Statutes, the same as acts of Parliament.

Steelbow goods, those effects delivered to a tenant by the landlord, for the like to be delivered back at the end of the tack.

Stellionat, a crime which includes every fraud not distinguished by a special name; particularly applied to conveyances of the same right to different persons.

Sterility, in Land, if great, affords ground for abatement of the rent.

Steward, was the magistrate over the regality lands which fell to the King by forfeiture.

Steward, Lord High, the greatest officer under the crown, who is created now occasionally only for a coronation,

the trial of a nobleman for treason, &c.

Stillicide, or cave drop, should fall upon one's own property, unless he has a servitude on his neighbour's ground.

Stipends of ministers, are the pay for their work arising from the tithes of the parishes.

Subaltern infeftment, an infeftment on a subfeu of land.

Subjects, the people of Britain under the dominion of the King, and owing allegiance to him.

Submission, and decret arbitral. A submission is a contract between parties on a disputable matter, referring the same to an arbiter.

Subreption, the obtaining a favour or gift by unfair representation and surprize, which makes the gift void.

Subscription, the signing of a deed at the bottom, either by a party himself, or a notary for him, or by the parish minister in the case of a testament.

Subsidy, an aid or tax granted to the King by the parliament.

Substitute, a person appointed to officiate for another.

Substitution, is the appointing one to succeed another.

Subtack, is a tack or lease granted by the principal tackfman to a person under him.

Succession, is a person's succeeding to another, or coming

into his place as to any right or subject.

Suit, an action at law, &c.

Summons, the citation of a person to appear in court, also the warrant for this.

Sunday, Sabbath, or the Lord's day, is that day of the week set apart for divine service. No courts, or execution can proceed upon it, but contracts, bonds, or transactions may be then made, when it is necessary.

Superinduction of words, the adding of words between the lines in a deed, which goes for nothing; but if a word is superinduced in a line in a substantial part, it vitiates the deed.

Superintromission by executors, is their intermeddling with subjects not in their inventories, which holds them liable for the value.

Superior, he that has the *dominium eminent* of lands, and a duty issuing from the same, payable by the vassal.

Superfedere, is a voluntary delay granted by creditors to their debtors.

Supply, is the cess or land tax.

Support, servitude of, is a servitude in houses, whereby the servient or under tenement must be repaired to uphold and support the dominant or upper tenement.

Supportation, in going to church or market, in order to make

make a deed good, is inferred by the sick persons being supported by those about him, or not bearing up himself and acting as one in health.

Sureties, are bondsmen who give security for another. The same as cautioners.

Surgeon, one who cures by manual operation. He is answerable for damage happening through his unskilfulness.

Suspension, the stopping of the execution of a decree or other thing till the matter be heard again by a superior court.

Suspicion, Legal, against judges, is inferred by their being near relations of the parties, as brother, father, or uncle.

Swan, a large white water fowl, swans are *inter regalia*.

Sylva cædua, a wood that being cut, grows again from the roots. It may be cut by a liferenter of land.

Symbol, in delivery of possession, is a thing as a sign or representation of the matter, delivered for the real subject. As earth and stone for land, &c.

Synod, an assembly of ministers within certain bounds, being the third degree in the constitution of the church of Scotland.

T

Tacks, the same as leases. They are good against every body, if possession has followed thereon. They may be sub-

set, but cannot be assigned without the mention of Assignees.

Tailie or entail, the settlement of a land estate on a series of heirs, substituted one after another, under restraint with irritant and resolute clauses.

Tiend or tithe, that proportion of rents or goods due to churchmen for exercising spiritual functions. Parsonage tiends are the fifth part of the constant yearly rents, vicarage tiends, are due by use and custom only.

Temporality of benefices, is the lands belonging to the church.

Tenendas, that clause in a charter, expressing the superior of whom the land is to be held.

Tenant, one that holds lands of a landlord, for rent, &c.

Tenement, a house or other thing which a person holds of another.

Tenor, or tenour, the purport or content of a writing, &c.

Tenor, action of proving the, a process for proving a deed and the contents thereof, which has been lost.

Tenure, the manner whereby lands or tenements are held, or the service which the tenant owes to his lord.

Terce, the third part of lands, in which the proprietor dies infested, which is given to his widow in liferent.

Term, a limitation of time

or estate, as a lease for term of life or years.

Testament, the same as last will, a deed whereby a person names an executor, and bequeaths his effects to him.

Testimony, public evidence given by a witness.

Theft, a fraudulent and secret intermeddling with the property of another, with a view of making gain.

Thirlage, the obligation on some tenants to grind their corns at certain mills, and to pay the dues or the multures, sequels, and services.

Tithe, the same as teind.

Title, or name of honour, using it does not make one liable for the ancestor's debt.

Tocher, the marriage portion that comes with a wife.

Toleration, the act of, is that act of parliament in the 10th of Queen Ann, which allows dissenters from the established church, to meet and perform divine worship; but not to marry, excepting those of the episcopal communion.

Torture, or torment, judicially inflicted in trials for crimes, is abolished in Scotland.

Trade, is selling, or exchanging in commerce. It is under the particular care of Royal Boroughs.

Tradition, or Delivery, is either real, as in moveables, or symbolical as in lands, by earth and stone.

Transaction, an accommoda-

tion of a business by the parties voluntary agreement.

Transference, the passing, or conveying something to another.

Transgression, the breach of a law, or an offence against it.

Translation, a deed which conveys a subject further on, after it has been already assigned.

Transmission of penal actions, they do not pass or transmit against an heir, unless the matter has been litifcontested against the deceased.

Transumpt, action of, a process to get an authentic copy of writings which cannot be delivered up with a subject.

Treason, betraying or the crime of infidelity to one's lawful sovereign.

Treasure, as money, or the like hid in the ground belongs to the King, or those who have right from him, so do things that are lost, or derelinquished.

Treasury Lords, of the, persons in commission from the King to administer his revenues.

Trespafs, any transgression of the law under treason felony, or misprision of either; or it is a wrong and damage done by one private person to another. It prescribes in three years.

Trial, the examination of a cause according to law, and before a proper judge.

Trust, a disposition of one's effects

effects to trustees for his creditors, is not good against diligence.

Truth, should be much regarded every way, in our dealings, in judicial proceedings, &c.

Turnpikes, the gates on highways set up by law, for gathering toll to make and repair the roads.

Turpitude, essential deformity in words or actions. None is obliged to swear to his own turpitude, and none should be heard when he alleges his own vileness.

Tutor or guardian, for one under 14 years if a male, or 12, if a female. Above that age he is named curator. A tutor is either named by the father, or pointed out by the law, or named by the King or his court of exchequer.

U

Udal right in Orkney and Zetland, is a right to lands in those countries, constituted alone by possession of the land as heritable proprietor, without investment.

Ultimus heres, the same as last heir.

Ultramontane witnesses, are those who offer themselves without being cited. They are rejected.

Union, the act of incorporating England and Scotland into one kingdom under the title of Great-Britain. This was done in the year 1707.

Union of lands, is uniting them when lying discontinuous into one tenantry; for taking feisin of them at one place, as if they were contiguous.

Unlaw, was ten pounds Scots money, which if a poor witness was not worth, of old, he was rejected. But this is now in disuse.

Unskilfulness, surgeons, and all artificers are answerable for the damage that happens thro' their unskilfulness. But lawyers and physicians are not answerable for the honest advices they give.

Usury, the crime of taking more interest than is allowed by law. Its punishment is, voiding the obligation, and forfeiting treble value of the sums or goods lent.

Uterine children, are those related only by the mother they do not succeed to one another.

V

Vacant Stipends, are those which fall due before a minister is settled. The patron has the disposal of them for pious uses within the parish. Those uses are repairing the church and manse, taking care of the poor, building and repairing bridges, &c.

Vacation, that time in which courts of law do not sit for business, as seed time and harvest, &c.

Vagrants, persons absconding

ing from diligence. Also rogues and vagabonds, or sturdy beggars, concerning whom there are divers regulations.

Valent, a clause in a retour, which is the rule for determining the old extent of lands, &c.

Valued rent, of lands, it is the valued duty of lands, and the rule for payment of the landtax and other public burdens, &c.

Vassal, is he who receives a right of lands, under certain conditions from a superior.

Vastation or waste, by public calamity, entitles the tenant to relief from his rent.

Vendition, the same as sale. Also the name of the deed which conveys a ship or share of it to a purchaser.

Verdict, is the answer of the jury to the court, upon the matter of fact committed to their examination.

Verification, the act of proving a thing.

Vicarage, the small tithes which are paid according to use and custom to the minister of the parish.

View, or proof upon view, is that sort of proof which is taken in some cases upon viewing the object or subject in dispute.

Vindicatio, or rei vindicatio, an action founded on the right of property.

Violence, any force applied to injure a person or infringe his right.

Vis et metus, the same as force.

Viscount, that degree of nobility next below a count or earl, and above a baron or lord.

Vitious intromission, an unwarrantable intermuddling with the moveable effects of a person deceased. This subjects the intermeddler to payment of the debt.

W

Wadset, is a right of lands, by which they are pledged by the proprietor or debtor to his creditor. This is perfected by seisin on the disposition. The creditor is called wadsetter, and the debtor reverser.

Wager, a bett, or pledge upon a chance. It is not in general against law.

Wage, of Servants, is the pay given for their service.

Waith, or waiff, goods wayed or lost and found, belong to the King. They ought to be proclaimed. To meddle with them clandestinely infers theft.

Wakening, summons of, takes place when a process lies over a year, without any thing done, and is thereby sleeping. It must be wakened by a new summons.

Wand of Peace, with messengers, is a small stick of authority, with which they touch a person when they apprehend him for debt, in order to make sure work.

War, is the exercise of force under

under Sovereign command. During which the civil laws are often asleep.

Ward-holding, an antient tenure of lands now abolished.

Warding, the same as imprisonment.

Warning, that legal notice which is given to tenants to remove from lands or houses, 40 days before the term.

Warrandice, or Warranty, is an engagement by the feller of a subject to secure it to the purchaser. And this is either against all men, or from the feller's own fact and deed.

Water-course, or water-gang, is a servitude or service, whereby one may convey water thro' another's land, to his own.

Watering, another servitude, or the privilege to water within another's ground.

Way, a passage or road, called the King's high way.

Weights and measures, are the standards by masses of known length and gravity, by which commerce moves and is adjusted and secured. The regulation of this is of great concern in Britain, and yet it is shamefully neglected.

Weregild, or Cro, was a consideration in money given by a manslayer to the friends of the person killed. Capital punishment succeeded to it, hence no other assythment is due.

Whituesday, a legal term, on 15th May, for removings, payment of liferents, &c.

Widow, the relict of a deceased person. In case of no contract, she is entitled to a third of the moveables, if there be children, and to an half, if there be none. She is also entitled to the liferent of a third part of her husband's lands, if he died infested in them.

Will, or Last-will, is the declaration of a man's mind concerning his moveable effects after his death.

Witness, a person who gives evidence upon oath in a cause. He ought to be disinterested, not a near relation, nor ultroneous.

Word, or promise, is binding in everything concerning moveables. Doubtful words are interpreted against the speaker, where another is a party; but they are construed in favour of the speaker where another is not a party, as in Testaments, &c.

Wreck, or shipwreck, is when a ship perishes on the sea and no person escapes alive out of it. If a living creature be found in the ship, the owner is entitled to claim within year and day.

Writ, the King's precept to get something done in a lawsuit.

Writers, are those employed in forming securities and conveyances, &c. They should write good language, with a good hand, and durable ink.

Writers, or Clerks to the Signet,

net, are those who write and subscribe every thing that passeth ordinarily the signet.

Writing, is essential to bargains concerning heritable subjects. Every writing ought to be in the form required by law.

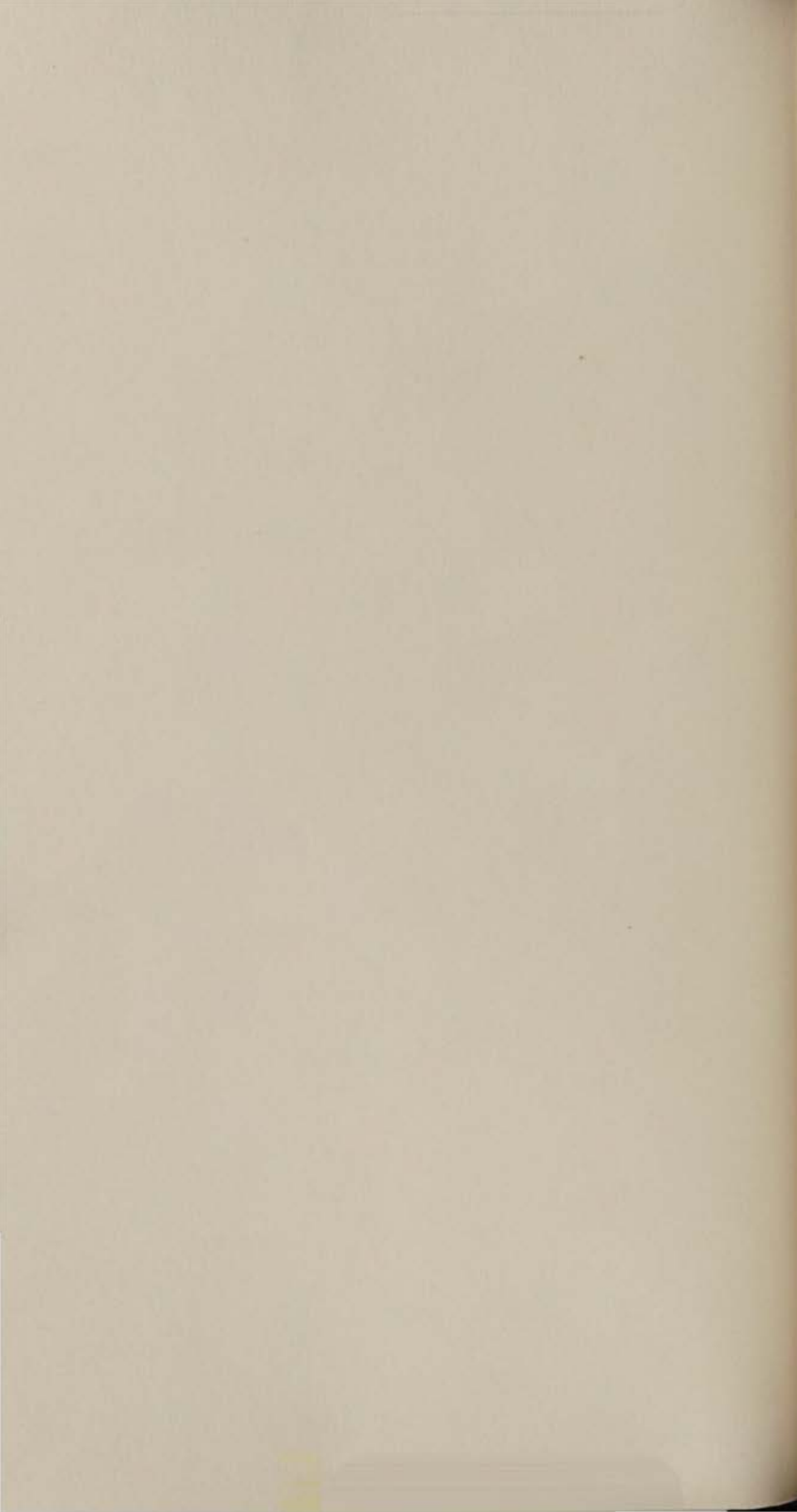
Wrongous imprisonment, is the imprisoning a person without just ground, and contrary to law, for which there are penalties enacted on several degrees of persons.

Y

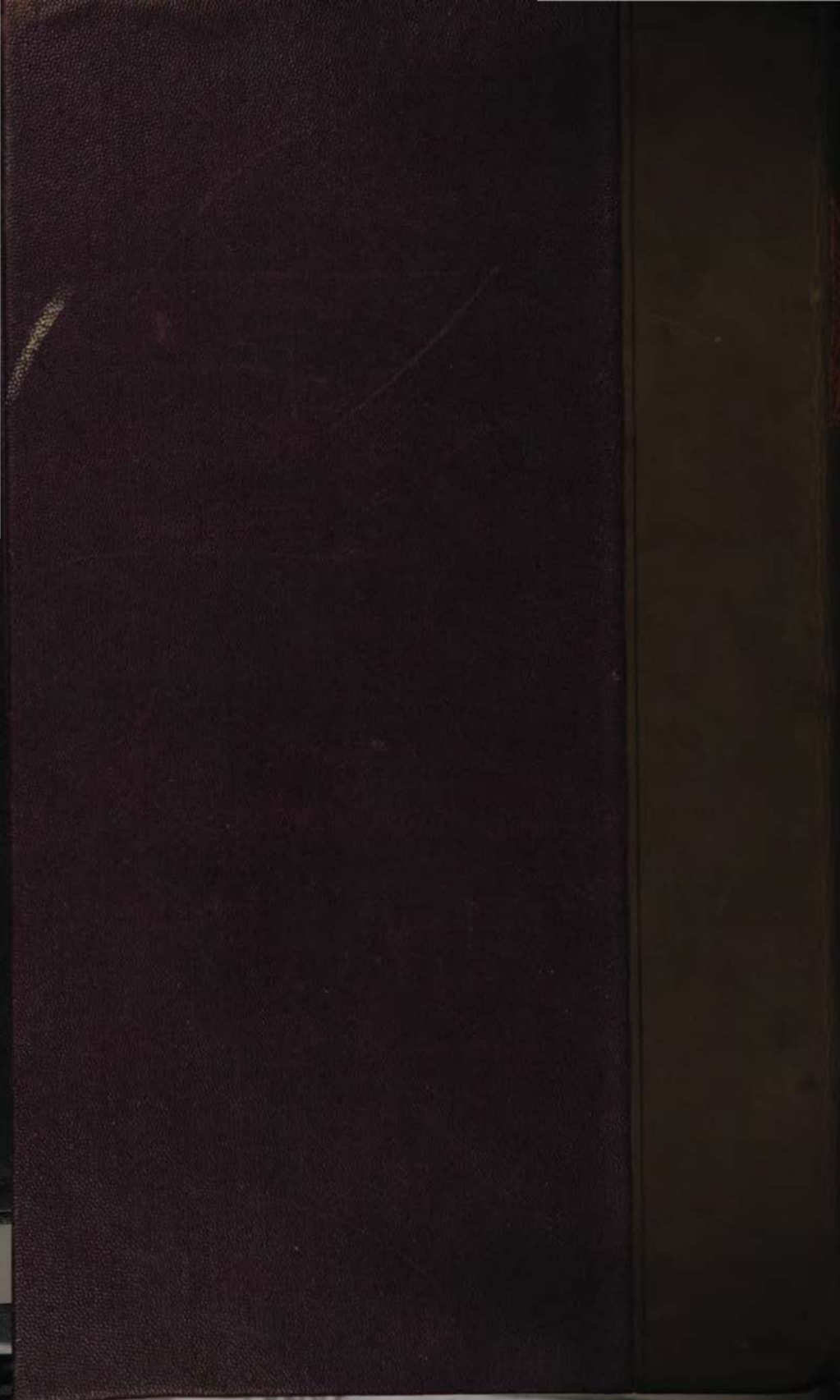
Year and day, this time is appointed for several things, for the case of a living child procreated of a marriage; for the heir of a person deliberating after his predecessor's death, whether he shall enter or not, &c.

Yeomen, are the commonality.

F I N I S.







ESSAY ON
THE FORMS
OF
WRITINGS

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THE FORMS
OF
WRITINGS