

165-1



0001



De verborum significatione

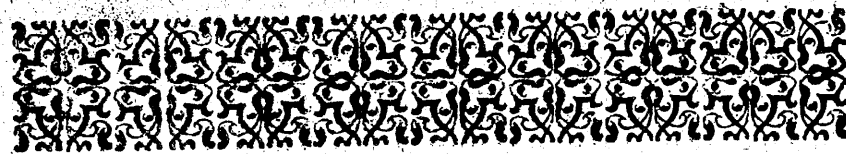
THE EXPOSITION
OF THE TERMES AND
DIFFICILL WORDES, CON-
TEINED IN THE FOVRE BVIKES

*of Regiam Majestatem, and others, in the Actes of
Parliament, Infeftments, and vsed in practique
of this Realme, with diuerse rules, and com-
moun places, or principalles of the Lawes*

*Collected and exponed be M. JOHN
SKENE, Clerke of our Soveraine Lordis Register,
Councell and Rolles.*



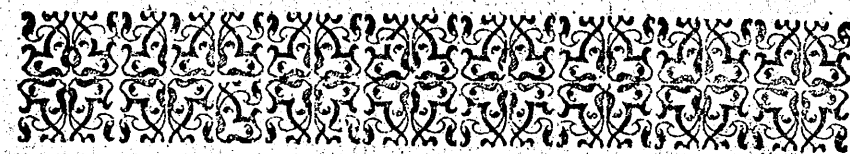
EDINBURGH,
*Printed be Robert Walde-graue Printer
to the Kingis Majestie. 1597.
Cum Privilegio Regali.*



To the Reader.

I HAVE rather opened and shawen ane occasion to the (gude Reader) to per-
forme this warke, then expened, or declared the samyn; Being ane mater nocht
pleasand in it selfe, nor treated be withers of before: Gif I haue preased to dowell
or attempted that, quhilk withers maie accomplish and make persite, the profite
and commoditie redoundis to thee, quha at thy pleasure, may big upon this little
ground, and fundament. Gif vther waies be error, or ignorance, I haue nocht
satisfied thy desire, and expectation, Sit erranti medicina confessio. For ane
absolute memorie, and persite knowledge, in na thing erroneous, is proper to God,
and nocht competent to man. Quhatuer I haue done, I did it nocht to offend thee
or to displease anie man, bot to prouoke withers to doe better, alwaies for thine awin
weill, be warre to reprehend my doinges, flowand from ane benevolent, and gude
minde: except thou be assured, to be reprehended of naman, quha cummis after the
ane fall censure thy doinges. I am affrayed of all Readers, for ilk man has his
awin Iudgement & opinion, quhair of their is als monie contrarieties, as divers-
ties of persons. Advise therefore, & or thou do onie thing rashlie, gif thou maie
transact and agree with all the posteritie, that albeie thou do alsweill, as Homer
in his poesie: nane of them be unto thee, successour or imitator of Loilus, so great
is the varietie of engines, and inclinations, that nane can be sure fra reprehensi-
on. Reade therefore, and mak thy profite of gud thinges. Correct modestlie all er-
rors, quhilk are ignorant, and nocht willfull. Eike all necessaries omitted, but a
maie al superfluities adiected. And quhatuer thou do, esteeme of me, as I do of thee
and of al, so quha is knowledge, this my litle labour, shall happen to cum. And sine,

Vine, Vale, si quid novisti rectius istis,
Candidus insperiti: si non, his utere mecum.



THE EXPOSITION OF
THE DIFFICIL WORDES AND

termes, conteined in the foure buikes of Re-
GIAM MAIRSTATEN, & vthers: In the acts of Parliament,
infesiments, & used in the practique of this Realme, with
divers Rules, and commoun places, or principall
groundes of the Lawes.



ACTILIA, Armour, Weapons, Harnishing. Sta.
2. Roberti Bruyse. c. ordinatum 27. Quhair it is statute
that ilk man havand Ten pounds worth of gudes
fall haue for the defence of his bodie & Realme,
ane sufficient Acton, and basnet, with gluifes of
plait, ane speir, ane syword, and quha-fa-cuer hes
nocht ane Acton, and basnet, fall haue ane suffici-
ent habirgeon, or ane Irone jack, ane Knapiska of
Irone, and gluifes. Swa that ilkman salbe readie cum actilijs & harnesis
suis, vnder the paine of escheit of all his guides, the ane halfe thereof to
the King, and the vther halfe to his maister, and Lord. Acton ane aulde
Frenche word, Hocqueton, quhilk corruptlie is pronounced Octon, sagum
militare. Sum affirmis Acton to be an auld kinde of armour, for preserva-
tion of ane mans bodie, maid of steill or Irone, quhilk covered his head
alsweill as the rest of his bodie: Quhair of zit are sum extant as auld mo-
numentes in the Hie-landes, Bot noucht dailie vsed, or worne. Vthers
mair probablie alledgis Acton, to be ane forme of armour, quhilk co-
vers ane mans bodie (except his head) downe to his knee, maid of Taf-
fitie, Ledder, or Linnen claith, stuffed with caddes, and stiked verie thicke
with threid, or silke of diverse coullers, and partial gilt, with spranges or
streames of Gold fuilzie; And is commonlie vsed in time of battell vn-
der the habirgeon, to saue ane mans bodie, fra the schot of ane arrowe:
or fra the brusing of the straik of an sword. It is an kinde of that abuilze-
ment, quhilk in Latine is called vestis virgata, variis virgis seu aureis lineis
distincta, & variegata, ut est illud Virgilij Aeneid 8. Virgatis lucent sagulis.

ACTORNATVS Lib. 4. c. si quis defendens 46. actor, alienorum
negotiorum gestor, vtherwaies in the Lawes of this Realme called respon-
salis, quha makis answer for ane vther in judgement, speciallie for the
defender Lib. 1. c. Esto. 27. Lib. 3. c. Placita. 12. cum seqq. Like as Prolocu-
tor is he quha speaks for the persewer, as his forespeaker. Lib. 1. c. conse-
quenter. 13. Als wa actornatus is he quha dois ony thing in an vther mans
name or behalfe, As he quha compeiris for ane vther in courtes, or Ius-
tice

De verborum significatione.

tice aire, to pas vpon inqueistes, and serving of retoures, to the Kingis Chapel, or to giue preface for him, quha sendis him. For he quha aucht baith sute, and preface in onie court, suld nocht onelie send ane sutor to decide actions, and causes, conforme to the Law, bot also suld compeir personally, or send ane Actornay, quhilk also he suld do, quha aucht preface allanerlie, for ather he suld compeir, or ane Actornay for him, with the seall of his Armes, the quhilk all frichalders, dwelland within the schireffdome, ar oblished to do, in al Schireffe courts. l. 1. p. 9. c. 130. In iustice aires Actornayes, suld be honest and sufficient persons of discretion. Ia, 1. p. 3. c. 53. And *Actornatus Iustitiarum*, is taken for the Iustice depute *quon. attach. c. propositus. 61. Aff. Reg. Da. c. nullus 16.* Actornay is not onlie the procuratour quha is sent: Bot also the procuratorie or *mandat* quhilk is given to him, and zit they are different, for ane procuratorie is comonlie maid be ane privie man: And ane Actornay called *litera Actornatus*, is granted be the King, or onie vther, havand Chappell. Stat. Rob. 3. c. vls. generallic, in omnibus negotijs, loquelis, et placitis motis, seu movendis. And therefore the Lordes of Session decerned ane requisition of ane aire, anent his marriage, maid be ane Actornay, to be nul. Because all sike requisitiones, suld be maid be the superiour, or beane procuratour hauand speciall power, to that effect.

ADIURNATVS, ane French word, summoned or called to ane certaine daie, like as *Adiurnamentum* is called an summons, or *citatio*, *summonitio*, Quhilk is defined, *certi diei & loci exhibitio partibus ad diem legalem, quoniam attach. c. 1. Preceptor meus Matthaeus Wesenbecius in paratitl. Tit. de in ius vocando. Nu. 13. definit citationem, vt sit actus Iudicialis, seu Iudicij preparatorius, quous quem coram fisti opus est, Iudicis mandato, legitime vocatur, Iuris experiendi causa. Et assisa dicitur adiornata ad alium certum diem.* That is continewed to ane certaine daie. Lib. 4. c. Si Petens. 57. & *curia dicitur respectuata*, That is continued or respleited. Stat. 2. Rob. Br. c. Item *quacunque. 34. Chessanaus in consuetudines Burgundie Rub. 1. S. 6. verb. messiers & serients. Nu. 88. multa (inquit) sunt nomina, quae idem important, vt est citatio, in ius vocatio, monitio, edictum, denunciatio, conventio, & aliud quod in vulgari nostro dicimus, adiurnamentum.* *Adiournall* is the Iustice Aire, as ane act of *Adiournal*, so called, because it is maid in the Iustice air. *vid. Iter*

ADVOCATIO Ecclesie, Is the richt of patronage, or the title and richt to present onie person to ane Kirk vacand, and nocht havand ane lauchfull Ecclesiasticall person to rule and governe the samin. Lib. 2. c. Dos. 19. Lib. 3. c. sequitur 30. *Dicitur autem advocatio Ecclesie, vel quia patronus alicuius Ecclesie, ratione sui iuris, advocat se ad eandem Ecclesiam: & asserit se in eam habere ius patronatus, eamque esse quasi sua clientis loco. Vel potius cum aliquis (nempe patronus) advocat alium, iure suo, ad Ecclesiam vacan tem of Kirkes, eumque loco aliterius (veluti defuncti) presentat, & quasi exhibet.* In the English Lawes it is called, *Avowson of Kirkes.*

AFFIDATIO

De verborum significatione.

AFFIDATIO, Lib. 2. c. unde 49. In the quhilk place, *Mutua affidavitio*, is taken for ane mutuall faith, trueth, and obligation of fidelitie, quhilk is betuixt the wife and the husband. And sicklike it signifies the mutual league, and band of fidelitie, quhilk is betuixt the ouer-lord, and his vassal, quha are bound & oblished *hinc inde* to vtheris, quhilk is called *mutua dominij et homagij fidelitatis connexio. lib. 2. c. mutua 68.* In sik sort, that how far the vassall is bound be reason of homage to his superiour: sa far the superiour is oblished to his vassal, except reuerence and honor allanerly, for the ane suld obey and serue his master: the vther suld interteine and defende his man. And the vassall suld honour and reuerence his master as his superiour: But the master suld not reuerence the vassall: for like as of the law, there is na soueraintie, nor impyre amangis them that are *pares*, conforme to the rule of the Lawe, *par in parem non habet imperium.* Even swa, the superiour is not oblished to mak onie reuerence to his inferiour, bot suld receaue honour fra him. Item *Diffidatio*, *Diffidatio* (h. e. *inimicitiarum capitalium denunciatio*, quhen ane defies ane vther, & gives vp kindnesse with him) is contrair to *Affidatio*. Baith the ane and the vther is driven a *fide*, vel *fidelitate*: or fra ane word vsed in the fewes. *faida*, that is battell, feid, iniurie, hatred: As we commounlie say deidlie feid. And *femina dicitur faidam non facere*, ghin *S. ult. de lege Conradi. li. 2. de fend.* be reason wemen be the Law, are nocht subject to weir-fair, to battell, or proclamation maid for that cause.

AMERGIAMENTVM, or **FORIS-FACTVM** *Curie*. The vn-law or amerciamment of a court, for absence in lawfull time, for ane fault, trespas, or ony vther cause, as is manifest in the Register, in the action persued be the Thesaurar contrar the burgh of Perth, 16. Decem. 1541. The vn-law in the Chalmerlanis aire or court, is fiftie schillings: and twa schillings to the Serjantes of the burgh of ilke vn-law. The vn-lawe before the Iustice on the North pairt of the water of Forth, aucht Kye, ane colpindach to the Crowner, and twa schillings to the Clerke: And in the South-side of the water of Forth, as in Louthian, & betuixt the water of Tyne, and Forth, ten pundis, and ane colpindach, or threttie pennies to the Crowner, and twa schillings to the Clerke. In the Schireffe-court, it suld nocht exceed sextene schillings, and twa schillings to the Clerke, or ane colpindach, or threttie pennies. In the Barrone court the samin lawes & vn-lawes, suld be keiped, quhilk are vsed in the Schireffe-court. In the court of them quha haldis of Barrones, and are called *militis*, their vn-law is half of their superiours vn-law. The vn-law of them quha are called *subarmigeri*, is ane Kowe, ane zowe, or three schillings, *leg. Malc. Mak. c. 4.* The vn-law within Burgh suld not exceed the summe of aucht schillings, *leg. burg. c. forissactum 42.* The vn-law of them quha compeiris nocht in Parliament, being lauchfullie warned thereto, is ten pounds. Ia. 1. pri. Iulij p. 4. c. 82. & p. 5. c. 99. Quhilk is like wayes the vn-law of them quha compeiris nocht in generall Councelles, quhilk now is altered be the newe act of Parliamente, maid be **OVR SOVERAINE**

De verborum significatione.

RAINE LORDE King James the Sext. 29. Julij. p. 11. c. 34. Quhair it is statute that everie Earle sall pay three hundreth pounds, ilk Lorde twa hundreth poundes, ilk Prælate ane hundreth poundes: And everie Burgh ane hundreth markes, in case it fall happen onie of them to be absent fra the Parliament.

ANNEXATION, Ane Latine word, quhilk signifies ane fast knitting and binding, as quhen ane thing is bund or knit with ane vther and bairth as it were vnited togidder, and incorporat in ane. As quhen ony Lord-shippes, landes, Castelles, Customes, Offices, Fischinges, or vther rents are annexed to the Crown, to remaine perpetuallie their with quhilk is called *incorporatio, quando bona aliqua, veluti terra, rediguntur in corpus fisci, cum eorum scribitur Inventarium, manu publica, continens eorum nomina & qualitates, & ita ponuntur in numeris rerum fiscalium l. si quando 3. & ibi gl. C. de bonis vacan. lib. 10.* In the Lawes of this Realme their is twa kinde of annexation: The ane quhilk may be called *tacita*, quhairin the word of Annexation is nocht expremmed, bot vther wordes equivalent theiro. The vther is *expressa*, quhilk contains manifest mention of annexation or vnion. The first forme is vsed in the daies of king David the secūd 6. Novem. 1357. quhair it is statute & ordaned, that al lands, rents, and possessiones, quhilkis of auld pertained to the crown, or the Kingis domaine and propertie, suld all and haill, and perpetuallie remaine in the hands and possession of the King, for his sustentation & living, without ony alienation theirof. And sik-like 27. Septem. 1367. with consent of the three Estaites, it was statute for the Kingis better sustentation, & living, that al rentes, fermes, kanes, customes, forrestes, offices, and vther emolumentes quhatsum ever: And also all landes, allweill the propertie, & vthers, in possession quhair of King Robert 1. father to King David the second, deceased as of he; and that all possessiones, & landes quhilkis pertained to the richt and propertie of the Crown, the time of the said King Robert, or of King Alexander the thrid, or of the said King David the second, suld rerurne all and haill to the crown, with all advocations of Kirkes, and all service pertaining theiro; To remaine perpetuallie with the Crown, nocht withstanding onie alienation theirof, maid to onie person, and that na disposition theirof be maid thereafter, without consent of the three Estaites. And gif onie person had onie of the saides landes laboured with his awin pleuch: It was ordaned that he suld paie alsmeikle ferme and dewtie therefore, as the samin micht gudlie pay, or as onie vther lands als gud, and alsmeikle, vsed to pay. And siklike al the great and small customes, and burrow mailles of the Realm, are ordaned to abide and remaine with the King, till his living, be ane act maid be Ia. 1. Parl. 1. c. 3. Of the second forme of Annexation quhairby landes, possessiones and vthers, *per expressum*, are annexed, vnited, and incorporate diverse and sundrie examples are extant in the actes of Parliament of King James the 2. 11. Parl. 4. Aug. c. 41. & of vthers maid theiraf-

Twa
kinde
of annex-
ation.

The se-
cond
kinde.

De verborum significatione.

ter. Landes, and vthers dewties, or possessiones: quhatsum ever annexed to the crown, being annalied or disposed, na lauchful dissolution maid theirof, It is lesume to the King, nocht withstanding the said alienation to put his hand to the saides landes, and tak them back againe to the Crown, *breui manu*, without onie ordour or proces of law. And as concerning the profits theirof, quhilkis are extant, *pendentes*, & *nondum consumpti*, the time of the said intromission, the king, or his comptrollar maie intromet their with, in the samin maner, as he maie intromet with the landes *Iure soli, quia fructus pendentes, & exstantes censentur pars soli*. And tuitching the fructes, and profits of the landes quhilkis are ipended, and consumed; The King and his comptrollar, aucht & suld repeete the samin fra the possessours, and vptakers of the saidis fructes, of all zeires of their intromission their with, be waie of action, because they are consumed and spent. Quhilk deed consistand in *facto*, suld necessarlie be proven be ordinar waie of action: To the quhilk hail profits the King hes gud richt, in respect that of the Law, *mala fidei possessor*, can never acquire and conqueis to himselfe, onie fructes or profits, ather extant or consumed. And trew it is that al thay, quhair receiveis ony infestment or vnlawful disposition of the Kings annexed property, ar *mala fidei possessor*: they receaving the samin against the manifest law of this Realm. the ignorance quhair of excusis na inhabitant of the samin. And mair over, trew it is that the foresaid forme of intromission with the Kingis annexed landes, and repetition of the profits theirof, hes bene in vse and practik sen the making of the actes of Parliament theiranent: Like as in the beginning of the reign of King James the Fourth 18. Ian. 1488. the landes & Lord-shipp of Brechin, and Newar were taken fra David Earle of Cramford, and ane terme assignit to prooue against him, the avall of the mailles and dewties of the saides Landes with the pertinentes, intrometted with be him, sen the time of the gift theirof. Item the King may intromet with his annexed propertie, and profits theirof, quhair he be *maior* or *minor*. For gif their be na lauchfull dissolution of the samin, he is aye as it were *minor* anent his said propertie. Al annexations ar perpetuall, and induris continuallie, ay and quhill ane lauchfull dissolution be maid be onie King: Induring the time of the quhilk dissolution, the annexation ceasis, & sleepis, and the dissolution being ended be decease of the maker theirof, the said annexation begins to quicken & *quasi reviviscere*. In sik sort that the King quhair succedis to the maker of the said dissolution may set na fewes of his annexed propertie, be vertew of the dissolution maid be his Predicessour, bot mon make ane new dissolution to the effect foresaid. Quhilk fault and vice, I finde in divers perpetuall and sundrie infestmentes of the propertie: and specially in the minoritie of King James the Fifth, quhilkis are wrangously given be vertew of the dissolution maid be King James the Fourth, his Father. *vid.* Dissolution.

Landes
annex-
ed and
nocht
dissolved
may
nocht
be ana-
lied.
Of the
profits
of landis
annexed
wrang-
ously
analied.

The
Kingis
property
wrang-
ously a-
nalied.

Annexa-
tion is
perpetu-
all.

Annue

De verborum significatione.

ANNVELL ane word vsed in the practik of this Realme, for an zeirelie reuenue, or dewty, payed at certaine termes, ather legal, quihilks are called *termini legales vel legitimi*, prescribed and appoynted be the law of this Realm, sik as Martin-mes & Whit-sonday. Or conventional as pleasis the parties till agree and appoynt, be paction and contract, as betuixt Zule and Candel-mes, or onie vther time. In the Actes of Parliament maid be Queene Marie 4. Parlia. 29. Maij, 6. 10. mention is maid of ground annuell, few annuell, and top annuell, quhair of I haue red na-thing in onie vther place; and am incertaine quhat they do signifie: bot

Ground annuell. referris the samin to the judgement and opinion of the reader. Alwaies ground annuell is esteemed to be quhen the ground and propertie of onie land bigged or vnbigged, is disposed and annallied for ane annuell to be payed to the annallier theirow, or to ane vther person, sik as onie Chaipleine or Preist. Top annuell is ane certaine dewtie, given and dis-posed furth of onie bigged tenement, or land, of the quihilk tenement the propertie remains with the disponer & he is onelie obliſhed to pay the said annuell. Few annuell, is ather quhen the few maill, or dewtie is disposed as ane zeirelie annuell. Or quhen the land, or tenement is sette in few-ferme heretablie for ane certaine annuell to be payed *nomine feudifirmae*. The annuell of Norwaie quhair of mention is maid in the actes of Parliament of King James the thrid, & in the Register of this Realm, was ane annuell of the summe of an hundreth markes, sterling money. quihilk the Kings of this Realme was obliſhed to pay zeirlic to the King of Norwaie, for the cause after specified. Because Donald Bane, brother to King Malcolm Cammoir, wrangeouslie after the decease of his brother vsurped the richt of the Crown against his brother sones, Edgar Alexander, David, and vthers. And for help, and supplie, gaue all the Iles of Scotland to the King of Norway, quhairthrow, and for vther occasions, monie bluidie and cruell battalles followed, vntill the battell of Largs 3. August, 1263. In the time of King Alexander the thrid. And Acho King of Norway: Quha thereafter in the samin zeire 22. Ianuarie departed in Orkney. And the Scottis beand victorious, Magnus the fourth of that name, King of Norway, sonne to the said Acho, maid peace and concorde, with the said King Alexander in anno, 1266. and renunced, quite-claimed, and discharged al richt, or title, quihilk he or his successors had, or micht haue, or pretend to the Iles of Scotland. The King of Scotland payand theirfoir zeirlic to the said Magnus, and his successors ane annuell of ane hundreth marks, sterling money. Quhilk contract and agreance was ratified, and confirmed be Haquinus King of Norway, the fifth of that name, & Robert the first, King of Scotland, in anno 1312. Bot at the last the said annuell, with all the arrierages, and byrunnes thereof, was discharged, and renunced *simpliciter*, in the contract of Mariage betuixt King James the thrid, and Margaret, onelie daughter to Christianus the first, King of Norway, Denmark, and Sweden 8. Septemb. 1463. Quhilk discharge is nocht onelie ratified, bot also renewed thereafter be

De verborum significatione.

bethe said Christianus 12. Maij. 1469. And like-wise the said King James the thrid. 24. Fe. 1483. commanded his Ambassadors send to the Paip, to desire confirmation of the said perpetuall renunciation, & discharge of the contribution of the Iles.

ARAGE, vtherwaies Average, from *Aueria*, Quhilk signifies ane beast, as salbe hereafter expounded: And swa consequentlie Average, signifies service, quihilk the tennent aucht to his maister, be horse, or cari-age of horse 18. Ian. 1501. John Stewart contrair William Blair. In the act of Parliament Ia. 4. p. 2. c. 10. It is written *Average*. & like-waies, in the indenture at Perth pen. Mart. 1371. betuixt Robert Stewart Earle of Men-tith vpon the ane parte, and Dame Isabell Countes of Fife, on the vther pairt, it is plainly written, *cum Auaragiis et Cariagiis*. In the quhilk inden-ture, the said Isabell dauchter & aire to Duncane Earle of Fife, and spouse to Walter Stewart brother to the said Robert, in the time of hir Widuitie, after the decease of hir said husbād, obliſhed hir, to resigne the said Earldome of Fife, in the Kingis handes in fauoure of the said Earle, for new heritabill intefment theirow, to be given to him. The quhilk indenture is subscribed be Ioannes Rollo, quha was secretarie to the said Earle. And conforme theirow, resignation was maid: for the quhilk scho received zeirlic for hir sustentation, ane hundreth fourtie fiue pundes, sterling money. Like as also the said Isabell 22. Iunij 1389. resigned *ad perpetuam remanentiam*, in the handes of King Robert the thrid, the Barrone of Strathurd, Strabrown, Discher, Toyer, with the Ile of Tay, lyand within the Schireff-dome of Perth. The Barrone of Cowll, & Oneil, with the fortalice theirow, and patronage of the Kirk of Kincardin within the Schireff-dome of Aberdene, the Barrons of Crumdail, & Affyn, within the Schireff-dome of Invernes, the landis of Strahovie, and Abbrandolte, within the Schireff-dome of Bamf. The landes of Logyachry, within the Schireff-dome of Perth the Barronie of Calder, within the Constabularie of Linlithcow, and Schireff-dome of Edinburgh, and the landes of Kellynsyth, within the Schireff-dome of Strivling. This I thought gud to aduertise the reader how the Earldome of Fife & vthers landes foirsaid, pertained to the Crowne. Duke Murdo sonne to the said Erle of Fife, being forefalted And that be King James the first. 1424. The said Earldome was decer-ned to remaine perpetuallie with the Crown, like as it dois, as ane spe-ciall part of the annexed propertie. As also the Lord-ship of Methven within the Schireff-dome of Perth, and the barronie of Kellie, within the Schireff-dome of Forfar, did fall in the handes of King Robert the first, be done of forefaltour pronounced against Schir Roger Mowbray Knight.

ARRERARE, ane Spanish word, commonlie vsed in char-toures and infestments of this Realm, in latin, *locare seu rem aliquam uten-dam, fruendam, non gratis, sed certa mercede interveniente concedere*. For con-forme to the French, rent is ane certaine dewtie, as annuell rent, and ar-entare and theirow *arrendar*, *quasi ad certum rentum seu redditum dimittere* to set and giue; landes or tenementes to onie man for an zeirlic duetie.

ARRERAGIVM

Isabell
countes of
Fife.Sundrie
Lands per-
teining to
the Crown.

De verborum significatione.

ARRERAGIVM, or properlie *Arrieragium*, an French word, *arrier*, bakward: in Latine *retro*, as *Iamais arrier*, vied be the Erls of *Angus*, in their armes, to quhom it perteins to fecht the Kingis wantgard, as of auld it did appertain to *Makduffe* Earl of *Fife*, as writis *Hector Boetius*. *Arrieragium firmarium*, signifies the by-run annuel, mails, fermes, profites or dewties of onie tenement, or landes, the quhilk restis vpon the samin vnpaid. *quoniam attach. c. si tenementum. 27. Leg. Burg. c. si quis voluerit. 156.*

- 1 ASSISA, ane French word, Quhilk signifies properlie sitting, or Session, and hes divers vther significations in the Lawes of this Realme, for *assisa* is taken for ane constitution, ordinance or law. *Lib. 3. c. sequens.*
- 2 23. quhair it is called *recognitio*. And *Lib. 1. c. si non 23.* mention is maid of ane essonzie, or excuse, conforme to the Law and assise of the land. And *assisa* is called ane constitution, law or statute. *Lib. 4. c. die lune. 13.* as *assisa regis David Stat. Alex. c. assisa 18.* And *assisatum* signifies statute, or ordained St. 2. Ro. Br. c. Item *ordinatum 26.* King *David* maid an assise, or constitution of him quha was accused in judgement, and clenged, for the death of his wife, *assisa Reg. Da. c. si quis velit. 33.* *assisa terra* is taken for the Law & constitution of the Land, *Lib. 4. c. si vir. 16. c. sciendum. 64.* *assisa infringere*, is to violate & transgres the Law. And *assisa* of King *James* the First of weichts and measures maid at *Perth. 11. Mart.* and the First zeire of his reigne. *Iuxta assisam. Lib. 2. c. dicitur autem. 74.* is conforme to the law, or *iuxta legem*, is conforme to the time prescribed be the Law, *Lib. 3. c. sequens. 33. in fin.* Item *assisa* is called ane measure, or certaine quantity, as the barrell bind of *Salmond* suld keepe and contine the assise, and measure of fourteene gallons. *Ia. 3. 1. O & ob. Parl. 14. c. 110.* and all *Salmond* suld be packed in barreles, of the measure of *Hamburgh*, after the aulde assise, and na smaller barrells nor vesselles. *Ia. 3. 6. August:*
- 3 *Assise herring.* *Parl. 10. c. 76. assisa halecum*, the assise herring, signifies ane certaine measure, and quantitie of herring, quhilk perteins to the King as ane pairt of his custumes, and annexed propertie, *Ia. 6. p. 15. c. 237.* For it is manifest that he suld haue of everie Boat, that passis to the draue and slayis herring, an thousand herring of ilk tak that halds, viz. of the *Lambestak*, of the winter tack, and of the *Lentron* tack, in *December. 1516.* The Kings advocat contrar *William Harper*, and his Colleges. Item the Kings rents of assise is interpret, to comprehend the Kingis Lands and custums 9. *Decem. 1466.* & 11. *Mart. 1500.* In the action betuixt *James Ogilbie*, contrair *Patrick Gray*, certaine oxen was poyned for findrie vnlawes, & for the rent Assise aucht to the Kings Hienes for the blench fermes of the lands of *Arlic*. And sik-like the thrid of the Kings rent of the Assise, That is to say, the lands & customes, suld perteine to the Queene, as hir dowrie, *Ia. 3. 9. Octob. p. 1. c. 2.* In this realme ane Assise is called ane certaine number of men lauchfullie summond, received, sworne & admitted to judg & decerne in findrie civil causes, sik as perambulations, cognitions molestations, purpresture, divisio of lands, serving of brieves, and in all & findrie criminal causes. For be the law of this Realm, al crimes suld be decided,

De verborum significatione.

decided & tryed be an assise, *Stat. Alex. c. 3.* Quhair of their is twa kindes. Ane ordinarlie in vse, quhilk may be called ane litil assise, of the number of 13. or 15. persons, *lib. 3. c. generalia 25.* The vther called ane greate assise, quhilk consists of 25. persons, *li. 1. c. pena. 16. lib. c. 2. dos. 19.* & all the assisors, in baith the ane & the vther assise suld sweare ane solemne aith, to judge & decerne richtly. *vid. bona pas.* For the quhilk cause they ar called *iuratores li. 1. c. pena. 16.* & in sum buiks *assisa*, is called *iurata patria*, & in the English lawes an *Jury*. The great assise (quhilk is not comonly vsed in this realm) is chosen against sik persons, as hes bin vpon ane litil assise, & ar accused *de periurio vel temerario iuramento*: & that they haue done wrang against the laws in clenging onie trespassor quha is guilty & fowle of the crime. In the quhilk case, the man that is clenged, albeit wrangously, can not be filed againe or punist: for he being anis quite, he is ever quite for that crime: bot the assisors may be accused of their wrangous deliverace. *I. 3. p. 8. c. 20. N. c. 63.* The great assise suld be of 25. persons; Nobill & gentilmen. And the Lords of the Session, vpon the first daie of *Junij. 1591.* declaired all them to be esteemed, halded & repute as Nobil persons & gentilmé, that sal hap pen to be summond vpō sik an assise, quha are landed men, albeit they be inferior in rank and dignitie to them, vpon quhais assise they suld passe.

ATTAYNT, *Taynt*, an word meikle vsed in the English lawes, *Attayntus*, is accused, filed or convict, for ony crime or cause. *Stat. 2. Ro. Br. c. Item. 9. c. Item dominus 21. c. Item. 24.* An Iudg being convict, or attaynt of taking of budds, or of partialitie, suld be punished at the Kings wil, & tine his office. *Stat. 2. Ro. Br. c. dominus rex. 22. Stat. 1. Rob. Br. c. Item quod nullus. 8. I. 5. p. 7. c. 104.* Bot attaynt or *Taynt*, is called the deliverace or probatio of 24. (alias 25) leill men, the quhilk may be called ane great assise. *lib. 1. c. pena. 16.*

ATTACHIAMENTVM, from the French word, *attacher, ligare, nectere*, ane charge or binding of ony person, to the effect he may be drawn, & compelled to compeir in judgemēt and answer as law wil. In the preface & beginning of the buike called *quoniam attachiamenta*, *attachiamentum dicitur quoddam vinculum legitimum, per quod pars defendens invitā astringitur, ad standum iuri, & respondendum parti de se conquerenti iuridice.* And *attachiament* sumtimes is of guds and geare, as in contractes, conventiones, and actions of moveabill gudes, in the quhilk the gudes and geare of the defender are attached, vntill he find caution and pledges to answer as law wil, quhilk being funden, the *attachiamente* is relaxed and lowfed. Sumtimes *attachiament* is of ane mans person and bodie, as in actiones of wrang, or criminall causes. In the quhilk the persone of the transgressours suld be first attached, and gif he be disobedient, or fugitiue, his gudes and gear, may be attached, vntill he find caution to vnderlie the law. Swa commonly, bot not perpetually, *attachiamentum, velest bonorum, vel corporis, sicut arrestamentum bonorum*, as gif the Crowner can nocht apprehend onie man indited, to attache him personallie to cōpeir in the Iustice aire: then he suld arreist all his gudes moveable and vnmovable to remaine vnder sure pledges. And to be furth cūmand to the King, in case he cōpeir not. *l. Malc. Mak. c. 1.* And in criminal causes, speciallie in treason the

De verborum significatione.

the person or bodie of the defender suld be first attached, & put in sure firmace, yntil he haue tholed ane assise, quhadder he be quite or foule. I. 2. p. 12. c. 49. And in civil causes the guds and gear, of the defender suld be first arrested. Li. 4. c. 1. as writtes *Mattheus de afflictis, in consuetudines Sicilie. constit. Humanitate. Nu. 33.* Be the civil Lay, in execution of decreites, first the moveabill gudes pertaining to the debtour, suld be first discussed, thereafter his lands and immoveabill gudes may be comprised. Thirdlie the debtes auchtand to him, quhilks are called *nomina debitorum*, may be persewed and discussed. *La. a Diuo Pio. 15. §. 3. De Re Indicat.* Quhilk is conforme to the act of Parliament, quhairby it is statute, that the lands pertaining to the debtour suld nocht be comprised, vntill his moveabil guds be first seached, socht, and discussed. *La. 3. p. 5. c. 36.*

AVERIA. li. 4. c. si quis federit. 23. c. quicumque. 31. ass. Reg. Da. c. si quis federit. 41. In the quhilk place it is called *melius animal*, the best aucht, from the French, *le meilleur avoir*. Quhilk be the Law is given be the husbandman to his maister, as ane herezelde, and lib. 4. c. quicumque. 31. averia is called *animal*. The quhilk place is *de natiuitate animalium*, that is of poyn- ding of cattell.

AVVNCVLVS properly is the mother-brother, bot sumtime co form to the French maner of speach, it is taken for the father-brother, in Latin *patruus*, li. 2. c. si quis liberum. 24. c. deficientibus. 34. de iudic. c. Item nota 15. In quibus locis ius successionis dicitur pertinere ad avunculum eiusque liberos quod non est consentaneum iuri nostro civili. si avunculus proprie accipitur pro fratre matris, quia cognatorum, h. e. consanguineorum, ex parte matris apud nos nulla est successio. h. e. cognati non succedunt aliis.

B.

BAGIMONT, his taxation of benefices. *La. 3. p. 6. c. 43. La. 4. p. 3. c. 39.* The Pape in the time of K. James the thrid, send in this Realme ane cardinall and legat, called *Bagimont*, Quha did make ane taxation of all the rentalles of the benefices, that the samin micht be knawin to the Pape. To the effect, that quhen onie person came to Rome seikand bulles or richt to onie Benefice fra him, he micht conforme to the said rental as he pleased, sell the samin for sameikle Silver, or Golde, as he thocht maist profitfable. Quhilk taxation is grounded ypon the Canon Law, in the *Extravagant suscepti regiminis*, lib. 6.

BAIRMAN. *Vid. Dyvour.*

BALLIVVS, ane French word, *Baillif*, Ane baillie or judge, li. 1. c. 10. c. 31. quha hes ane ordinar power and jurisdiction. *Nim ballivus si ne index non potest esse arbiter. li. 2. c. 4.* *Ballia*, in Latin, *provincia*, ane baillie- rie or jurisdiction. li. 1. c. 7. c. 18. stat. 2. Rob. Br. c. 4. c. Robertus. 28. *Dicitur au- tem Ballivus a Baill, h. e. domino, quia ballivi dominantur suis subditis. quasi eo- rum magistri & domini.* *Rebuffus in constit. regias. de sentent. execut. art. 7. gl. 1.* And in the Checker compts, the Baillies of Burrowes are properlie cal- led

De verborum significatione.

led *ballivi*. Quha be the Lawes of this Realme, makis compt zeirlic in the Checker, of their burrow mailles, as ane part of the Kingis annexed propertie, and also of their commoun gude, quhilk suld be employed in the necessar affaires of the burgh. And likewise in the checker, compt is maid of the Kingis propertie, be sik as ar called *Ballivi Regis*, and intro- mettis with his rents: quhais comptes ar called *computa Ballivorum ad ex- tra Scil. Extra Burgos*. And ar improperlie called *Ballivi*, being Chalmer- lanes input, and out-put be the Comptroller, for quhom he suld be an- swerable. Mair-over, in the Checker compt maid *per rotulos*, is quhen the Compter is charged in his compt, conforme to ane former compt, rol- led of before: And *computum extra rotulos*, is quhen the compter is char- ged in his oneration, be ony precept direct be him selfe, or be ony intro- mission maid bee him of the Kingis rentes, before the making of his compt, or with ony dewtie silver, or vther thing pertaining to the King extraordinarie, and not zeirlic, as ane parte of his patrimonie,

BANRENTES, *Banerets*. *La. 1. par. 7. c. 101.* In the quhilk place, it is manifest, that Ban-rent is ane kinde of estaite, greater and mair hono- rable then Barronnes: For the Barronnes ar permitted to chuse their Commissioners, to be sent for them to Councell and Parliament, to pro- pone all and findrie needes and causes, pertaining to the commounes, in the Parliament, or generall Councell: Bot the Ban-rentes suld be war- ned be the Kingis speciall precept, to compeir personallie in the Parlia- ment or Councell: In sik maner, as Bishoppes, Earles, Lords, Abbots, Priores, vss to be summoned. This worde is commonlie vied in the English lawes, and in findrie lawes of vther Cuntries. *Cuius l. 2. de Feud. Tit. 7. de nova fidelitatis forma. Boerius in decisiones Burdegaleses, Tract. de au- thoritate magni Consilij. Guido Papa. quest. 614. & 326. ius Normand. l. 5. c. 2. Nu. 7. Zasius de Feud. Tit. qui Feudum dare possunt.* Some callis Banrents them quha hes Baners rent, and divided in findrie partes. Vthers callis them quha hes the rent or zeirlic dewtie of ane Barronne. And sik-like, some vnderstandis them quha bearis the Kingis Baner in his hoist and armie: quhilk office and honour, pertainis heretablie, and allanerlie, to the Constable of Dundie, the Kings Baner man. But all men when they ar belted and maid Earles, ar called Barronne Banrent, and Lorde of our Sovereine Lordis Parliament: Quhairby it is manifest, that the said dignitie is commoun to manie, and nocht proper to ane man: And therefore seeing *Zasius* in the place foresaid, writis, that Ban-rent is ane dignitie concerning weir-fare: I think in my opinion, that Banrents ar called *Chevaliers* of armes, or Knichtes, quha for obtaining of greate honoures, dignities, or riches, hes power, or priviledge granted to them be the King, to raise and lift vp ane Baner, with ane companie of men of weire, either horse-men, or futemen, quhilk is nocht lesum to ony Earl or Barronne, without the Kingis speciall licence, asked and obtained to that effect: As *Henrie Pasquier Advocat. lib. 2. des recherches de la France. c. 9. Fol. 100.* prouis be money and findrie argumentes of the Historie of

De verborum significatione.

Of France. And Doctour Thomas Smith, a learned man, in his buike, anent the common weill of England. Lib. 1. c. 17.

Sayeth that Knightes, Banrentes, ar maid in the fiede, with the ceremonie of cutting of the poynt of their stander, and making of it as it were ane Banner, they being be fore Bachellers, ar now of ane greater degree, allowed to display their Armes in ane Banner, in the Kingis hoist and armie.

BANNITVS, Banished for onie crime or vther cause. *Bannum*, signifies ane trüpet, in latin *tuba*, as writis *Alciatus* l. 2. parer. c. 2. ex *Procopio*, l. 4. *belli Persici*. And be the common vse and consuetude of this Realm, quhen onie persö is banished, or put to the horne, the same is done with three blastes of ane horne, or ane trumpet. And for that effect, it is statute and ordaned that the Kinges maire, or seriant fall haue ane horne and wand. Ia. 1. p. 7. c. 99. for with the horne he denuncis men rebelles, and with the wand, he receivis them to the Kingis peace, quhilk therefore is commonlie called the wand of peace. *An Bannitus possit impune, offendi in corpore & bonis. vid. Chessanum in consuetud. Burgund. R. 2. s. 1. ver. confiscationis. Nu. 7. cum seqq.*

BARO, Ane Barronne. *Zasius de Feud. Tit. qui feudum dare possunt*, writes conforme to *Cornelius Tacitus*, In *Libro de Germania*, That *Dux*, or ane Duke, is the Governour of ane Province, or Armie, *Comites*, or Earles, ar they quha ar assessoures to the Duke or Prince. SWA called a *comitando*, because they accompanie the saidis Dukes, and never passis out of their presence.

Marchiones, ar *Marquesses*, Wardaines, or keipers of the Bordoures: For Mark, Marche, in Latine *Limes*, and *Mark-graue* in Dutche, is *Comes Limitaneus*. And all *Marchiones* dwelling on the Bordoures, or Marches, of the Cuntrie. As in this realme the Earldome of *March*, quhilk perteinis to OVR SOVERAINE LORD, As ane part of his annexed propertie. Bot *Comes Martialis*, or Earle Martiall, is ane man of dignitie or iurisdiction, *a Marte, vel bello*: Because the iurisdiction of weir-fare perteinis to him. *Alciatus libro de singulari certamine. c. 32.* Affirmis, that like as the Earle is inferiour to ane Duke, swa ane Barronne is inferiour to ane Earle: And that *Baro*, cummis fra the Greeke worde *βαρὺς*, *gravis*, wise, graue, prudent, and discreit: Bot contrarie wise, *Petrus Pitheus. Lib. 1. Adversariorum* writis, That *Baro* signifies ane baird, fuile, or vn-wiseman. Quhais opinion, I cannot gudlie approoue,

Baldus in Cap. Innotuit de electione, definit. Baronem, ut sit quisque merum mistumque habet imperium in aliquo castro vel oppido, ex concessione principis. In this Realme he is called ane Barronne, quha haldis his landes immediatlie in chiefe of the King, and hes power of pit and Gallous.

BARRATRIE

De verborum significatione.

BARRATRIE, or *Barrataria*, ane kinde of Simonie, speciallie in obteneing the richt of benefices. *Socinus reg. 55. Baldus in consilio 21. Part. 5.* For all men passand to Rome and byeand benefices commitis *Simonie*, and are called *Barratores*. Be quhome *Barratrie* is committed, and quhat is the paine theirof, it is manifest be the actes of Parliament. It is ane Italian word, and be the *Italiane* interpretours of the civill Law, *Barrataria*, is quhen ane Iudge corrupted be buddes (sik as gold and silver) judgis wrangeouslie, *Petrus de Raven. singula. 156.* and swa doing sellis Iustice for meid and profite, and makis his office readie to be bought be him, quha will give maist theirof. *Angel. de Syndicatu. Nu. 4.* For the quhilk crime he may be deprived, and sharpelie punished. *Bartol. 1. l. Mania. 13. s. 1. nu. 2. de annu. legat.* And likewaies *Barratores* in the Lawes of England, suld nocht be suffered to make sute, or to giue judgements or pronounce sentence or domes, anno. 3. *Edward. 1. c. 32.*

BASTARDVS, in French *Bastard*, ane barne vnlauchfullie gotten outwith the band of Mariage. Quhilk word is barbarous, and (as I suppose) na reasone can be given quhairfore it is so called. Bot *Gabriel Paleotus*, in his buik *de nobis. spuris que filis. c. 18.* alleagis it to cū fra *βαρβαρις*, quhilk signifies ane huire, or common woman: Be reason that bastards are commonlie gotten & procreat with sik weemen, in Greeke he is called *nothos*, for *ἡ νόθια* signifies that part of the fathers gudes and geare, quhilk be the law of the *Athenians* leasumlie micht be given be the Father to his bastard sonne, extending to the summe of *mille drachmae*, & therefore *νόθος* was called all that was not trew or lauchful, as writis *Budens in Pandectis*. And swa *νόθος* cummis fra *νό*, *privativa particula*, & *θεός*, h. e. *diuinum*, teste *Suida*. Because he wantis that quhilk is godlie & lauchfull, that is ane honest and lauchfull birth, or parentage. And swa *νόθος* dicitur qui non sit legitimus, to the quhilk their is na proper Latine worde correspondent, as *Quintilianus* testifies lib. 3. c. 6. Nevertheles, he is commonly called *Spurius*, for in l. 1. ff. de posses. contr. tabul. *Spurij dicuntur παρὰ τὴν σποράν* h. e. *statione, vel seminatione, eaque vaga, & promiscua, ubi doctiores σποράν legunt, quasi sparsim concepti*, like as they are called *vulgo concepti. l. in adoptivis. 14. de ritu nuptiarum*. Likewise *Spurius* was the proper name of ane man amangis the *Romaines*, as *Titus*, or *Caius*, & was writen with twa letters *Sp.* and likewaies they quha had na certaine Father, was designed with the saids twa letters, *S.* and *P.* And swa be common vse and consuetude, *Spurij dicebantur sine patre*, as writis *Plutarchus in problematibus*, because their Father and mother nocht being lauchfullie married, they haue na certaine father: *quia pater dicitur quem legitima nuptia demonstrant. l. 5. ff. de in ius vocand.* And it is alike to haue na Father, & to haue incertaine father, as we say, he quha will haue monie Gods, hes na God. *Postremo Blondus lib. 3. Roma triumphantis. is (inquit) qui illegitime natus esset ex concubina vel scorto, contumelie causa, spurius dicitur, eo quod Sabini, mulichre pudendum speron appellarunt: hac ille inhonesta originis genere in incem editos, infami & inhonesta appellatione notare voluerunt veteres.* And that

De verborum significatiōe.

that part of weemens claihs, sik as of their gown, or perticot, quhilk vnder the belt, and before, is open, commonlie is called, the spare. As concerning the succession of bastards, thir schort rules are to be obserued, conform to the Law, and practique of this Realm. First na bastard, nor na persone, nocht procreat, and gotten in lauchfull mariage, maie onie waies be lauchfull aire and successour to onie of our Sovereine Lordis lieges. *lib. 2. c. in custodijs 50.* for be the law of God *Ismaell* being bastard, gotten vpon ane bound woman *Agar*, nicht not be aire to *Abraham*, with *Isaak*. *Genes. 21. 10.* Because all richt of succession is be reason of bluid, and *consanguinitie* of the father side, quhilk is called *ius agnationis*, and theirfor ane bastard, quhais father is incertaine, be the law is vnderstand, be reason of bluid to be sib to na man, & nane to him, & *ubi nullus est pater legitimus, ibi nulla est agnatio aut successio ratione agnationis.*

Secondlie the bairnes maill, or female, lauchfullie gotten be ane bastarde, with ane lauchfull married wife, succedis to him as righteous and lauchfull aires, in his Lands, gudes and geare, in the samin maner, as gif their father had bene gotten and borne in lauchfull band of mariage, *quia filius est hares legitimus, quem nuptia demonstrant. lib. 2. c. in custodijs 50.*

Thridlie gif the lauchfull bairne maill or femaill of ane bastarde, succedis to him, and thereafter deceasis without lauchfull aires gotten of his awin bodie, or without lauchfull brother or sister: and lauchfull testament and latter will maid be him all and haill his lands, guds and geare, nocht being disponed and annalied be him in his lifetime, aucht and suld perteine to the King, be the priuledge and richt of his Crown. Because, as saidis, there is na richt of succession in this Realme, be the Mother side, and the sonne or daughter of the bastard deceasand as said is, hes na persone sib to him be his father side: And swa all richt of succession ceasand baith vpon the mother and father side, *tam ratione cognationis, quam agnationis*, the King be reason of his Crown, is vniversal successor to him in his lands, guds and geare, as *ultimus hares*. Fourthly, ane bastarde being *legitimat*, or not *legitimat*, may in his lige pousty and induring his lifetime, annalie and dispone his landes, gudes and geare moveable, and vnmoveabill, to quhom he pleasis, in the samin, forme and maner as onie person gotten in lauchfull bed may doe be the Lawe.

Fiftlie, all gudes moveabill and vnmoveable of ane person borne bastard and deceasand bastard, without lauchfull aires gotten of his bodie, and na disposition thei of maid in his time, perteinis as escheite to the King, be reasson of the richt of his Crown. *lib. 2. c. quari autem. 51. leg forest. c. si bastardus. 50. de iudic. c. si bastardus. 54.*

Sextlie, Ane bastarde being naturalized or *legitimat* be the King vnder the great seal, be the practique now vsed and obserued, hes allanerlie power to make testament, dispone his moveable gudes and geare

De verborum significatiōe.

geare, and nominate executors, conforme to the Law of this Realme: be the quhilk law, na man lauchfullie, or vnlauchfullie gotten or borne, may make ony disposition in his testament, bot of his moveable gudes allanerlie. For na man vpon his death-bed, or in his latter will, without consent of his aire, may dispone ony part of his heretage. *Lib. 2. cap. Potesť 21. cap. Cum quis. 35.*

Seventhlie, gif ane bastard *legitimat* and rehabled in his life-time, makis ane testament lauchfullie: The King thereby is excluded fra all richt and intromission with his moveable gudes: Bot gif he makis ane testament, quhilk is null and vn-lawfull: Or gif hee makis na testament: The King be reason of bastardrie, succedis to him in all his moveables, and vn-moveables. For in this case, the effect and power of the legitimation ceasis, and hes na operation.

Auchtlie, quhen ane Bastard deceasis without ony lauchfull testament maid be him, or not havand aires lauchfullie gotten of his bodie: The King, be his Thesaurar, or ony vther havand gift and power fra him, may intromet with all the moveable gudes quhatsumeuir, perteing to the Bastard, the time of his decease, and not disponed be him in his life-time, as escheit perteing to his Hienesse, be reason of his crown and Kinglie power.

Ninthlie, Sick like all landes and tenementes perteing to the faide Bastard, the time of his decease, and halden immediatlie of our Sovereine Lorde in chiefe, after his decease, perteinis to the King, and the properie thereof, be decease of the Bastard, and be reason of escheit of Bastardrie, belangand to the Crowne, is consolidat with the superiority in the Kingis person; in sik forme and maner, as gif the Bastard in his life time, had maid resignation thereof, in the Kingis handes.

Tenthlie, Concerning landes and heretage, perteing to ane Bastard, not halden of the King, bot of ane vther superiour, Spiritual, or Temporal; the King hes richt of presentation: Be the quhilk, after the decease of the Bastard, he may present ony person quhom he pleasis, as heretable tennent to the Bastardes immediat superiour, be his letter, vnder the quarter seale, beand: That for-sa-meikle, as *N.* borne Bastard, and deceasand Bastard, without ony aires, lauchfullie gotten of his bodie, and na lauchful disposition maid be him in his life-time, had the landes called *B.* perteing to him, in heritage, halden immediatlie of the said superiour: And his Hienesse being willing not to prejudge the superiour, anent his superioritie: Therefore presentis to him, sik ane man, charging the superiour to receiue him, and giue him sik infestment of the landes, as the vmquhile Bastard had of him of before.

BERTHINSEK, Or *Birdinsek*. Be the Law of *Birdinsek*, na man suld die, or be hanged for the theft of ane scheepe, ane weale: Or for sa-meikle meate as he may beare vpon his backe in ane seck: Bot all sik thieues, suld pay ane schiepe, or ane Cow, to him in quhais lande hee is taken: And mair-over, suld be scourged. *Lib. 4. c. De Yburpanan seca. 14.*

De Successione
activa,
& passiva
Bastardus
vult,
Bastardus
non potest
esse hares.

Legitimi
bastardorum
liberi, ipsi
succedunt.

filius suc-
cedit suo
vel filia,
Bastardi.

Bastardus
res suas ali-
o ante po-
test, tan-
quam li-
ber eorum
dominus.

filius suc-
cedit bas-
tardo.

Bastardus
legitima-
tus potest
testari le-
gitime

Bastardus, la-
gitimatus po-
test testari le-
gitime.

Testamentum
illegitime fa-
ctum non ex-
cludit filium.

Bona mobilia
Bastardi suc-
cedunt.

Bona immo-
bilis ad N. tenen-
tur, si seco infe-
runtur.

In aliis bonis
immobilibus
Rex habet in-
terventionem.

De verborum significatione.

quoniam attach .c. per constitutionem .44. Aff. Reg. Da. c. 1. In fine. Stat. Alex. c. de Berthinske. 19. Quhilkis conforme to the Civill; and Canon Law. Nam omnia delicta & maleficia estimantur voluntate, & proposito delinquentis. L. qui iniuria. 53. In prin. ff. de furtis. L. 1. ff. de Var; & extr. Crim. Ideoque si quis necessitate famis sedanda, egestate, aut paupertate coactus, rem alienam contrectat, quia non adest animus furandi cupidus, excusari potest. c. si quis. Extr. de Furi. Non enim factum, sed causa faciendi inspicitur. l. Verum. 39. ff. de furtis. Et vulgo dici solet, necessitatem non habere legem. L. Non solum § Vlt. de excusationib. Tutor.

BLVDVEIT, VYTE In English is called *iniuria, vel misericordia*. Ane vn-law for wrang or injurie, sik as bloud: For they quha ar infest with Blodueir; hes free libertie to take vp all vnlawes or amercia- mentes of Court, for effusion of bloud: And to hald Courtes therevpon, and to apply the samin to their awin vtilitie and profite.

BONA PATRIA, Lib. 1. c. si verò. 29. Ane assise of cuntrie-men, or of gud nichtboures: Some-times it is called *Assisa bona patrie*, quhen twelue, or maa men ar chosen furth of ony part of the Cuntrie, to passe vpon Assise, quha ar called *Iuratores*, because they suld sweare judicial- lie, in presence of the partie, ane solemne aith. Lib. 1. c. Post hoc. 14. Iam. 1. p. 13. c. 138. In this maner following. We sall leill suith say, and na suith conceale, for na-thing be may, sa far as wear charged vpon this Assise, be God himselfe, and be our part of Paradise, and as we will answere to God, vpon the dreadfull day of judgement.

BONDAGIVM, or *Villenagium*, slavery, or servitude: For *bondi, natini*, and *Villani*, signifies ane thing. Lib. 2. c. Consequenter 13. cum seqq. *Bondi*, be reason of their band and obligation, as bound and oblised men. *Natini*, be reason of their nativitie and birth, as borne men within the land, *Quasi ascriptitij gieba*, That is depute, destinate, or ordained be their master, to dwel and remaine vpon the land, for keiping and labouring thereof. Lib. 2. c. Pluribus 14. And therefore vtherwaies ar called *Villani*, be reason of their office: in sa far as they haue the cure of Villages, and landwart husbandrie committed to them. *Bondagium per anteriores crines capitis, quoniam attach. c. de brevibus. 31. 15.* quhen ony free-man, renuncis his libertie, and makis himselfe ane bond, or slaue to ane greate man in his Courte, and makis tradition, & delivering of him-selfe, be gi- ving ane grip of the haire of his forehead: to the effect he may be main- teined and defended be him thereafter. The quhilk bond-men, gif they reclaime to their libertie, or happen to be fugitiue fra their maister, may be drawn back againe be the Nose, to servitude: Fra the quhilk the Scottisb saying cummis, quhen ane boastis and menacis to tak ane vther be the Nose. And it is leasum to ony man to sell his libertie, bot gif hee dois, he may never recover the samin. Affis. Reg. Da. c. Quilibet 12. quoniam attach. c. quilibet, 56. To this the Civill Law is conforme. Nam his qui ad precium particidandum se venundari passi sunt, ad libertatem procla- mare non licet. L. 1. ff. quib. ad lib. Pitrus Pithæus. li. 1. Adversariorum, makis men-

De verborum significatione.

mention of ane kinde of adoption, *per comam siue capillos*, quhen ony per- son tuike ane grip of ane vther mannis haire, and did cut it: Quhairby the ane, became the Father adoptiue, & the vther, the Sonne adoptiue.

BORGH, ane Cautioner, pledge, or sovertie, Iam. 3. Par. 14. c. 99. In Latine, *Fideiussor. vide* Free Borgh. *vid. Plegius.* Borgh of Ham-hald. *de Maritag. c. Sciendum. 17.* Ane Caution or sovertie vfed in byeing and selling, quhilk the seller findis to the byer, to make the gudes furth cummand, as his awin proper gudes, and to warrand the samin to him. For it is statute, that na man sall bye ony geare, except the seller thereof finde him ane lauchfull pledge: quhilk is called Borgh of Ham halde. And gif it, sall happen the gudes fauld and bocht, to be challenged bee ane vther, and the saide pledge cannot finde him, for quhome he is pledge, to relieue him of the said challenge: He sall pay to the Challen- ger, the triple of the thing challenged: And aucht Kye to the King, as ane vn-law. And gif he quha fande the said pledge, relieuis him not from the said damage, he salbe banished the realme. Lib. 1. c. Statuit e- tiam 19. St. Alex. c. Statuit etiam 13. For generallie the Cautioner hes gud action, contrair the principall, for his reliefe. Lib. 3. ca. 1. In fine. And sik- like within Burgh, the like caution suld be found in byeing and selling of all merchandice, except meate and drinke, and vther thinges of small consequence. Leg. Forest. c. Nullus. 48. Et de iure civili venditor per eucti- onis prestationem, cogitur servare emptorem indemnem, eodem modo ac si domi- nium nactus esset. L. ex emptio. N. in prin. ff. de actionibus emp. *vid. Hamhaldare. vid. Hamfuker.* Mair-over, gif ony man becummis ane furth-cummand borgh for ane vther, to make him furth cummand as ane haill man, it is sufficient, gif he produce him personallie, haill and founde before the judge, in lauchfull time and place. Bot gif he be pledge for ane vther, that he salbe answerable as law will, he man satisfie for him in court, and to the partie, to quhom he is pledge, in all thinges, as the principall suld haue done. *Quoniam attach. c. ubi aliquis 11.*

BOTHNA, *Buthna, Bothena.* L. 4. c. Si quis namos. 30. appears to be ane Parke, quhair cattell ar fed and included; *ut in Libro M. Alexandri Skene, fratris mei germani, quondam in Supremo Senatu Advocati.* Quhilk is confirmed be *Hector Boetius* l. 7. c. 123. Nu. 35. Cum scribit *maritimam* T hes- salie partem à *vectigali*, quod Regis procuratoribus ab incolis in annos pendi so- litum erat, cum gregum multitudine abundarent, *Buthquhaniam* appellatam, est enim, quhain, idè quod *vectigal*, prisca Scotorum lingua: et *Buth*, ovium collectio: hac ille. And it is manifest, that the place in the quhilk the zowes ar inclo- sed quhen they ar milked, is commonlie called ane Bucht. Sicklik *Aulus Gellius* l. 11. c. 1, writis that *Italy* is so called a *Bubus*, because *italos* in the auld Greek language, signifies Oxen, of the quhilk there was great aboun- dance and multitude in *Italy*, quhilk is confirmed be *Paulus Vanesfridus* lib. 2. c. 24. *Italia* (inquit) ab *Italo*, *Siculorum* duce, qui eam antiquitus invasit, sine ob hoc *Italia* dicitur, quia magni in ea boves, h. c. *Itali* habentur, ab eo nam- que quod est *Italus*, per diminutionē, vna litera addita, altera immutata, vitulus appel-

Borgh of Hamhald.

Italia.

De verborum significatione.

appellatur. Item Bothena. Stat. Wilh. c. 11. Signifies ane Barronnie, Lordship, or Schireffedome; as is manifest, Ex Libro Sconens. ca. 99. Assis. Regis David: Et Dominus Bothena, is the Lorde of the Barronnie, lande, or ground: Leg. Port. ca. 1. in Libro M. Willielmi Skene, fratris mei, Commissarij Sancti Andree. Pag. 149. c. 79. Item, It is statute and ordained, that the Kingis Mute, that is, the Kingis Court of ilk Bothene, that is, of ilk Schireffedome, shalbe halden within fourtie daies. Ass. Reg. Da. ca. 6. in Libr. quondam M. Roberti Carbraith. I. C. Doctissimi.

Man boate.
Kin. boate.
Thieft boate.

BOTE, Ane auld Saxon worde, signifies, Compensation, or Satisfaction: As man-bote, thieft-bote; And in all excambion, or cossing of landes or geare moveable: The ane part that gettis the better, giuis ane Bote, or compensation to the vther. Quhair of there is ane example in § Si familie, instit. de Offic. Judic. & in § quadam actiones, Instit. de actionibus. Ane man-bote is affithment for the slauchter of ane man. Kin-bote, for the slauchter of ane Kins-man. Thieft-bote, is quhen ony man agries with ane thieft, & puttis him fra the Law. I. 5. 12. Jul. Par. 1. c. 2. Or quhen ony sellis ane thieft, or finis with him, for thieft-dome done, or to bee done. Ia. 1. Par. 13. c. 137.

BOVATA TERRÆ, ane oxen-gate of land. Li. 4. c. Si quis sederit. 23. Quhilk in sum buikes, is wrangeouslie written, Davata terre. The Lordes of the Session be their decreete. 18. Julij. 1541. Esteemed and modified ane Oxen-gate of land, to twentie shillings in all dewties zeirly. Bot in this I finde na certaine rule; For some land is mair fertill, and vther mair barren: Alwajes, ane Oxen-gate of land, suld contene thre tene acker: And four Oxen-gate, extendis to ane pound land of auld extent, conforme to the decreetes given be the Lordes of the Checker. 11. Mar. 1585. Patrik Mony-penny of Pilrig, and vthers, contrair Adam, Bishop of Orknay. And at the instance of Iohn Creichtoun of Bruntstoun, contrair Iohn Fentoun.

Breve testatum.
Breves now
in vse.

BREVE, Ane commoun worde in the Lawes and practique of this Realme: And also in the Civill Law. Lib. 1. c. De exactorib. Tribut. Li. 10. leg. ult. c. de conveniend. fisci. Debitorib. Lib. 10. Quhair, in the Gloss, it is called *Schedula*, ane schort compendious write: Like as all Breves ar conceived in few words, and ar alswacalled *Brenicula*. And in Rubr. C. de sentent. ex periculo recitand. Alciatus Lib. 1. Dispunct. cap. 21. Et Iacobus Guicius, Antonio Contio repugnante, Legunt ex Breviculo, id est, ex scripto breviori formula concepta. Because the sentences and decreetes of Ordinar judges, suld be red and pronounced in writ. Breve testatum, is ane writ or instrument, subscribed beane publick Notar: Or be twa witnesses, quha ar called *pares curtis, vel curie. h. c. Conuassalli*: Quha baith halds their land of ane superiour. Guicius Lib. 1. & Lib. 2. Tit. 3. Defend. In the auld Lawes of this realme, diverse and findrie Breves hes bene vsed and wounte, quhair of mention is maid. Quon. attach. c. de brevibus 31. And in findrie vther places. Bot seven formes of Breves allanerlie, ar now commounmonlie vsed. The first, the Breue of Mortancestrie: The seconde, the Breue

De verborum significatione.

Breue of tutorie. The thrid the breue of Idiotry, the Fourth the breue of Terce. The Fifth the breue of line, or lineation of landes, and tenementes within Burgh. The Sext the breue of division. The Seventh, the breue of perambulation. Quhair of the three first breues are answered, and retoured againe to the Chancellarie. And the vther foure receiuis na retoured answer. The cause of the diversitie dependis vpon the forme of the breues direct furth of the Chancellarie. Because the three first breues in the end of ilke ane of them containis an command to the judge, to quhome they are direct, to send back againe his answer to ilke point of the breue. And the remanent foure breues hes na sik command; And therefore requiris na answer.

BREVE de diuifis faciendis, Is the breue or summonds of cognition, or molestation anent the propertie and commonie of Landes, anent the bounds, meithes and marches thei of, betuixte Neighbour, and Neighbour. Quhilk be the new acte of Parliament, suld be decided be ane assise, before the Schireffe, and his deputes. Ia. 6. p. 11. c. 42. It maie be like-waies called the Breue of division, or of perambulation, or onie vther concerning the marches of landes, lib. 2. c. dicitur. 74.

BREVE de nova diffasina, quo. attach. c. de breuib. 31. Is the breue or summonds of ejection, or spuilzie. For diffasitor, is he quha ejectis onie man furth of the possession of his landis, without ordour of the law, as writis Iohn Rastel. verb. diffasitor. And nova diffasina, signifies alswa spuilzie, maisterful, wrangous, or violent spoliation & away taking of moveable guds and geare. 22. March. 1547. William Lindsay contrair Alexander Chene. Molinaus in stilo curie parliamenti. part. 1. c. 10. c. 18. affirmis that nova diffasina, is that quhilk in the civil lawe, is called *interdictum unde vi*. And comprehends also *interdictum uti possidetis*. And in the Law of Normandy, li. 8. c. 3. it is called *interdictum recuperanda possessionis, vid. diffasina*.

BREVES pleadable, breue placitabile, ar all sik breues, quhilkis are persewed and defended be ane ordinar forme of proces before ane competent judge, at the instance of ane persewer against ane defender. For it is statute, that na man shall be ejected furth of his land or tenement, quhair in he alledgis him to be vest & laised, bot be an breue pleadable or sum vther breue accordand thei to, & that the said person be lawfully summoind, to answer vp his heritage, at ane certaine day & place. Stat. 2. Rob. Br. c. Item. 25. quhilk is conforme to the acte of Parli. Ia. 3. p. 6. c. 41.

BREVE de recto, the breue of richt was vsed before the Iustice generall and his deputes in decision of the ground, richt and propertie of landes, and reduction of infettments, the quhilk forme of proces is declared at length, in the first buike of Regiam Maiestatem, and in quo. attach. c. de breuib. 13. & be the Lords of counsell and session is decerned nocht to haue bene, nor zit to be thir mony zeires in vse, & therefore they find them selfe, conform to the institution of the Colledge of iustice, and jurisdiction granted to them, to be judges competent in all causes of heretage, ult. Februar. 1542, Patrick Weemes contrair Forbes of Reres.

BREVE

De verborum significatione.

B R E V E *demorte antecessoris*, the brieve of Mortancefrie. *l. 2. c. generalia. 25.* Or the brieve of succession, or of consanguinitie, *de iudicib. c. Natura. 158.* Or brieve inquisitionis. *Stat. Rob. 3. c. 1.* Or the brieve of inquest. *l. 4. p. 6. c. 94.* Albeit all brieves are inquisitions, because they are determinat per inquisitionem patrie. *de iudicib. c. cum quis. 152.* or the brieve of recognition, *brieve recognitionis Stat. 2. Rob. Br. c. Item. quia. 23.* It is the maist necessar common and profitable brieve, or inquisition that is vsed be the lieges of this Realme, quhairby ane desiris, to be served and retoured, as nearest and lauchful aire to his father or vther predecessour. This brieve is raised furth of the Chancellerie and persewed beane appeirand aire of persite age, for recovering of his landes, furth of his superiours handes: togidder with all the proffites and commodities their of. *leg. forest. c. et si habes 71.* The raiser of the brieve at the samin time suld find caution to persew and follow the brieve, and his claime conforme their to. *lib. 3. c. generalia. 25.* Be the auld law of this Realme, the Iustice generall and his depures haueand jurisdiction nocht onelie in criminall causes, bot also in civil actions, was iudge competent to the service of this brieve. *quo. attach. c. de brevibus. 31.* Bot now the samin is served before the Schireffe, Stewart, baillie, or onie vther iudge haueand power and jurisdiction. *Stat. Rob. 3. c. 1.* Or before iudges delegat be commission, granted be the Lords of Council, for the serving of the said brieve. *l. 5. p. 6. c. 82.* The brieve suld be proclaimed vpon fiftene dayes warning *exclusive.* That is vpon fiftene daies, nocht comprand the daie of the service of the brieve to be ane of them; be sik persones, as hes power be their office or commission, to proclaim the samin, in ane lauchfull, publick, and convenient place: That is to say, in the principall Burgh of the Schireffe-dome, Balliery, or vther place quhair the landes lies; at the mercat croce their of, and in mercat time of daie, before twa witnesses at the least, to the effect that the knowledge their of may cum to the audience of all parties, havand or pretendand entres their intill; and their after the brieve suld be lauchfullie execute and indorsate; be the officiar, executor their of, and stamped with his seale or signet before the samin be presented in judgement. *Stat. Rob. 3. c. 1. l. 1. p. 9. c. 127. l. 4. p. 6. c. 94. l. 6. p. 11. c. 60. In registro 16. No. 1537.* It is necessar and also lesum to the Schireffe, or onie vther Iudge of this brieve, to summond certaine persons maist worthy within his jurisdiction to passe vpon the assise, and that vpon the space of fiftene daies, or zit gif he pleasis vpon ane schorter time, and gif they be present in the tolbuith unsummoned, it is lesum to the Iudge to compell them to passe vpon the said inquest. *l. 4. p. 6. c. 94.* and all sik persones summoned and nocht compeirand, ar charged at the barre and disobeyand, suld be decerned in ane vnlaw and amerciament of court. The brieve beand lauchfullie proclaimed, and the persons of inquest like-waies summoned, and the daie of compeirance being cum: the persewer exhibitis & presentis the brieve dewlie execute and indorsate, in judgement to the Iudge, and desiris him to cause the samin be red, and put to the knowledge

the persewer of the Brieve.

the Iudge.

proclamation.

Indorsation.

Assise suld be summond.

Verification of the brieves.

De verborum significatione.

ledge of ane assise: Thereafter the officiar, executour of the said brieve, be his great aith, fall sweare judiciallie, that he did execute the samin brieve, conforme to the indorsation thereof in all poyntes, and the witness insert there in-till, fall also make faith, that they heard, saw, and bystude, quhen the said officiar did execute & proclaim the Brieve, in sik maner, as is contened in the indorsation thereof: The brieve and indorsation being swa verified, gif ony person havand entresse, compeiris to defende and object against the brieve, he sulde haue inspection thereof, gif he desiris the samin: And gif he proponis ony relevant exception, declinatour, dilatour, or peremptour: Hee thereby castis and annullis the Brieve, either vntill ane new brieve be raised againe, or *simpliciter* in all times cumming: vtherwaies, gif he hes na reasonable exception or defense to stop the brieve, the samin fall passe to the knowledge of ane assise. *Quoniam attach. c. de brevibus. 13.*

T H E N Certaine lauchfull mēne maiste worthie, and quha beste knowis the veritie, to the number of Thretee, or fifteteene, ar chosen in judgemente, in presence of the persewer, and defender: Or in presence of the persewer, and in absence of the defender, knowin to haue entresse, and being lauchfullie summoned, and nocht compeirand, to the said election, to object against samony persones, as he may leasumlie stop be the law, to passe vpon the assise: Forlike as it is necessar, that he be anis summoned: Swa gif he compeiris nocht, being lauchfullie summoned, the brieve suld receive proceffe, and passe to the knowledge of ane inquest, at the desire of the persewer, in absence of the defender. *Lib. 3. c. Generalia. 35. aff. Reg. Da. c. sciendum est. 44. lib. 4. c. Si petens. 57.* Quhilkis persones, na lauchfull objection maid against them, suld be received, sworne, and admitted: And therefore ar called *Iuratores. vid. Bona patria.* And gif they, or onie ane of them be sworne and received, the judge may continue the brieve to ane vther daie, gif he pleasis, and as necessitie requiris: vtherwaies the continuation thereof, is nocht lesum, without the consent of the partie, after the claime is given in; And inquisition taken in the cause, gif the persones of inquest, being weill counselled, and advised, deliveris and seruis *Negative*, in favours of the defender, and findis the persewer na-waies nearest and lauchfull aire to him quha died last Veste, and saied in the Lands acclaimed: In that case the defender doisbrink & joyis the possessiō of the said lands, & the persewer is debarred & seclused therefra. Bot gif the assise deliveris & servis *Negative*, as said is, or *Affirmative*, in favours of the persewer against the defender, conforme to the claime in all poyntes: This their answer to al and findrie the pointes of the brieve, sealed with all their seales, or of the maist part of them, togidder with the seale of the Schireffe, or vther judge closed, and the brieve inclosed therein (to the effect the same may be conferred with the answer) is sent back & retoured to the chancel.

Verification of the brieve.

Defender.

Ane assise is chosen.

Continuation of the brieve.

the claime Service negative.

Service affirmative.

Retours.

De verborum significatione.

cellarie, conforme to the Kingis command, contained in the end of the brieue. *Stat. Ro. 3. c. 1.* Quhilk therefore is called ane retour. And it is to wit, that there is twa kindes of retours, or answeres maid be the persons of inquest, to this brieue, and retoured to the Chancellarie: The ane is generall, and the vther speciall: The generall is, quhair na landes or tenements ar speciallie acclaimed or sought be the persewer of the brieue: Bot onelic it is desired, that hee may be served and retoured generallie, nearest and lauchfull aire to his Predecessour: To the quhilk generall claime, ane generall retour is maid, be vertue quhair of the said generall aire, hes gude richt and title to all contractes, obligationes, and reversi- ones, and to the moveable aire-schip guds, quhilk is pertained to his pre- decessour, and were not discharged, or disposed before his decease, in his liege poustie: And sik-like, he may persew, and defend quhat sume- ever action competent to him, be decease of his saide predecessour, to quhom he is served air generall. 8. March. 1540. *James Scot*, contrair

Blair: The speciall answer and retour is, quhen the persewer of the brieue, claimis speciall landes, and the persones of inquest givis ane particular & special answer to ilk special poynt of the brieue. *l. 16. c. 4. statuit Dominus 45.* The quhilk is direct & send to the directour of the Chancellarie, to be tryed be him, gif the samin be conforme to the di- rection and ordour of the brieue in all poyntes. Here it is to be vnder- stand, that the landes contained in the retour, ar halden immediatlie of our Sovereine Lorde the King, or of ony vther superiour. Gif the landes be halden of the King in chiefe, the directour of the Chancellarie, com- mandis his Clerkes to direct ane precept, vnder the testimoniall of the greate seale, called the quarter seale, in quhite Walx, to the Schireffe of the Schire, quhair in the landes lyes: commanding him to giue saising to the person retoured, or his Attournay, of the landes contained in the retour: And to take securitie of the mailles and dewties of the landes, sa lang as they ar retoured, to haue bene in the handes of the King, or his Predecessours, be reason of warde, or none-entresse, quhair of ane me- moriall is maid in ane buike called, *Responde, vid. Responde*. Gif the landes

retoured behalden of ane vther immediate superiour then the King: The directour of the Chancellarie, directis ane precept, chargeing the superiour, to giue saising to the person retoured, of all and findrie the landes contained in the retour: He doand to him therefore all quhilk he is obliged to do be the Law: Quhilk precept, gif the superiour diso- beyis, beand required personallie, or at his dwelling place, to obey the samin: And for verifying thereof, ane authenticke instrumente repor- ted to the Chancellarie: Then the second precept, called *Meminimus*, is direct to the saide superiour, beand in effect, that the King remem- brand, that of before he gaue command to him to giue saising: quhilk command as zit is nocht obeyed, quhair of he mervailis: And therefore zit, as of before, chargis and commandis the said superiour, to giue sai- sing to the person retoured, of the landes contained in the retour.

And

De verborum significatione.

And gif ane vther authentick instrument be reported to the chancellary for verification of the superiouris disobedience the second time; The thrid precept called *Fureba*, is direct, commanding him to giue the said saising, or vtherwayes gif he disobey, the king certifies him, that he will direct his vther precept to his schireffe to giue the samin. In the ex- ecution of al thir three precepts, it is not necessare, that the superiour sal- be personallie apprehended. But it is sufficient gif he be saicharged in the execution of any ane of them. The thrid precept and charge being like- wayes disobeyed, and the samin disobedience lawfully verified, as said is: ane precept is direct furth of the chancellary, to the schireff & his depu- tes of the schire within the quhilk the landes retoured lyes. Makand men- tio, that the King hes giuen command be his vther letters, to N. Barron and his depu- tes, that he without delay suld giue saising to the person re- toured, or his attornay of the landes contained in the retour, quhilk gif he dois not, he commands & chargis the schireff, to giue saising of the saids landes with the pertinents without delay, saifand ilk mans richt. Quhilk precept being obeyed be the schireff, and saising giuen conform theiro: the superiour who was three times charged of before & refused, be rea- son of his disobedience, tynis and forfeits the superiority of the landes quhair of he refused to giue saising induring his lyfe-time. Quhilk supe- rioritie, sal pertain to his immediat superiour, quhiddir that be the king or ony vther. And after his deceas, his aire being served and retoured to the superioritie of the samin landes, recouers the said superioritie quhilk his father did time throw his disobedience. And sa be the law and prac- tique of this realme, ane superiour may tyne and forfeit his superi- oritie. First, quhen he is entred and saised in the superioritie, and being charged be precepts of the Chancellarie, refusis to recceue his vassall, & tennent, served and retoured to the property. In the quhilk caise be rea- son of his contempt and disobedience of the Kings precepts and com- mand, he tynis the superiority, induring his lyfe-time, without any de- claratour, or decret of ane judge. Secondly, quhen the superiour is not entred nor saised in the superioritie, and is charged be the Lords letters raised be his vassall, to enter within fourtie dayis thereto, to th effect he may enter to the propertie. The quhilk fourty dayis being by-past, at the instance of the vassall, he may be decerned be decret of the Lords of the Session, to haue tynnt his superiority, & to satisfie the party griued. *l. 4. c. 17. Ca. 57.* And in baith the caises foresaid, the vassall, or tennent, sal be en- tred & hald of the King, or the vther immediate ouer-lord, to him quha contempnandly disobeyed. Last of all, concerning the giuing of saising conforme to brieues served and retoured before judges, commissioners the forme and ordour of the Chancellary aboue written, suld be kept and obserued, and gif the landes retoured be halden immediatly of the King: the precept of saising suld be direct to the schireffe & his depu- tes. For the Lords auditors of the Checker statute & ordained, 8. Aug. 1528 that in time comming, the clerke of the Chancellarie, vpon the brieue

The thrid precept.

The fourt precept of the schireffe

twa ma- ners of tin- fall of superioritie

Precepts of saising gi- ven con- forme to retours be commissi- on.

K

ser

De verborum significatione.

serued be an commission, salldirect the precept of saising, to the principal schireff of the schire, & make the responcion vpon the schireffs head; notwithstanding the said cōmission, quhilk is ordained allanerly to haue effect, anent the seruing of the brieue, & not anent the giuing of the saising. And true it is, that all saising past vpon precepts of the chancellary, suld be giuen be the schireff clerk or his deputes, for the quhilk the schireffe sall answer. Ia. 5. p. 6. c. 77. Mar. p. 6. c. 34.

B R O C C A R I I, In *statutis gilda*, signifies blockers, brockers, mediatours, or intercessours in onie transaction, paction or contract. As in bying and sel ling, or in contracting of marriage. In the ciuill law they are called, *Proxenetæ*. *Lib. 1. et tot. tit. de Proxenetis*.

B V L L I O N ane french worde, *Bilon*, signifies vncunzied siluer or gold, quhair of siluer or gold is, or may be cunzied or stricken: sik as *Bul-luca*, in greeke χρυσάρεος, *h. e. aurea arcua, quæ ex terra effoditur. lib. 1. c. de metallar. l. 11*. In the English lawes it is called *Plate*. In the acts of parliament of this realme, it is statute and ordained, That merchands salbring hame Bullion, quhair anent the Lordes of checker maid this ordinance, At *Edinburgh* the 10. day of Ianua. 1597. In presencē of the Lordes of checker competred personally, the Provest, Baillies & Thesaurar of Edinb. with certaine merchands their nichtbors, and gaue in their supplication, desiring the A. B. C. of Bullion to be explained, and an solide order to be taken with the expres quantitie of Bullion, quhilk they salbe astrickt to pay presently, and in all time hereafter. After consideration quhair of, & conference had at length with them, vpo the particularities concerning the said matter of Bullion. The saids Ll. of checker, with consent of the saids Provest and Baillies, for themselves, and their remanent nichtbors, and merchands of this realm, hes statute & ordained, that all merchands sall inbring & pay in all time coming, for ilke last of hydes, sex ounces Bullion: For ilk last of Salmōnd, four vnce bullion: For ilk 4. hundreth claith, foure ounce bullion: For ilk serplait of woolle, foure ounce bullion. And for all vther waires and merchandice transported be them furth of this realme, for ilk serplait of gudes, or sa meikle as payis ane serplait of fraucht: The said Merchand sall pay, four ounces of bullion: And vntill mair perfite knowledge, be had of the iust quantitie of the serplait, ordainis tva tyn fraucht, to be compted to the sek: And tva sek fraucht to the serplait. And the said bullion to be in-brocht to the Cuinzie-houise be the merchandes: And payment to be maid to them for the samin, conforme to the act of parliament maid there anent, vpon the nineteenth day of December, last by-past.

Anē A. B. C. of the Bullion, sit downe bethe Lordes of Checker, for gudes transported furth of the Cuntie. And declared he them, to be conforme to the act of Parliament,

And the alle of Checker abone specified, 13. Februa. 1597.

The last of drinking beare	ij. ounce burnt silver	The last of Orkney butter	ij. ounce
The last of Quheate	liij. ounce	The last of herring	ij. ounce
The last of Beare	liij. ounce	The last of Salmōnd.	liij. ounce
The last of Malt	liij. ounce	The last of Saipe	ij. ounce
The last of Rye, and Rye meale	ij. ounce	The last of Assē.	ij. ounce
The last of Killing, Codlinge & Ling	ij. ounce	The last of Pick and tarre	ij. ounce
The last of Olie	ij. ounce	The last of lint and hempe	ij. ounce

De verborum significatione.

The last of Irne	ij. ounce	Ilk three chaldre of salt	ij. ounce
The last of Copper contei. 14. schippund	ij. ounce	Ilk hundreth of dailles	ij. ounce
The last of hart hides, dry hides, & salt hide	vi. ounce	Ilk last of Narvis talloun	ij. ounce
The tun of wine	ij. ounce	Ilk tunne of lead	ij. ounce
Ilk foure hundreth of claith	liij. ounce	Ilk foure chaldre of coales	ij. ounce
Ilk seek of sheip-skinnes contei. 300.	ij. ounce	Ilk three hundreth of drie fish	ij. ounce
The serplait of lambskins con. 80.00	liij. ounce	Ik thousand ling or killing in peill	vi. ounce
The serp. of cunning skins con. 160.00	liij. ounce	For ilk foure cradill of glasie	ij. ounce
Ilk serplait of fustelles con. 400.00	liij. ounce	For ilk seek of wooll contei. xxiiij. stanes	ij. ounce
Ilk seek of gaitskins contei. 680.	ij. ounce	The last of wax, con. xiiij. schip pund	ij. ounce

B V R L A W, *Byrlaw* lawes of *Burlaw* are maid, and determined be cōsent of nichtbors, elected and chosen be cōmon consent, in the courtes, called the *Byrlaw* courts. In the quhilk, cognition is taken of complaints betuixt nichtbour & nichtbour, *lib. 4. c.* The quhilk men sa chosen, as judges and arbitrators to the effect foresaid, are cōmonly called *byrlaw* men. It is an dutch word, for *baur* or *baurman* in dutch, is *rusticus*, an husbandman. And sa *byrlaw* burlaw, or baurlaw, *leges rusticorum*: Lawes maid be husbandmen, cōcerning nichtbour-heid to be keeped amangs theselues.

C

C A D R O V, quherof mentiō is maid in the act of p. printed. 1568. Ia. 2. 4. An. 1454. c. 41. wrangously, for *cadzou*, because furth of the barony of *Cadzou*, an zeirly pension or annuel-rent of 26. pound 13. schil. 4. pen. was payed to the king in the checker, as is manifest in the schireff-rolles. Ia. 2. 1450. & likewise in the schireff-rolles, Ia. 3. 1487. in the quhilk rol, the barronie of *Cadzou* is called *Hamilton*, and in divers vthers rolles.

C A N V M, *Canan*. In sundrie charters & infestments of lands, specially halding of the kirk, is commonly vsed, for the duety and revenue quhilk is paid to the superiour, or lord of the land, and specially to bischops, or kirk-men, quhiddir it be quheat, beir, aites, or vther kinde of victuals: salt, or summs of mony, as is manifest, *vlt. feb. 1509*. The king contrare the L. of *Balmouth*. Zit neuer theles, the lands of *Kilconquhair*, liand within the schirefdome of Fyfe, are retoured to be halden be seruice of ward & relieue, payand an certein sum of siluer, *nomine cani*, to the B. of S. Andrews. Quhilk to be weill done, I cannot affirme: for it is certaine, that all lands halden *nomine cani*, payis ane certein sum of siluer, or some vther certein duty, particularly exprest in the infestmēt. Sa gif that maner of halding be like to the halding be seruice of ward and relieue: of necessitie the samin mon be ane taxed ward, & during the time thereof, the tennent suld pay na mair but the particular summs or duty contained in his infestment. *Canum*, appeirs to be ane Irish word, for *Keane* signifies the head, as king *Malcolm Keanmoir, grandis Capite, vel capito*, great head: and likewise *kain* or *Chan*, is called tribute, payed be the seruand, or subiect to the maister, as I haue red in ane auld authentik register of the bischoprik of *Dunkeld*, quhair it is called *Chan* or *Chanum*. And amangis the *Romaines* there was tva kinds of tribute: ane real, quhilk was impute be reason of the quantity of the lands & guds immouable, quhilk is called *ingatio, quod promodo ingerum imponebatur. l. 9. C. de agricol. & censit. lib. 11*. An vther personal quhilk was jnioyned to the perfon: and is called *capitatio, quod pro capite*.

De verborum significatione.

hominis praestatur. d. l. 9. c. l. seq. et ibi gl. l. sacrosanct. 8. C. de sacrosanct. eccles. l. vlt. C. de annon. et tribut. lib. 9. And in the Evangel, *licetne dare censum Casari.* Theod. Beza interpretis, *licetne dare capitationē Casari.* Aulus Gellius, & vther latin writers makis mention of them quha was taxed be the head or pow. In latin *capite censiti.* Sa this word *Cane* signifies the head, or rather tribute or dutie, as *Cane* fowles, *Cane* cheis, *Cane* aites, quhilk is payed be the tenant to the maister as ane duty of the land, specially to kirk-men & pre-lats, quha in the time of their greatnes & supremacie, vsed ane forme & stile, diuers from vthers: and the auld form of precepts, giuen in the time of K. Robert zit extant, anent the inbringing of the K. rents, contains *censum, Cama, reditus, custumas.* And canage of wol, or hyds, is taken for the custome theirot, *se. nauis fol. 171, in li. M. Willielmi Skene, commissarij Sancte Andree fratris mei germani.* Specially, quhilk is giuen for the mending & vpholding of the hauen for schips, *leg. burg. c. vlt. in lib. Carbraith.*

CAMPIONES, ane word commonly vsed in singular battell: For in auld times, quhen controversies, and debates culd not be vtherwise decided, bot be singular battell: the parties did either fecht in proper person, or conduced, & fied for wage vthers to fecht for them. Quha war called *campiones*, because they faucht in *campo*, or in the feilds, *de iudic. c. 93.* Albeit sumtime they did fecht in the K. palace, *lib. 4. c. stat. 38.* & sumtime in the comon streits, *quo. attach. c. apud Drumfreis, 59. stat. Alex. c. apud 28.* from the quhilk consuetude cumis the comon saying: *Do thou richt, do thou wrang, cheis thou a champion strang:* for this is the law of Scotland. Because in all actions, and quarrels decided be champions in singular combat: That partie did win the cause, quhais champion was victorious, & he quhais champion was vanquished & ouercum in battell, did tine his caus. *vi. Duellum gladiatores, or duellatores, ar forbidden. l. vnic. C. de gladiatoribus,*

CATALLA, an french word, *Chattel*, as is comonly taken in the lawes of this realm, for all guds & geare moueable, *li. 2. c. cum quis. 52. c. usurarij, 53. c. 55. vbi res mobiles dicuntur catalla:* & likewise in the laws of Normandy guds moueable, signifies al things, as possessions quhilkis may be remoued fra ane place to anither, & comonly are called cattel, as horse, claith, gold, silver, & vther sik things. *li. 5. c. 1. l. 8. c. 1.* Like as *hereditas*, or heritage signifies al lands, & immoueable guds in the said law of Normandy. *li. 8. c. 1.* And also in the lawes of this realme. *li. 2. c. 53. stat. gild. c. item quod quicunq; 19. and leg. burg. c. si contingat 104.* gif ane burges deceas without an testament, his aire, and his cattell, salbe in the keiping of the kinsmen of the mother side, called *cognati*. And his heritage in the keiping of his kinsmen of the fathers side, called *agnati*.

CATHORIVS, *Catherius*, quhat it signifies, I cannot weil declair, alwaies it is equivalent to the valor of 9. Ky, *St. Alex. c. apud. 28. quo. at. c. apud 59.* quhair it is statute, that gif ony person beis cōvict in singular battel, or vtherwise of breking of the K. protection, or peace: he sall giue to the K. *viginti duas vaccas, et tres cathorios, vel pro quolibet cathorio novē vaccas.* It is true, that *catherius* in latin, signifies an gelded horse: fra the quhilk cumis the latin proverb, *catherius in fossa*, against the quha being vnable, & not qualified, seiks & crauis offices, quhairin they cā do na mair seruice nor a hors or horsman can do, being inclosed within an fowlsie: & siklike *cāthe-*

The paire
of him or
ha is con-
vict in bat-
tell, or bre-
aks the kin-
gis protec-
tion.

Cantheri-
us.

rim in

De verborum significatione.

in porta, quhen ane horse being led furth of the stabill, in the port, or in the beginning of his journey, snappers or fallis with his maister: The superstitious peopill esteemed that to be ane evill presage of the journy.

CARRVCATA *terra*, Ane French word, for *charron*, is ane pleuch, *ar atrum*, and contains alsmeikle an portion, or measure of Land, as may be tilled, and laboured within zeire and daie be ane pleuch. *lib. 2. c. dos. 19.* Vtherwaies in the samin place it is called *bilda terra, vel bida terra*, quhilk is ane worde vsed in the auld Briton Lawes.

Mida terra

CARTA *extensa*, or *extenta*, Ane chartour quhilk contains ane disposition of landes, with certaine meithes, & marches, vtherwaies called an boundand chartour, *quo. attach. c. stat. dominus rex: 62. ass. reg. Da. c. statuit per consilium. 36. Stat. Wilh. c. 7.*

CA VPES, Calpes, in Galloway, and *Carriet*, quhair of mention is maid in the Actes of Parliament. *la. 4. p. 2. c. 18. 19.* signifies ane gift, sik as horse, or vther thing, quhilk an man in his awin lifetime, & liege poustie giues to his Maister, or to onie vther man, that is greatest in power and authoritie, and speciallie to the head & chiefe of the clann, for his maintenance and protection, like as for the samin effect and cause findrie persons payis Black mail to thieves, or maintainers of thieves, contrair the lawes of this Realme. Bot in the *Iles* and *Hie-land* of this Realme, the *calpes* are presentlie payed be him quha obliis him theirfore, after his decease. Swa the *Herezelde* is payed be provision of the Law: and the *Calpe* is given be speciall paction, and obligatione, baith the ane and the vther after the decease of the debtour. Bot the *Herezelde*, suld be first payed to the Landf-lord, and ane notabill oppression is vsed in taking vp of the *Caupe*. For gif the chiefe of the clanne obliis him to pay ane *Calpe*: after his decease, an *Calpe* is payed for him. And also quhen onie of his clanne deceasis, ane *calpe* likewaies is payed for ilke ane of them, be reasoun of the promes maid be their maister and chiefe. *Perinde ac si obligatio facta per principem tribus, obligaret singulos ex tribu.*

CEPVM *animalium*, the taulch, creische or fatnes of beastes *leg. burg. c. si quis scienter. 71.*

CHAMPERT, anebud, or gift, taken be onie greate man, or judge fra onie person, for delay of iust actiones, or furthering of wrangous actions: quhidder it be landes or onie gudes moveable. *Stat. 2. Ro. Br. c. dominus Rex. 22.* Champert in the lawes of England is quhen the judg be himselfe directlie, or be onie vther indirectlie, manteinis the pley, to obtene the maintenance of the ane partie against the vther, *John Rastell, ver. Champert*, In the civil law, *pactum de quota litis*, is vnlesum and forbidden. *l. 5. C. de postuland. l. si contra 22. C. mandati.*

CHARDONES *vel Cardones*, Cardes quhair with wol is carded and wrocht. *leg. burg. c. de parua custodia 137.* fra the French word, *Chardon* from *Carduus* ane thristill, to the quhilk the Cardes are like in scharpnes and in multitude, or similitude of monie scharp pykes, and teith.

K 3

CHAVD

De verborum significatione.

CHAVD-MELL E, in latine *Rixa*, ane hoat suddaine tuiizie, or de-baite, quhilk is opponed as contrar to forthocht fellonie. Ia. 1. p. 6. c. 93. *vid. Melletum, vid. Forthocht fellonie.*

CHECKER, and the forme of Comptes maid theirin. *vid. Scaccarium, vid. Balliours.*

CLAN-MAKDVF *de iudic. 78.* The croce of *Clanmakduff* dividis *Strasberne* fra *Fife* abone the *Newburgh*, beside *Lundoris*. The quhilk had priviledge and libertie of *Girth*, in sik sorte, that quhen onie man-slayer, being within the ninth degrie of Kin & bluid to *Mak-duff*, sumtime Earl of *Fife*, come to that croce, & gaue 9. kie and an colpindach, he was free of the slaughter committed be him. In the stanes of this Croce, I saw sindrie barbarous wordes and verses written, quhilk here willinglie I pre-termit, and zit sum of them appearis to be conforme to this purpote; *propter makgidrim & hoc oblatu, Accipe smeleride super lampade limpida labru.*

King *David* the 2. gaue and dispoind the Earle-dome of *Fife*, with al priviledges & *cum lege qua vocatur Clan-makduff*, to *William Ramsay* and his aires, quhilk charter is zit extant in the Register. *Hector Boetius lib. 12. de-clairis* three priviledges given to *Mak-duff*, his clanne and familie, 1. that the Earle of *Fife* suld set vp the King in his *Chyre*, the time of his Coronation: the 2. that in the time of battell, he suld fecht the want-gard. The 3. that *Mak-duff* and his clanne suld have the priviledge and richt of regalltie. And I saw an auld evident beand, that *Spens of Wormestoun* beand of *Makduffs* Kinne, inioyed the benefit and immunitie of this Lawe, for the slauchter of ane called *Kynnynmonth*.

CLAREMETHEN, *Clarmathan*, the Law of *Claremethen* concernis the warrandice of stollen cattell, or gudes: for quhen sik gudes ar challenged, or repeated be the just awners their of: It is statute and ordainid that all persones, quha suld warrand the samin, fall cum to certaine places, speciallie nominat and appoynted to that effect, and lauchfullie warrand the samin. *lib. 1. c. hac sunt loca. 22. Stat. Alex. c. de Catallo. 12.*

CLARIFICATIO. *quo. attach. c. si quis appellat. 46.* The purging or clenging of ane assise. *asfi. Reg. Da. c. 3. Clarificatio debiti*, the clearnes of ane debte, quhilk is notour and clear in the selfe: Or clearlie, and sufficientlie proven and verified. *leg. Forest. c. probato. 86.*

CLBP, and Call, ane forme of Clame, petition, or libell, or certaine solemne wordes vsed speciallie in criminall causes, for sum clames were conceaved simplie, without onie solemnitie of wordes, as in the brieue of distres, or poynding for debte. *quon. attach. c. de breuibz 31. vther clames* were libelled and conceaved in ane certaine solemne forme, as in pleyis of wrang and vnlaw, in the quhilk clepe, and call, was vsed as ane certaine solemnitie of wordes prescribed be the Law, and observed in the practik, as quhen the persewer did clep, & cal, the defender with wouth wrang and vnlaw, in harming and skaithing of him offik ane thing, or of sik ane summe of silver mair or lesse, to his gre at harme and skaith.

COLPINDACH an zoung beast, or Kow, of the age of an ortwa zeires.

De verborum significatione.

quhilk now is called an *Comdach*, or *quoyach*, quhair of the price was. 30. d. *leg. Ma. Ma. c. 4.* It is an *Irish* word, & properly signifies ane fut follower.

COLLISTRIDIVM, *Collistrigium, quod collum stringat.* Quhilk maie be called the Ioggs, and is ordaned for punishment of baxters. *leg. Burg. c. si aliquis. 21.* quhair it is called ane pillorie, or stocks, or onie band quhair with the craig, or hals is bund, as ane halfe-fang, in the laws of *England*, *Num. anno. 51. Henr. 3. in latin Numella.*

CONQUESTVS, quhair of frequent mention is maid in the lawes and practik of this Realme, is different from heretage. Because heritage signifies lands & immoveabil gudes, quhilk pertainis to onie person, as aire and vniuersal successeur, to his father, or onie vther predeceffour: & bethe civill lawes *hereditas nihil aliud est quam successio in vniuersumius, Heretage quod defunctus habuit. l. hereditas. 62. de regul. iur. l. nihil. 24. de verb. signif. & ge.* be the municipall law of this realme, the eldest sonne succedis iure vniuersali in vniuersam hereditatem patris sui. *lib. 2. c. cum quis. 29.* Conquestus signifies landes, quhilk onie person acquiris and possedis privato iure, vel singulari titulo, veluti donatione, vel singulari aliquo contractu. *lib. 3. c. cum vero. 28.* Quhilk is conforme to the civill law, *vbi questus dicitur lucrum, quod ex emptione, venditione, locatione, conductione, vel generaliter ex opera cuius descendit. l. coiri. 7. cum seq. ff. pro Socio. Et de iure huius regni, conquestus cuiuslibet liberi hominis legitimi, qui moritur de ipso sasitus hereditarie sine herede de corpore suo, gradatim ascendit: hereditas vero gradatim descendit. Stat. Wilh. c. notandum. 24. leg. Burg. c. sciendum. 155. Stat. Rob. 3. c. 3. vid. post. natus.* And it is to be observed, that gif conquest landes, after the decease of the conquerour, dois anis ascend, to ony persō, quha theirafter hapenis to decease, the samin landes sal descend, as heretage to his narrest aire, because conquest dois allanerlie anis ascēd, & thereafter perpetuallie descēdis to the righteousaire, gif onie be: *quia conquestus dicitur ratione primi conquestoris, & cū transmittitur ad eius heredē, exuit naturā conquestus, et induit naturā hereditatis.*

CORONER. Crouner inquires be ane inquest anent murther and slaughter done, and committed quietlie. The quhilk inquisition suld be taken in the hie streites, or in open places, in *corona populi*, for the quhilk cause he is called *coronator*, or zit because the violent death of the subiectes pertainis to the Kingis Crown, and power. Quhairanent the crouner takis inquisition, as said is. *D. Thomas Smith lib. 2. c. 23.* of the common weill of *England*, Reade the English lawes anno. 4. *Edward. 1. c. 2.*

CREFFERA, or *hara porcorum*, ane cruife, or ane swines cruif. *leg. burg. c. Non licet. 87.* quhilk in sum auld buikes is called ane *Stye*.

CRO, Croy, in the actis of Parliament. Ia. 1. p. 2. c. 93, is ane satisfaction or assitment for slauchter of ony man; The quhilk the judge suld paie to the narrest of his kin, in case he minister nōcht the Law as he suld doe. Ia. 1. p. 6. c. 89.

CVLRACH, sūtimes is called ā furth cōan d borgh, bot mair properly it may be called an backborgh, or catiōer, for quhen ony havand power, or iurisdiction replegis ony man fra an vther mās court, to his awin court, he suld leif behind him in the court, fra the quhilk the replegatiō is maid, ane pledge or

De verborum significatione.

or cationer quha salbe bundin & oblished, that he quha vsis the replegi-
ation, fall doe justice within zeire and daie in his awin court, to the par-
tie complainand, vpon the person quha is repleged. Quhilk cautio-
ner left in the court be him, and behind him quha, vsis the replegiation,
is called *Cutrach*. lib. 4. c. si quis in alterius 20. quo. attach. c. 3. mod. ten. cur. c. 12
de Iudic. c. 28. And gif the partie complainand gettis na reason in that
court, to the quhilk, the defender is borrowed & repleged, he sal haue re-
gres againe to the first court, fra the quhilk the replegiation was maid,
and their fall the mute, and pley be ended, and the *Cutrach* salbe in ane
vnlaw, gif the partie persewed compeirs nocht, and he quha vsed the re-
plegiation, and did nocht Iustice fall tine his court for zeire and daie.

Claves cu-
riae.

CVRIA Ane court, quhairof sum are superiour and sum infe-
riour, *leg. Malc. Mak. c. 4. vide Amerciamentum*. The supreme court is the
Parliament quhilk hes jurisdiction of all maters Ecclesiasticall civil, &
criminall. All courtes by and attour the ordinar persones of the judge,
the persewer and the defender suld haue certaine vther persones and
members, quhilkis are called *claves curia*, the keyes of the court, that is
ane lauchfull officiar or serjand, quha suld summond, attache and ar-
rest the parties. Ane lauchfull Clerke quha suld informe the assise, and
the dempster, and hes the cure and keiping of the proces. Ane sutour
quha wardis and pronounces the waired, and interlocutour of the Court.
Ane dempster or doomester quha gives the doome or sentence defini-
tive, conforme to the information of the Clerke or the Iudge.

CVRIA *christianitatis* lib. 2. c. debet autem 37. lib. 1. c. placitum,
17. Is called the ecclesiasticall jurisdiction or court, vtherwaies *forum ec-
clesiasticum* lib. 1. c. 55. *Curia Christianitatis opponitur laicali seu seculari*, lib.
2. c. cum aliquis 59. lib. 3. c. preterea 23. For vnto the ane perteinis the eccle-
siasticall, and to the vther the temporall or secular jurisdiction.

CVRIALITAS, curialitie, curtesie, from the French *Curtois-
se* civilitie, gentelnesse, humanitie, for the law of curtesie, is an gentill
and favorable ordinance or constitution, granted and observed in this
Realme, and nocht vniverfallie keiped, or vsed in vther cuntries, And
therefore it is called *Curialitas Scotia*, the curtesie of Scotland. And in the
laws of *England lex Anglia*, or the curtesie of England, within the quhilk
twa realmes and nane vther this law is in vse. That is quhen onie man
maries lauchfullie ane wife, and receivis lande and heritage with her.
And it happen that he beget with her ane bairne, quha being borne, is
heard cryand betuixt foure walles of ane house: And thereafter his wife
deceasis before him, he fall bruik and possesse, all the landes quhilks per-
teined to her, in-during his life time, albeit the bairne liue or decease.
Lib. 2. c. cum itaque 58. The bairne borne, being sonne, or dauchter, maill,
or femaill *de Iudic. c. Maritagium*. 127. Quhilk law hes place in landes and
heretage, lyand without burgh, halden of the King or ony vther supe-
riour: And also in landes and tenementes lyand within burgh and hal-
den in freeburgage. *Leg. Burg. c. si aliquis*. 44. This Law is nocht introdu-
ced

De verborum significatione.

ced in favoures of the wife or bairnes, bot is maid in favoures of the
hus-band allanerlie. And therefore it is nocht necessar that he haue onie
saising, infestiment, or vther richt, to the landes quhilk pertained to his
wife heretablie: Bot onelie the benefite and priuiledge of the curtesie,
quhilk is valiable and sufficient to him induring his life-time, for brui-
king and possessing of the landes, and for remoouing, out-putting and
inputting of tennentes, in sik maner as gif he were proprietare, lyfe-ren-
tar, tackes man or rentaller. And mair over, the Lawe of the curtesie is
extended in favour of the Second hus-band. And theirefore gif ane
man maries ane heretrix, and after his decease, shee marie ane Second
hus-band, and beare to him ane sonne, or ane dauchter, and thereafter
shee deceases, hir second hus-band aucht and sulde bruik and jois
the priuiledge of the curtesie, in sik maner as gif the first hus-band micht
haue done, in case his wife had deceased before him. *lib. 2. de cap. 58. de
Iudic. Cap. 127.*

As concerning the estaite and qualitie of the woman that is
married, it is necessar that she be heretablie infest and saisid in the landes
as aire to hir father or vther hir predecessours. Bot it is nocht necessar-
lie required, that she be ane virgine and maiden. Because the curtesie per-
teines to the second hus-band, quha maries ane widdow as saide is. Al-
waies quhiddir the wife, be widdow, the time of hir second mariage:
or virgine and maiden, the time of hir first mariage, necessarlie shee suld
be ane heretrix, aire, or vniverfall successour to hir Father, Mother, or to
sum vther of hir predecessours. For gif the wife hes onlie richt and titill
to the landis and heretage, as singular successour, be vertue of onie con-
tract, *veluti titulo emptionis*: Hir husband after hir decease can never clame
richt to the landes, induring his life-time, be the curtesie of Scotland.
Twenty aucht Ianuar, an thousand five hundred, nintie five. *Robert Lun-
die of Balgony*: contrair *Robert Balfoure of Dowane*. The curtesie hes nocht
place quhen na bairne is borne in lauchfull mariage, for it is necessar
that ane bairne be borne maill or femaill, quick and liveand: And for
probation theirof, he mon be heard cryand, for the curtesie hes place in
puero clamante, (or as it is written in sum buikes) *brayand*, squeiland, or
loudlie cryand. For in Frenchie *brayer*, in the latin *vagire*, is to crie
or greite with ane loud voice. Quhilk word in our language, is als wa-
attributed to Hofs, Hartes, and vther beastes. And gif controversie arise
anent the life or crying of the bairne, it is leifsum to the Father to prui-
se the famin be twa lauchfull men or women, quha hearde the bairne *cla-
mare*, *plorare*, *vagire* seu *brayare*. *leg. burg. d. cap. 44.* The hus-band or Father
suld bruik the curtesie after the death of his wife, albeit the bairne be-
ing borne quick happen to decease immediatelie, or shortlie after his
natiuitie. Or albeit the bairne and the Mother baith departe this life,
for suppoise the bairne happen to decease before his Mother and
shee decease thereafter, or albeit baith the bairne and the Mother
decease at ane time, or zit gif the bairne lives, and the Mother before
the

De verborum significatione.

the husband depart forth of this life, the husband survivand after her death shall bruike the priviledge of the curtesie of all Landes quhairin his wife was heretablie in feft: ninth of Iulij, an thousand, five hundredth nintie seven. *Martha and Eupheme Mackalzeanes*, contrar Maister *James Ward-law* advocate. Swa the substantiall heades of the curtesie are thir following, quhair of gif onie ane failzie the curtesie ceasis. First is required ane lauchfull mariage betuixt man and wife. Secondlie, The wife suld be ane heretrix haueand *ius universale*, quhair be she succedeis to her Father, Mother, or some vther her forbearer. Thridlie, She suld be heretablie in feft and faised in the Landes. For gif she decease, nocht beand entered and faised, hir husband suld haue na curtesie. Fourthlie; She suld decease before her husband, for salang as shee and the husband livis, he hes *ius mariti*. And after her decease, he hes *ius curialitatis*. Fiftlie, Bairnes suld be lauchfullie gotten & borne, at the least ane bairne, maill or femaill, quick and livand. Last of all the curtesie is als effectuell to the husband, tuiching waerde-landes, pertaining to his wife, as the Kingis confirmation. For landes halden of the King in chiefe, and confirmed be him, fallis nocht in waerde, induring the life-time of the person to quhome the confirmation is granted. He being theirby immediat tennent to the King. And like wise, gif onie man maries ane heretrix of waerde landes, and after her decease heraire is *Minor*, and of less aige: Neveithelesse the landes fallis nocht in the superiours handes, bereasoun of waerde. Bot the husband sulde bruike and posses the samin induring his lifetime, be reason of the curtesie of this Realme. Because the richt of the waerde pertaining to the superiour, ceasis quhair the curtesie belangand to the husband hes place. *Penult. Februar.* an thousand, five hundredth, fiftie three: *George Gorthie* contrair the Lorde *Methven*. And zit the husbande being onelie life-rentare may nocht sell or annaillie heretablie the faides Landes, or onie parte theirow, in hurte and prejudice of the richteous aire. *leg. burg. c. 44.*

Clamare.

DISCLAMATION is vfed in the law, and praetick of this realme *Clamare idem est quod dicere affirmare*: As *clamare aliquod tenementum, aut aliquam terram esse suam*, to claime and affirme onie heritage or lands to be his awin. *Clamare aliquem dominum* to clame, avow, and affirme onie man to be his maister or superior, to quhom he aucht service, & of quho he haldis his lands in chiefe. *Disclamare* is to disclaime, disavow or denie as to denie ane vther to be his superiour, as quhen the superiour affirmis the lands to be halden of him, and the vassall denies the samin. In the quhilk case gif the contrar be fund of veritie, the vassall tines and amittis all the Landes quhilk he haldes of that superiour, & the propertie theirow returnis to the superiour, *de maritag. c. 18. Stat. Ro. 3. c. primo. 20.* Quhair the auld forme and maner of disclamination is declared. Maiour, disclamination is quhen the persouer claimes lands pertainand to him, and haldin of an superior: and the defendour affirmis the samin to be haldin of ane

De verborum significatione.

ane vther over lord. *lib. 1. c. solet. 26. lib. 3. c. tali. 18.* To the decision of the quhilk controversie, baith the saids alleadged over-lordes suld be called. And he quha failzie to proove himselve superiour, fall neuer be heard to claime the samin afterward, and the vassall being convict, tynis the land and propertie theirow, quhilk is adjudged to him, quha was wrangoullie denied be the superiour, & is found to haue richt theirow, *lib. 1. c. si vero 28.* Last the vassall tynis & forfealtis his landes, gif he wrangoullie denies his fev, or the condition theirow, that is the service aucht their fore, conforme to the French proverbe *qui sief denie sief, speri*. The reason is because the vassall denyand his halding, his maister or landes, contemnis and dishonours his maister. Bot it is necessar that the vassall or tennent denie fraudfully, that is wittinglie, *quia vassallus feudum quod sciens abnegavit, amittit: ignorantem vero subvenitur. Quod si dubitet, dubitanter respondere potest. Cuiacius. lib. 4. de feud tit. 3. c. 21. & Tit. 39. de pona negantis feudum.*

DISRATIONARE, from the French word *Disrener*. In Latin *Duellare, Duello contendere*, to fight in singular battell, and commonlie is vnderstand of the appealer, or persouer, *quia cum vadiatur duellum prouocans dat vadium disrationandi, & defendens vadium defendendi*. Sum-time *disrationare* is maie generallie taken, for to tynie onie thing in judgement be forme of proces, concord or aggriance. *lib. 3. c. cum itaque. 14. lib. 2. c. si eri autem. 67. quon. attach. c. 4.* Item it signifies to proove onie thing conforme to the consideratione of the Courte be battell, write, or be ane assise of the cuntrie. *lib. 1. Cap. si vero. 18. Cap. si vero Dominus. 29. Iter camer. Cap. apparens. 24.* Or be the aith of the partie, and certaine conjurations quhilkis are called *Sacramentales*, Quha sum-time maa, and sum-time, fewer in number makis faith and swearis in onie cause with ane partie haueand entreffe in persute or defence. *Cuia, lib. 1. de feud. And in the Lawes of this Realme, dicitur aliquis Iurare cum tertia, septima, Duodecima manu.* Quhen three, seven or twelue persones swearis with him. Quhilk in the Cannon Lawe is called *Purgatio Canonica*.

Sacramentales.

DISSASINA, *Sasina* is ane French worde, and signifies possession, to the quhilk *Dissasina* is contrare, and signifies dispossession, quhair ane person beand in possession of onie Landes, as mailler to his maister, or haueand onie vther title theirow in write, is wrangoullie ejected and put fra the samin, without onie warning or ordour of Law. Like-wise *Dissasina* is called spuilzie, quhen onie person is spuilzied violentlie & wrangoullie of moveable gudes and gear, pertaining to him, as his awin proper gudes: and being in his possession certain daies or monethes. For ejection concernis Landes and gudes inmoveable: and spuilzie is of cattell, and gudes moveable, and baith the ane and the vther is comprehended vnder *Dissasina. aff. reg. Da Cap. Statutum fuit. 31.* Quhilk is conforme to the English Lawes. *Henric. 3. Stat.*

Ejection Spuilzie.

De verborum significatione.

de Mertoun. c. 3. and to the lawes of France. *Molins in stil. cur. Parl. part. 1. c. 18.* And be the auld law of this realm, *Disparitor*, or committer of spuilzie or ejection, being convict theirow suld pay anevnlaw of ten pundis to the King. *Stat. Alex. c. Stat. 7.* And may be accused criminallie before the Iustice and his deputes. Ia. 5. p. 4. c. 33.

DISPARAGIVM, like as *parage* is called equalitie, from the latin word *paritas*. 'Sa *disparagium* is called inequality in bluid, honour, dignitie, or vtherwaies, from the word *disparitas*, leg. *Forest. c. de hereditibus. 64. cum seq.*

DISSOLUTION, an latin word, quhilk signifies lowfing of that thing quhilk was bound of before. And like as lowfing is contrar to binding: Swa dissolution is contrar to annexation, speciallie in the King's propertie, annexed and vnited to the Crown. For the samin being dissolved is maid lowfe, and free of that nature and qualitie, that it may bee annalied and disposed to sik as pleasis his Hienes, with certaine conditions and provisons. Dissolution of the propertie is maid to the effect the samin maie be fauld and annalied be the King, and therefore can nocht be lauchfully maid in his minoritie. Ia. 6. p. 14. c. 203. For like as the King being *Minor* may nocht sel his propertie: evin sa at that time, it is nocht lesum to him to doe onie thing that maie beane preparative to the alienation theirow. And likewise gif onie man haveand heritable infestment or vther richt to onie part of the Kings annexed propertie, for the crime of treason, is forefalded: and thereafter be the thre Estaites in Parliament is restored in the minoritie and lesse aige of ane King. Albeit this restitution may rehale his person: Zit is na sufficient richt to repone or restore him againe to his richt of the said annexed propertie. For like as an dissolution maid in the Kings minoritie is null: Evn swa, ane restitution maid in his les aige, concerning his annexed propertie is of nane avail: for the dissolution, and restitution are baith of ane nature, and producis ane effect, hurtfull and prejudiciall to the King, in *Regist. 18, Julij. 1597.* The Kingis advocate contrar *Alexander, Lorde Hume*, and tennentes of *Dumbar*. And sa it is manifest that ane dissolution of the annexed propertie suld be maid be ane King in his majoritie, in an Parliament with consent of the thre Estaites, Ia. 6. p. 15. c. 233. Bot an annexation may be maid in Parliament in the Kings minoritie, *quia rex eodem modo quo quilibet minor conditionem suam potest meliorem facere.* It is lesum to the King after the dissolution, to set his proper lands annexed, or vnannexed in fewferme to onie of his lieges, and speciallie to the kindlie tennentes and possessours theirow, as he pleasis. Dissolution induris only for the lifetime of the King, maker and author theirow, and quhen he deceasis, the same ceasis and endis. And therefore the samin beand temporal, and personall, his aires and successours may not set onie annexed landes in fewferme, be vertew of onie dissolution, maid be his Father or predecessour. Albeit dissolution be temporal, as said is, zit the Landes set and disposed her etablie after the dissolution, remainis perpetuallie with

The King
in his mi-
noritie,
maie
nocht dis-
solve his
propertie

Quhen
and be
quhome
dissolution
suld be
maid.

To quhom
may the
King set
his proper-
tie
Dissolution
is temporal

De verborum significatione.

with them and their aires, to quhom they ar disposed, after the forme of the conditiones, contained in their infestmentes. And swa the alienation and disposition lauchfullie maid, is perpetuall, & *transitoria ad heredes*. Albeit the dissolution be Temporal and personall, as said is. The dissolution expyrand and ceasand, be the decease of the author thereof, as said is: All the landes annexed of before, returnis againe to the forme & nature of the annexation; Swa that the same may not be set in fewferme, nor annalied be the King, succeedand to him, quha maid the dissolution; vntill ane new lauchfull dissolution be maid thereof be him selfe. In respect that all annexationes of their awin nature, ar perpetuall; and albe it, they may be interrupted and stayed, for ane certaine space, beane dissolution; zit after the ende thereof, the annexation dois quicken, revive, and walken, as it were, our of sleep, and returnis to the awin perpetuall nature, and swa remainis vntill ane new dissolution be maid.

The King, after ane dissolution, may set his landes in fewferme allanerie, and not in blench, or *nomine albe firma*, nor be service of warde & reliefe, or vtherwaies, bot in fewferme, as said is. Ia. 6. par. 15. ca. 234.

The King may not set his landes in fewferme, except the samin bee done with expresse augmentation of his rentall: That is, his gressumes, customes, burrow-mailes, ferries, martes, mutton, pultrie, avarage, cariage, or ony vther dewties & service. Quhilk is not only manifest in the alienation of the annexed propertie: Bot likewise suld be observed and kept in the disposition of the vnannexed propertie. For it is certaine, that the Kingis of this realme, the time of their Coronation, makis faith solemnelie, that they sal not annalie, transfer, nor dispoone the richt and rents of the crown: As it is statute be *David 2.6. No. 1357.* & sa as the K. may not sel the richt of the crowne, na mair may he annalie the rentes thereof, quhairow of the vnannexed propertie is ane parte. Mair-over, albe it ane dissolution is not necessar in the alienation of the vnannexed propertie (because that quhilk is not bound, requiris na lowfing) zit in al dissolutions maid be kings of this realm, expresse mention is maid baith of the annexed & vnannexed propertie, to be set in fewferme, for augmentatiō of the K. rental, quhairby it is certaine, that the an, als weil as the vther, being set in fewferme, canot be disposed in diminution of the rental. And cōcerning that qualitie & cōdition, expreed in the form of all dissolutions; the vnannexed, & annexed propertie, ar of like nature: *Et in hoc casu pari iure censentur*: Sa that neither the ane, nor the vther, may be disposed, with diminution of the rental, vtherwise the mention of the vnannexed propertie, in the actis maid anent dissolution, were superfluous. Thir ar the substantiall conditiones, expreed in the dissolutions of the propertie, maid be the Kings of this realme, quhairow, gif ony ane be not observed, the alienation & disposition maid after the dissolution, is null, & of nane avail: Ia. 6. p. 15. c. 236. By & attour, the forme of dissolution abone expreed; it is leasum to the King, with advise, deliverance & decreet of the hail parliament, and for great, scand and reasonable cau-

Dispositi-
on of landes
dissolved,
is perpetu-
all.

The dissolu-
tion be-
ing expi-
red, the an-
nexation
beginnis
to quick-
en, and re-
vive.

The King
may set his
propertie
in few-
ferme allan-
nerlie.

The King's
rentall of
the propertie,
baith
vnannexed
and annex-
ed, suld be
augmen-
ted.

The annex-
ed propertie,
may be
annalied
be the thre
Estaites.

L

cau-

De verborum significatione.

causes, concerning the weil fare of the realme: First advised and digested, lie considered be the three estaites: To sell, annalic, & dispoñe the kings annexed propertie. *la. 2. par. 11. cap. 41. la. 5. p. 6. c. 84.*

Maritagi-
um
D O S hestwa significationes, First it signifies that quhilk is given to the husband, with the wife, be reason & in contemplation of mariage. In the civill law is called *Dos*, in our municipall law, *Maritagium*, Tocher gud. *Lib. 2. c. Dos autem. 19.* Secondly, *Dos* is taken for that gift & disposition of lands & tenements, quhilkane man givis to his wife, quhen he maries her at the Kirk dure, or in the face of the halie kirk: Quhilk aucht & suld be, ane reasonable thrid part of all and haill, the tenement of land, quhilk the man or husband hesthe time of the desponsation or mariage. *lib. 2. c. Dos autem. 19. c. 20. lib. 4. cap. quatuor. 49. Stat. Alex. c. 8. de Iudic. 163.* And is given in recompensation of the tocher, payed be her, or in her name, to her husband: And therefore is called *antidos*: *Cornel. Tacit. callis dos* that quhilk the husband givis to the wife, & not that quhilk the wife gives to the husband. *Livius Lib. 3. callis it munus nuptiale.* In France it is called *Dotalitiū*, or *doarium*. It is given to the woman, to the effect, that after the decease of her husband, she may susteine & nurish hir selfe, in-
Dotaliti-
um.
Doarium.
Vitalitia
Morgan-
tium
during all the daies of her life-time: Therefore it is called *Vitalitia*. *Morganaticum* from the Dutch word *Morgengab*, morning gift, is ane kinde of dowry, in the second signification, & signifies the gift of guds moveable or immoveable, quhilk the husband givis to his wife, the day or morning after the mariage, and commonly is vsed in the Dutch lawes, in *speculo Saxónico*, & *Landrecht*, in Greek *εποβόλον* in latine *matrimoniale donum*. *Cuiacius li. 4. defend*

D V E L L V M, *duorum bellum vel plurium*, singular battell, or combat: *vide Campiones*, Noble persones, or landed men, may fight in proper person, or be vthers in their name, quha ar called *Campiones*, in Latine, *duellatores*, Speciallie, sik as ar their awin bondmen, or tennentes, quha in bodie & guds ar vnder their maisters protection & maintenance; And therefore suld hazard and employ the samin in the defense of their maisters honour, and ætiones. Bot husband-men, ignoble, and vnlanded men, suld fight personallie, and nocht be *Campiones*. *Aff. reg. Cap. Statutum fuit per regem. 32.*

Bot all men that ar decreeped, lamed, mutilat, or passed the age of threescore zeires, ar excused from singular battell. *Lib. 4. c. 4. leg. Burg. c. 51 burgenfis. 24.*

And siklike, religious persones, clerks, & weemen may not be compelled to fight. *Lib. 4. c. 3. stat. Alex. c. 5. Aff. reg. Dav. cap. statuit dominus 38.* It is in free will and election of the defender, to fight, or passe to the knowledge of ane Assise. *Lib. 4. Cap. 2. Quia defendens debet primo eligere deinde vadare, & postea iurare. Lib. 4. ca. lex statuit 46.*

The appealer or prover, suld sweare that his quarrell is iust, & the defender sweare the contrair, avowand the equitie of his cause. *Iter. camer. c. Comparantibus 29.* It is not lecesum to ony person to provok ane vther to bat-

De verborum significatione.

battel, or being provoked to feght without licence of the King, vther waies, baith the appealer, & the defender, tinis & foresaltis al their guds moveable, & immoveable. *de Iudic. c. 87.* Because na Barrone hes power of singular battell, or of probation be water, or Irone, except the Kingis Schireff, or his deputes, be present to see justice done. *Stat. Alex. c. 3. pratered 32.* Mair over, gif ony man havand the Kings licence, happenis to be convicted be battell, or of breaking of the Kings peace, he sall pay to the King xxij. Kye. & tres cathorios, vel pro quolibet cathorio, novem vaccas. *Stat. Alex. c. apud. 28.* Quhilk paine & vnlaw, appearis to be ordained, to stay sik vngodlie strife & debate, for the law of singular combat is vngodlie, & suld not be vsed amang Christians, albeit the same was permitted & vsed be the Longobardes, in civil and criminal causes. *Alciat. de sing. certam. Cuiac in Lib. feudorum.* Quhilk is conforme to the Canon law. *cap. 1. 2. de purgat. vulgar.*

D Y O V R, Dyvour, vtherwaies Bair-man, quha being involued & drowned in debtes, and not able to pay or satisfie the same: For eschewing of prison and vther paines, makis cession and assignation of all his gudes and geare, in favoures of his creditoures: And dois his devour and dewtie to them, proclaimand himselfe Bair-man, and indigent, and becummand debt-bound to them, of all that he hes. *Leg. Burg. ca. Bairman. 144.* In Latine, *cedere bonis*, quhilk is most comintonlie vsed amangst merchandes, to make *Bank-rott*, *Bankrupt*, or *Bankrumpue*. Because the doer thereof, as it were breakis his bank, stall, or seate, quhair he vsed his traffique of before. *de Iudic. c. Bairman 46.* Be the civill law, sik cession of gudes and geare may be maid iudiciallie, or furth of judgement, be him quha is present, or absent, be writ or epistle, or be ane mid person, called *Nuntius*. *l. vlt. de cess. bonor.* Bot to the effect that debtoures suld be feared to deceiue their creditoures, and suld the mair willinglie paye their debtes in sundrie places, diverse shameful formes of dyuourie, ar vsed & observed: for sum-times the debtour naked, sittis vpon ane cauld stane, in presence of the people. *Alciatus lib. 3. Parerg. c. 47.* Sum-times his hinder partes, or hippes ar dashed to ane stane. *Guido Papa. decis. 343.* Or in publick place, bair headed, his belt is cutted, quhairby he is proclaimed indigent of geare and credite: And therefore may passe and repasse quhair he pleasis, without ony trouble of his Creditoures. *Iuxta illud Horatii, Epistola secunda 28. Ibit eo quod vis, qui zonam perdidit.* Conforme to the quhilk, in this realme, he is said ro haue his belt cutted *Zonam perdere*, quha hes na gold, silver, guds nor gear. For in auld times, like as it is zit vsed in diverse places, ilk man caried his silver & his gold in his belt, either in ane purse hanging at the end thereof, or sewed and inclosed within the samin. *Sueton. in Vitellio. cap. 16. Quia zona aureorum plena se circumdedit. Et Cracchus apud Gellium. Lib. 15. ca. 12. Zonas (inquit) quas plenas argenti extuli, eas ex provincia inanes retuli.* And in the gent chap. of Mat. and ninth verse: CHRIST commandis his Apostles nocht to possesse Golde, Silver, or Money, in their Girdles. Mair-

De verborum significatione.

over, the forme of the aith quhilk be the Lawes of this Realme, the Dyvour suld make, conteinis that he fall sweare, that he hes nocht in free geare, aboue fve shillinges, foure pennies: Fra the quhilk cummis ane commoun speach dailie vfed amangst puir and indigent persons, quha hes nocht in gudes nor geare, the value of fve shillinges and ane Plack. In the Law of Normandie. *Lib. 2. c. 10. Lib. 12. c. 21.* Dyvoures ar called *Banqueroutieris*. And if they do the samin fraudfullie, they may beerpunished to the death:

E.

ENACH. *Lib. 4. c. statuit dominus 64.* Ane mendis or satisfaction for ane fault, crime, or trespasse: As gif the maister lyis with the wife of his bondman, or slaue: The servand therefore salbe put to libertie, and fall receiue na vther *Enach*, mendis, or satisfaction, for the violation or defowling of his wife. *Lib. 2. c. pluribus 14.* Like as vtherwaies, *si vassallus, Cucurbitaverit dominum suum* That is, gif the vassall makis his maister ane Cuckold: That is, gif he hes carnall copulation with his maisters wife, he tinis and foresaltis his landes, *lib. 1. de Feud. Tit. quib. mod. Fendum amittatur, § 2. Corbita*, in the Lawes of the *Longobardes*, is *Adulterie*: And *Cucurbita* signifies ane Cuckold, quha is wife is ane huire: quha vtherwaies is called, *arga. Gl. in. D. § 2.* From the Greeke, *αργος* *desidiosus* otiosus, quha sittis idle, and payis nocht his debt, bot sufferis ane vther to woork his labour. *Alciatus in lib. de singulari certam. c. 32. & in lib. problematum; Horatium sequitur Cucullum vocat.*

Corbita
Cucurbita
Arga
αργος

ENCHESONE, the cause, occasion, or reason, quhairfore ony thing is done: As quhen we say, that ane is condemned for Enchesone of theft: That is be occasion or be reason of theft, committed be him. *Med. ten. cur. c. 21.* Or that the vassall is in the keiping of his Querlorde, be Encheson of warde. *quoniam attach. Cap. 51.* And ane action or pley, may be advocate fra the Schireffe Courtes, to the Kingis Courte, for mony causes. *Lib. 2. c. Dos autem 19.* Quhilk in findrie English buikes, is said for mony Enchesones. And *Ed. 1. King of England. Westm. 1. c. 6.* Statutis and ordainis, that na-man salbe ane merchand, without ane resonable Enchesone.

ENEYA, *Pars hereditatis*, ane French worde: for the first, chiefe, and principall parte of the heritage, *Leg. Forest. c. si. Hereditas. 96.* For in the French tounge, and speciallie in the Law of Normandie, the eldest and first begotten sonne, is called *l'aisne*. And in the Laws of England *Hen. 3. in Stat. Marlebrig. Cap. 9.* It is called *Enitia pars hereditatis*. And likewise in ane vther place of the lawes of the samin King, *Ius esnicia*, quhilk in this Realme is the law of birth richt: In Latine, *iur primo geniturae, de quo Tiraquellus copiose scripsit.* Be the auld civill Law of this realme, there is na richt of succession in the richt line ascendent. And therefore the father suc-

De iure
successionis

De verborum significatione.

succedis not as aire to his sonne: Except speciall provision be maid in the contrar. *Quia provisio hominis tollit provisionem legis. Et pacta conventa, successione legem contrahentibus prescribunt.* Swa all succession, is either in the richt line descendent, or in the line collateral.

De linea recta descendentium.

They quha ar of the richt line descendent, suld be preferred to all vthers: As the sonne, the dauchter, the nepuoy, the neipce, & sa descēdand in infinitum: obserueand & keipand alwaies the prerogative of the degree: For the *Prior* degree, excludis the *posterior* from al comoditie & title of successio: As the son in the first degree, excludis the nepuoy in the secōd; & the nepuoy excludis the pronepuoy in the thrid degree.

Gif ony man havand landes and heretage deceasis, leavand ane sonne allanerlie behinde him, without all distinction, the sonne succedis to all and haill the heretage; quhilk is in Latine, *succedere in assens, vel ex assens.* *lib. 2. c. cum quis. 29.*

Gif ony man deceasis, and leavis behinde him maa sonnes nor ane, either he is *soccommannus*, and haldis not his landes be service of warde: and then his heretage is divided amangst al his sonnes: or he is *Miles*, and haldis his landes *per servitium militare*, be service of warde and reliefe. In the quhilk case, the eldest sonne succedis in the haill landes; quhilk heretablie pertained to his father. *Lib. 2. c. Si quis plures 30.* Bot this distinction is not observed be the practique of this realme. Be the quhilk the eldest sonne succedis to his father, *ex assens*, that is, to all and haill his fathers heretage and landes; Albeit, findrie vther Nationes hes diverse lawes hereanent: Like as be the law of God, in the auld Testament, amangst the the Iewes, the first borne sonne, after the decease of his father, receivis double portion. *Deu. 21. 17.* That is (as some interpretis) als meikle as twa of his brether. *Iosephus de Antiq. Iud. li. 4. c. 8.* writtis that the eldest sonne, bereason of his birth richt, suld haue *duplicem facultatem paternarum partem*, the double parte of his fathers gudes.

Gif ane man had diverse wiues, quhair of ane is ane heretrix, havand landes perteinand to her heretablie; & hes procreat vpon ilkane of them bairnes, maill, or femail, the sonne gotten vpon her, succedis to her heretage. *lib. 2. c. Si autem. 31.* For as generallie the sonne succedis to the father; Swa in this case, the sonne suld succede to his mother. *Leg. Forest. c. Si quis habuerit 26. de Iudic. c. 24.* Conforme to the commoun rule of the law. *Paterna paternis, materna maternis.*

Quhen ony man deceasis, leavand ane son, & dauchters ane or maa; The son allanerlie succedis to al his fathers heretage. *Li. 2. c. Maritus. 32.* As gif ane man hes procreat with his first wife, dauchter, ane, or maa, and after her decease, begettis ane sonne, vpon ane vther wife, the sonne onelie succedis to him. *Leg. Forest. c. Si quis habuerit 26.* Because the Son borne of the first, second, or last wife, succedis as vniverfall aire to his father, & excludis al his sisters. *De iudic. c. Item nota. 115.* As it is written in some buikes, *famina non succedit cum masculo.*

De filiis
versatibus
veneribus

De filiis
et
filia vel
libus

De verborum significatione.

De filia. Failzieing sonnes and bairnes, lauchfullie gotten of their bodies, the daughter succedis. For gif the defunct hes ane daughter allanerlie, shee suld succede to all her Fathers heritage, in the forme and maner, as the sonne succedis to his father. *De indic. Cap. Item nota. 115. Lib. 2. cap. Hare. 117. 28.*

De filiabus. ITEM, Gif ane man deceasis, leavand behind him maa daughters nor ane, gotten vpon ane mother, his heritage suld hee divided equallie amangst them, in als mony partes or portions, as there is daughters to succede: Quhilk forme of succession, is called, *successio in capita, cum scilicet hereditas ad eundem, dividitur in tot partes quot sunt capita, vel persone succedentes.* Bot the eldest daughter, suld haue the principall messuage, with out division, bee reason of her dignitie, and birth richt, and satisfaction therefore suld be maid to the remanent daughters. *Lib. 2. cap. Si autem 31. De indic. c. Item. Nota. 115.* Togidder with the superioritie of the portions, pertaining to all her zounger sisters, to quhome their husbandes suld make homage, acknowledging her to be their superiour, and their aires suld giue the relieue of their landes, quhen it fall happen. *Lib. 2. c. Maritus. 32.*

De filiabus diuersarum vtrorum. Gif ane man haue sindrie wiues, and of ilk wife, ane or maa daughters: All his daughters succedis to him in his heritage equallie, *Per capita,* as gif they were all gotten vpon ane Mother. *Lib. 2. c. porro contingit. 33.*

ITEM, Gif maa dochters nor ane, ar procreat vpon sindrie wiues, of the quhilk wiues, ane is ane heretrix: Swa that the heretage cummis be her, and not be her husband: The daughter, or daughters gotten vpon her, succedis to her heritage, and excludis all the rest of the daughters theirfra. *Leg. Forest. c. Si quis habuerit. 26. De Ind. ca. 24.*

De liberis burgensibus ex diuersis vtroribus. Be the Lawes of the Burrowes, gif ane Burgesse haue maa wiues nor ane, and bairnes procreat of ilk ane of them: All the lands pertaining to him, be reason of heretage, or conquest, in the time of his first wife, suld pertaine to the bairne gotten with her, in the first mariage: And all the landes conquest be him, the time of his second wife, fall pertaine to the bairne gotten with her, in the second mariage. *Leg. burg. c. Si Burgensis. 26.*

De secundis gradibus nepotum vel nepotum. Failzieing sonnes and daughters, quhilkis ar nearest and lauchfull aires, the richt of succession pertainis to the Nepuoy or Neipce, gotten vpon the Sonne, or the daughter. *Quia deficientibus proximioribus heredibus, nempe filio vel filia vocantur, heredes remotiores, ut Nepos vel Neptis ex filio, vel filia, recta linea descendens. l. 2. c. Heredum. 28.*

De nepote uno vel pluribus ex filio. Gif ony man deceasis, leavand behind him ane Nepuoy or Nepuoyes, ane or maa, procreat be his sonne already deceased. (*Ex filio premortuo*) they suld succede to him in the samin maner, as is abone said, of the succession of sonnes: That is, gif there be ane Nepuoy allanerlie, he is onelie vniversal successeur: And gif there be maa Nepuoyes, the eldest allanerlie succedis to all. *l. 2. c. Porro. 33.*

De nepote ex filio. Gif ony man deceasis, leavand behind him ane Nepuoy, begotten be his eldest sonne, already deceased, And ane second sonne, quha is

fa-

De verborum significatione.

father brother to the said Nepuoy: The second sonne is excluded from all richt and commoditie of succession to his father. Because the Nepuoy lauchfully begotten be the eldest sonne representis the persone of his fatlier, & therefore *iure representationis* succedis in his fathers richt: & consequentlie is onely aire to his Gud-schir: like as his father would haue bene, gif he had not deceased before him. *Lib. 2. c. Porro. 33.*

The like is to be vnderstood of ane Neipce, or Neipces, ane or maa, begotten be the eldest sonne already deceased, quha suld be preferred to their father brother, anent the succession of their Gud-schirs heritage: Except speciall provision of tailzie be maid in favoures of the aires maill. *Quo casu heredes masculi succedunt, non dispositione iuris, sed ex provisione hominis.*

ITEM, Ane Neipce or maa, of ane sonne or daughter, succedis to their Gud-schir or Guddame, in the samin maner as their father or mother suld haue done, gif they were zit living. *Lib. 2. c. Porro 33.* And in this case it is to be observed, that quhen maa Neipces nor ane, borne of sindrie Mothers succedis, that the heritage suld be divided *ratione stirpis*, in as mony partes, as there is stockes, of quhom the saidis Neipces descendis and proceedis: As for example, gif there be ane Neipce be gotten vpon ane daughter, & twa Neipces begotten vpon ane vther daughter, they all three suld succede to their Gud-schir, bot the heritage suld not be divided in three partes, *ratione capitum*, bot in twa partes allanerlie, *ratione stirpium*: That is, of the twa sisters quhilkis ar the twa stockes, of quhom the saidis Neipces descendis: And swa the ane Neipce, gotten vpon the ane sister, suld haue the ane halfe: and the vther twa, the vther halfe allanerlie of the heritage: Quhilk forme of succession, is called *successio in stirpes*, quhen the bairnes being maa in number, succedis to als meikle allanerlie, as wuld haue pertained to their mother, gif schoe had bene living.

De linea obliqua collateralium.

QVHEN The succession failzieis in the richt line descendit, then they quha ar of the side line, or collateral suld succede: as quhen the sonnes and daughters, and all persones descendand of them lineallie, failzieis: Swa that there is name of them to succede: Then the Brother of him quha is deceased, suld succede to him. *Lib. 2. c. Deficientibus. 34. Illi enim qui ex linea recta descendunt semper praeferuntur illis qui ex transversa linea proveniunt, & illis deficientibus, hi ad successionem admitti debent. lib. 2. c. Porro. 33.*

The heretage, and all moveable gudes pertaining to the eldest brother, deceased without lauchfull aires of his bodie, pertainis to the second brother, immediatlie nearest to him, *Quia hereditas gradatim descendit ad immediate proximum. lib. 2. c. Si ergo. 23. c. Praterea 25. Leg. Burg. c. sciendum. 150.*

De verborum significatione.

De fratre
nati mini-
mori.

Gif there be three brether german, borne of ane father, and ane mother, And the second brother deceasis without aires, procreat lauchfullie of his bodie: His elder brother succeedis to him in his landes, and immoveable gudes. And the younger or thrid brother is alluterlie excluded therefra. *Quia conquestus gradatim ascendit. lib. 4. cap. Si tres 50. lib. 2. Cap. Præterea 25.* Bot be the practique of this realme, the aire-schip of the moveable gudes, perteinig to the second brother, the time of his decease, descendis and perteinis to the younger, and thrid brother, as lauchfull aire: To quhome likewise perteinis the lauchfull tutorie of his said second brothers sonne, quhen it fall happen to fall.

De fratre
nati mini-
ma.

Gif there be maa brether nor ane, three, or maa in number, and the youngest of all happen to decease without lauchfull aires, gotten of his bodie. His immediat elder brother succeedis to him as lauchfull aire. Because conquest ascendis fra ane degree to ane vther immediatlie to the first degree. *Stat. Rob. 3. Cap. 3. Stat. Wilhelm. Cap. Notandum. 24.*

De sorori-
bus

Failziand the brether, and their aires, gotten of their bodies, the Sister, or sisters, gif there be maa nor ane, succeedis in *Capita*, to their brother, in the famin maner, as the daughters succeedis to their father. *Lib. 2. c. deficientibus 34. de Iudic. cap. Si quis 24.*

De sorori-
bus ex di-
versis ma-
tribus:

Gif the brother deceasis without aires gotten of his bodie, his full sister gotten with him be ane father, and of ane mother (quhilk is called *soror germana ex eodem utroque parente*) succeedis to all his heritage, and excludis all vther sisters, gif ony be gotten be his father, vpon ane vther wife, quhilk in Latine is called *soror consanguinea*, *Lib. quart. Capite Si homo 48.*

De sorori-
bus libe-
ris

After the decease of the sisters, their bairnes succeedis in *stirpes*, in the famin maner, as their mothers nicht haue done, keipand alwaies the distinction betuixt the maill and femaill, be the quhilk the sister sonne excludis the sister daughter. *Lib. 2. cap. deficientibus 34. de Iudic. c. Si quis 24. Quia (ut dictum est) mulier nunquam cum masculo partem capit in hereditate aliqua.*

De patruo
et matre
liberis

Failzieing the sister bairnes, and the aires gotten of their bodies, The father brother (*Avinculus, hoc est patruus*) And his bairnes descendand of him, succeedis. *Lib. 2. Cap. Deficientibus 34. De Iudic. Cap. Si quis 24.*

De amita
et matre
liberis

Failzieing the father brother, and the aires lauchfullie gotten of his bodie: The father sister (*Matertera, hoc est Amita*) and her bairnes suld succede, conforme to the foresaide distinction, betuixt maill and femaill. *Lib. 2. Capite Deficientibus. trigesim. quart. de Iudicibus. Capite. Si quis 24.* Be the quhilk distinction, the father sisters sonne, excludis the fathers sister daughter.

De iure ac
crescendi

It is to be diligentlie observed, quhen maa persons nor ane (sik as mony sisters or neipces) succeedis, & it happen ony ane of them to decease with

De verborum significatione.

without aires lauchfullie gotten of their awin bodies: the portion and part of the heretage quhilk pertained to the defunct, accrescis to al them that remainis on life, and suld be devidid amangis them all. *Lib. 2. c. Maritus. 32. de Iudic. Cap. Item nota. 115.*

Last of all, gif ony man gotten and borne in lauchfull marriage, deceasis without ane lauchfull aire, and it cannot be knawin, quha sulde succede to him: Or gif it be in question or doubt, quha is his richteous aire: Be the auld law of this realme, the King, or ony vther superiour, reteined the landes in his awin handes, vntill the pley was ended, in favoures of the just aire: Or vntill it was knawin, quha was the lauchfull aire. *Lib. 2. Cap. ult. 53.* Bot now, gif there be nalauchfull aire, to enter to the heritage: the King, as *ultimus heres*, recognoscis, & reteinis the famin as escheitte, *ad perpetuam remanentiam*, and may sell and dispone thereupon, at his pleasure, as his awin proper landes and heritage. *vide Bastardus.*

ERECTARE *Effonia ab aliquo facta*, to reckon, esteeme, or judge Effonzies, or excusationes, maid be ony person. *Quoniam attach. Cap. de brevibus 31.*

ESSONIVM, ane Effoinzie or excusation. *Lib. 1. Cap. 10. Jam. 2. 13. Octob. p. 11. c. 55. Jam. 1. par. 9. c. 114.* From the French worde *Exoin*, quhairof mention is maid in the Lawes of *Normandie. Lib. 9. Cap. 10.* And be *Molineus in Stil. suprem. cur. part. 1. Cap. 6. de contumacia*, And be *D. Tho. Smith. lib. 2. Cap. 14.* of the commoun weill of England.

ESTOVERIVM, *Iter. Camer. Cap. Si quis captus 25. de Iudic. Cap. 156.* Sustentation, Nurishment: for the superiour, during the time of the warde, suld susteine the aire honorable, conforme to the quantitie of the heretage, *Lib. 2. c. Plenam 42. Jam. 4. p. 33. cap. 25.* Quhilk is conforme to the *English Law in Magna Carta*, quhair it is statute, That the wardar fall giue the aire his reasonable Estouerie, Anno 9, Hen. 3, c. 12. quhair also it is written, that the relict of ony man, fall haue his reasonable estoverium, of the commoun gudes of her husbände that is deceased, vntill her dowrie be payed to her, *Vid. Quarentena viduarum.*

EVE *Et Treve, dicuntur nativi de avo & triavo, quorum maiores servitutum servierunt*: That is, sik slaves or servandes, quhais father, gud-schir, grand-schir, and for-bears, he's bene servandes to ony man, and his predecessoures. *Quoniam attach. Ca. de brevibus 31. vid. Bondagium.*

EXITVS *Terre*, The rentes, fruites, and profites of the land *Lib. 2. Cap. Si quis liberum 24. lib. 3. c. cum autem 6. quoniam attach. Cap. secus, 28. leg. Forest. c. Probata 87. Exitus insularia*, The profite or commodities of the justice aire, *Iter iustic. c. 3. 4. Exitus curia*, the comoditie & profite of the court, sikas vnlawes and summes of money, payed bethem quha ar amerciat, or convict of ony crime, or comes in will therefore, as is manifest be the forme of the precept, direct be the Chalmerlane, to the Schireffe, to take vp, and intromet with *exitus cameraria*, or the profites of the Chalmerlane aire. *Exitus hereditatis de actorn. Cap. 1.* is called the fruites

De verborum significatione.

fruites, rentes, profites, and emolumentes of the heretage, quhilk in the English law is called the issues of the heritage. *Mag. Cart. Anno 51. Hen. 3. cap. 17.* And siklike *Exitus tenementi*, signifies the mailles and dewties thereof, *Quoniam attach. c. Secus 29. Mod. ten. cur. c. 30.*

E X T E N T of landes, signifies the rentes, profites, and issues of the samin, quhair of there is twa kindes. The auld extent, and the new extent; For it appearis, that the rentall and valour of landes, hes bene taxed, and liquidat to ane certaine summe of silver, conforme to the profites and dewties, quhilk the landes payed at that time: Quhilk is called the auld and first extent, *tempore pacis*. Bot because the revenues & dewties of landes be progresse of time, did increffe and grow mair and mair: ane vther taxation and extent was maid in the time of peace, as the former extent, conforme to the profites augmented, as saidis; quhilk therefore is called the new, or second extent: And properlie is the verie availe that the land is worth, and givis the daye of serving of the brieve. *la. 3. p. 7. cap. 55.* To the quhilk, the worde *Nunc*, contained in the brieve and retour, suld be referred. For *tempore belli*, or in time of weire, there is na ordinar or certaine extent of landes, prescribed be ony law: for in sik time, either the landes ar wast, and ar not laboured; or the landes lordes servis in proper persone: And it is na reason, that they suld baith make personall service, and also pay extent or taxation. The lordes of the Session esteemis ane marke land, of auld extent, to foure marke land of new extent. *21. Mart. 1541.* Quhilk commounlie is called, the fourth mail; & suld be generallie vsed in retouring of landes to the Kingis Chancellarie, and vthers Chappelles: Albeit the samin is nocht perpetuallie observed. This distinction of the auld extent, and new extent, is necessar; For taxation of landes ar raised, conforme to the auld extent, and the reliefe of landes, is the retoured mail, according to the new extent. And sik-like, quhen landes ar fallen in the superiours handes, be reason of none-entres, he suld haue allanerlie, the retoured mail thereof, cōforme to the new extent. *vide* None-entres.

F.

F A L S I N G Of doomes, Reduſion of decreetes. *vide* *Sok.*

F A R A N D M A N. *De Iudic. c. 47.* Ane stranger or Pilgrimer, to quhome justice suld be done with all expedition; That his peregrination be not stayed or stopped. *Peregrini mercatores, dicuntur Farandman. lib. 4. c. 30. in lib. Sconens.*

F E L O N I A, signifies nocht onelie the falsed, or the contumacie of the vassall toward his over-lord, or of the over-lord toward his vassall. Bot also all and quhatsumeuier capitall crime in Latine, *ſcelus*, in Dutch, *Schelmrie*, or ony vther fault or trespassse. *Ier. Camer. c. Si quis captus 25. 48.*

De verborum significatione.

Stat. Alex. ca. 2. lib. 2. Cap. Vltim. 54. As to hurt or assailzie ony man, with sword, either edge, or vre. *la. 1. par. 6. c. 97.* Or ony lesle or private crime, as suspition of thieft, or quhatsumeuier fraud, deceate, commonlie vsed in contractes, pactiones, and vther conventiones. *Lib. 3. Cap. ex causa. 8. in fine. Cuia. lib. 1. de feud.* Writtis that felonie is not onelie rebellion: bot also perfidie, fraud, or ony kinde of fault. *perfidia, fraud, culpa, improbitas.*

F E O D V M, *Feodum*, signifies nocht (as some affirmis) life-rent, in Latine, *usus fructus*. For he that is saised in the life-rent of landes, is nocht vnderstand to be saised in *feodo*, or in the fee thereof; For the ane is different from the vther. *7. Mart. 1561.* The Countesse of *Crawfurd*, contrair the Earle of *Crawfurd*. And sik-like, *Feodum* signifies nocht the superiority of landes. For gif ony married man happenisto decease, vest & saised in the superiority of lads, his wife suld not haue ane terce, or thrid thereof.

Bot *Feodum* commonlie signifies, the heretable fee, and propertie of ony thing, and speciallie of lands, as is commonlie contained in brieues and retoures. *Cum aliquis dicitur obijſſe ſaiſitus & veſtitus, in terris, ut de feodo. Lib. 3. Cap. Cum vero 28. c. ſiquens. 33. Stat. Rob. 3. Cap. 1.* Of the quhilk landes, the iust thrid, and reasonable terce, will pertaine to the wife, fra the time of her husbandes decease, induring her lifetime. *vid. Quarentena viduar. Dom. feodi or feudi.* Is called the Lord of the ground, or land *la. 2. c. Vſurarij 53.* Quhair *feodum & hereditas*, ar baith ane, & *hereditas* damnatu propter crimen, dicitur pertinere ad dominum feodi, tanquam eſcheta. Item, si quis condemnatus fuerit de furto, res eius mobiles, & catalla ſolent vicecomiti remanere: Terram autem si quam habuerit, dominus feudi habebit. *Lib. 2. Ca. Foriſfactum 55.* He is called vtherwise, *Dominus fundi. Lib. 2. c. Deſuncto. 69.* Et *feodum idem eſt quod fundus. lib. 2. cap. Mutua. 68.* And *Actio feudi*, is ane action or pley of landes or heritage. *Lib. 1. Cap. 2. Feodum militare*, signifies landes halden be service of warde, and reliefe. *Lib. 2. Cap. Maritagium. 56.* *Feodum laicale*, Is landes pertainig to laicks and Temporall men. *lib. 2. Cap. 59.* As *feodum Eccleſiaſticum*, signifies, landes pertainig to the Kirk, or Kirk-men. *Lib. 3. Cap. ſequitur 31.* *Cum ſeqq.* Swa be the lawes of this realme, all gudes and gear ar moveable, and called *Catalla*: Or immoveable, and ar called *feodum, hereditas, terra, fundus, tenementum*. Fee or propertie, in latin, *dominium*, canot pertain to maa perſons nor anc. *Quia dominium vnius rei vno eodemque tempore non poteſt eſſe in ſolidum perſes plures.* And therefore, gif twa or maa perſons hap penis to be infeſt, conjunctlie in ony landes, the propertie pertainis to him in quhais aires & ſucceſſours, the infeſtment reſoluis. As for exāple, The husband and the wife ar infeſt in certeine landes, the langeſt liuer of them twa, & the aires gottē, or to be gottē betuixt thē, quhilk failzieing to his aires: In this caſe the husband is proprietar, & the wife is conjunct fear, or liſerētar. Bot gif it be ſaid (quhilks failzieing to her aires.) In that caſe the wife is proprietar, & the husband is conjunct feare or liſerētar. *Feodum*, is taken for the fee, wage, or ſtipend, given to ane ſervand for his ſervice, as in the Laws of K. *Mal. Mak. c. 4. de feod. offic. dom. reg.* quhilk vtherwaies is called *liberatio*, and livery. *vid. Liberatio.* Quhair anent the L. of ſecreit Councel, & checker, maid thir ordinances, as followes,

De verborum significatione.

At Edinburgh the thrid of June. 1597.

Prices of
the scales.

For sameikle as the Lords of his majesties secreit Council, and cheker, according to the speciall power and commission, given to them be his hieneffe, and his estaites, quhilks conveyned at *Dundie*, in the moneth of *May* last by past; Hes thought meere and convenient, to set downe the prices of his majesties signet, privie and great seales, of all infestmentes, & vther signatures, quhilks ordinarlie suld pas throw them: And of the chalmer fees, quhilks fall be received hereafter, fra his hieneffes lieges, in maner following: That is to say; That the signet, according to the auncient custome, salbe the rule to the privie and greate seales, in all infestmentes, and vthers signatures, quhilks ordinarlie suld pas throw the hail three: And that the privie seale, sal receiue na mair, nor the double of the price, set downe hereafter: for the signet, nor the greate seale, mair nor the quadruple of the said signettis price, vnder the paine of deprivation of the contraveeners, fra the office & seale, quhilke he possessis.

Prices set downe to the signet, for letters and vthers writtes, quhilks passis throw na vther seale.

First, for all sorts of summondes of quhat sum ever qualitic. —vj. shillings, viij. pennies.
For letters containeing, baith inhibition, and arreistment. xj. shil. viij. d.
For letters of law borrowes, and vther criminal letters; how mony persones soever be insert. —vj. shilling. viij. pen.
For ministers letters zeirlye raised —vj. shilling. viij. pen.
For all letters of horning of quhat sum ever qualitic, except letters of law borrowes, and criminal letters. —xxj. shilling. viij. d.
For ane relaxation. —vj. shillings. viij. pen.

And gif maa nor ane be insert, the like price of everie persone to bee relaxed, or compositione for them, at the discretion of the keiper of the signet.

Prices set downe to the signet, for signatoures passing the privie and great seales

For ane Legitimation. —vj. shillings. viij. pen.
For signatoures of infestmentes of landes, within fiue marke lande of auld extent. —vj. shilling. viij. pen.
For ane remission to ane person onelic —vj. shilling. viij. pen.
And gif it be to maa nor ane, als mony halfe markes, as they ar persones, or compositione therefore, at the discretion of the keiper of the signet.

For ane infestment of ane fiue mark land of auld extent —xij. shil. iij. d.
And for sa mony maa marke landes, as the signatoure containis proportionallie: Providing, that quhat ever be the extent of the landes, the famin not being stiled ane barronnie, in the infestment the

De verborum significatione.

the heichest price for the signet, fall not exceed — l. shillings

For ane or ma baronnies of land contained in the signatour, quhilks are nocht vnite in ane Earle-dome, nor Lord-schip, for the haile signatour — iij. poundes.

For halfe ane baronnie, swa stiled in the signatour — xxx. shillings

For ane Erl-dome, or ane Lord-schip of dignitie, having vote in parliament, including neuer sa monie baronnies. —vj. poundes

For ane comprising, quhilke exceedis nocht ane thousande markes. —vj. shillings viij. pennies

And if the same exceed that sum, to paye proportionally, providing that the heichest price exceed nocht — l. shillings

For ane bischoprick, abbacie, or priorie, exceeding an thousand poundes of zeirly rent to the possessour. —vj. poundes

Being with ane thousande poundes — l. shillings

Nothing to be tane for reseruations of life-rentes, contained in the signatoures. In respect the reseruacion is na newe benefite to the reseruuer, except quhair the resigner is a bastarde. In the quhilke caise, respecting his Majesties prejudice be the resignation: quha vtherwise might succeed to the landes resigned, be the present possessours decease, without lauchfull aires: sik reseruacions fall pay according to the price, before set downe for the landes resigned, comptand alwayes, the man and wife to be ane person.

Nothing to be tane hereafter for onie tailzies, except the foresaide price, according to the quantitie of the lande resigned, in respecte the Fear may alter his tailzie at his pleasure, except quhair the Fear that resignis the landes is bastarde. In quhilke caise, the like price may be tane for every persone contained in the tailzie, as it is set downe for the quantitie of the land resigned.

For infestmentes containeing patronages of benefices neuer before disposed, nor annexed to thay landes or newe infestmentes of heritable offices: The land is to paye according to the quantitie and rate, before set down, and the patronage gif it be of ane onely benefice, the ane halfe of the duetie of the landes. Gif their be maa, to pay the said hail price of the landes for the saides patronages. Quhilke price, the keeper of the signet fall not exceed. Sik-like for new and heritable offices.

Prices set downe to his Hieneffes Privie seale, to be

tane hereafter, of sik giftes and vther signatoures, quhilks passis the said seale allanerly.

For escheits of zeemen men, and vther mean persons — xx. shillings.

For escheits of landed gentlemē & substantiall burgessees — xxx. shil.

For escheits of Baronnies — xl. shillings

For escheits of Erles and Lordes — iij. poundes

For their life-rents, respectu — double price

For

De verborum significatione.

For presentations to Vicarages. xx. shillings.
 For presentations to personages. l. shillings.
 For respectes to zeamen men, & vther meane persons xxx. shillings.
 For respectes to landed gentlemen, and substantiall burgeses. xl. shil.
 For respectes to Barronnes. iij. poundes.
 For respectes to Erles and Lordes. v. poundes.
 And gif there be m^{re} persons contened in the signature, to pay *per capita*, according to their rankes.
 For the wardes & mariages, non-entresses & relieves of landed men, vnder Baronnes, included in ane signatour. iij. poundes.
 For the wardes, mariages, non-entresses & relieves of Barons, vj. pun.
 For the like of Erles and Lordes. x. poundes.
 For the warde allane of gentlemen. xxx. shillings.
 Of Baronnes. iij. poundes.
 Of Erles and Lordes. v. poundes.
 For the marriage allane of simple gentlemen. xxx. shillings.
 Of Baronnes. iij. poundes.
 Of Erles and Lordes. v. poundes.
 For the non-entresses allane of meane landed men. xx. shillings.
 Of Baronnes. xl. shillings.
 Of Erles and Lordes. iij. poundes.
 For giftes of prebendaries or chaplanaries. xxx. shillings.
 For tutories. xxx. shillings.
 For the multitude of denuntiations included in ane signatour of escheire, or life rent, na payment, but for the gift only. In respect they can import but ane gift of escheire allanerly.
 For presentations to prelaties, legitimations, signatours of infefiments of Baronnes, & vther landes, remissions, and ilk vther writtes, as passis first the signet: The keeper of the priue seale, shall take for them allanerly, the double of the price, quhilk like an of them payed to the signet.
 In tailzies, reservations, patronages, heritable offices, erections in free burrowes and ilk like, to take payment, according to the order and proportion of the signet.

Ane the Chalmer fees.

It is ordained, That na signatours hereafter, shall pay Chalmer fees, except resignations, and confirmations, irredeemable allanerly: and of ilk landes as are neither of his Majesties propriety, nor temporalitie annexed, quhilk are declared to be free of all ilk fees, in time cumming.

Prices set downe to the great seale.

That the keeper of the great seale, exceede not the quadruple of the signet, or double of the priue seale, vnder the foresaid paine.

De verborum significatione.

That to this effect the keiper of the signet, fall vpon the back side of the prent of the signet, set downe the price quhilk he receives for everie precept, and for all vthers letters after his name. Likewaies the keiper of the priue seale, his price for precepts, and vther letters after *per signaturam*: that theirby the keiper of the greate seale, pretend na occasion of ignorance. Sik-like that the said keiper of the greate seale, set down his price in the fore face of everie tag, quhairvnto the said seale salbe appended. And that theirafter their be na drink silver exacted fra the partie, yther nor he will be contente to giue at his pleasure and discretion. And ordains ane herald, maister, or vther officiar of armes, to passe to the mercat Croce of the said burgh of *Edinburgh*, and their be open proclamation mak publication, and intimation of the premisses, to all & sundrie his Hienes lieges, quhairthrow nane pretend ignorance their of. As als wa, to command and charge the keepers of the signet, priue, & greate seales, Ischers of his Hienes chalmer, and all vthers quhome it effeiris, to conforme themselves to the will and direction of the saides commissioners, signified to them in maner foresaid: & on nawaies tak vpon hand to alter or contravenethe same in onie point hereafter, as they and ilke ane of them will answer to his majestie, vpon their obedience at their vitermost charge and perrel, and vnder the pane of deprivation of them fra their offices, certiseing them & they failzie. That they salbe deprived fra their saides offices, and vtherwaies punished in their persones as effeiris.

Apud Edinburgh quarto Iunij, Anno. 1597.

THE Lords of secreit Councell and Checker, following the commission given to them be his Hienes and his Estaites, laithlie convened at *Dundie*, anent the ordour taking with the exorbitant prices of all sortes of writtes and letters, vsuall among the lieges, and like waies of the seales, registers and chalmer sic, quhilk a greate number of the same mon passe, procuring daylie baith priuate grudges and publick exclamations against the tolerance and with gang, given to sik shamefull extortion & at use, highlie to his Majesties dishonour and offense, and to the manifest vndoing of the pure anis of this Realme, constrained to haue adoe with the saides writtes: Haue for remeid of that abuse, decerned and ordaned in time comming, and quhill a mair particular and solide ordour may be taken therein. That all and quhatsoever Clerkes of session, Justice, secreit Councell and checker, Clerkes to quhatsoever Commissar, Admiralles, Schireffs, Stewartes, Baillies of regaltie, & royaltie, Provestes and Baillies of quhatsum-ever his Hienes burrowes, and of all vther courtes or Iudgements within this Realme, all writers to the signet, priue & greate seales, all keepers of quhatsoever rolles, Registers and recordes, all publicke notares, and vthers writers quhatsoever, quha fall hereafter regi-

De verborum significatione.

ster and inroll, forme, extract, writ, or giue out for payment, to ony of his hienes lieges, ony signatour, contract, obligation, decreet, act or ordinance of ane courte or judgement, chartour, faising, or vther evident, billes, letters, or vther writtes quhatsum-euer of any importance to the receiuer: Sall subscribe with their handes the said writ, and subjoyne to their names, the just and ordinar price; quhilk they receiue fra the partie for their paines. To be a testimonie of their discretion, in valuing of their travelles taken in the saidis writtes, and to giue further licht to the saids Lords, quhat constant prices they may set vpon the like in time to come, vnder the paine of deprivation from their offices, & punishment of their persones at his Hienes further pleasure, in case of failzie. And ordainis letters to be directe, To make publication of the premissis to all and sundrie his Hienes lieges, quhairthrowe nane pretende ignorance thereof.

FERCOSTA, ane Italian worde: Ane kinde of schippe or litle Boate. In ane priuiledge granted to the Burgh of Dundie, for reparati-on & bigging of their Porte & Haven, be King James the seconde, in the zeir of God, an thousand foure hundred, fifty aucht zeires, & of his reign, thet wentie twa zeire: Mention is maid of ane *Fercost*, quhilk is inferiour in birth and quantitie to an schip, because the imposte and taxation laid vpon ilke schip is ten schillings, and vpon the *Fercost*, twelue pennies, & of everie Crear, busch, barge, and ballinger, siue schilling, and ilke great boat sex pennies.

FERDINGMANNVS, ane Dutch word, an penni-maister, or Thesaurar. *Stat. gild. c. 5.*

FIDELITIE, maid to superiours, and ouer-lords. *vid. Homagium.*

FINIS, finance, or composition maid with theeues. *Statut. 2. Robert Bruyse. Item 9.* In the quhilk place, it is called *rachetum*, or thift boat. *Finis curia*, ane composition quhilk onie man giues in an court, sik as the justice aire, to the King. *In registro 28. December*, ane thousande, siue hundred fourty an zeirs, the Thesaurar contrar the burgh of Perth. *Finem facere cum rege*: to fine with the King: Or to make ane finance, and satisfie him for ony trespassse committed against him or his lawes. *Ass. reg. Da. cap. 2. lib. 4. cap. 3. c. si vir. 16.* or *finem reddere regi*, to pay an fine or composition to the King for ane crime, sik as thift-boat. *St. 2. Ro. Br. c. item ordinat. 9. Finem facere cum molendinario de multura*, To agree & compone with the millar for the multer. *Statu. Wilh. cap. item statuit quod detentor. 11.*

FIRMARIVS, ane mail-payer, ane mailer, or mail-man. *leg. burg. c. si firmarius 56. quo. attach. c. nullus 26.* *Firma* signifies the dutie quhilk the rennent paies to the landis-lord, quhidder it be siluer-maill, victuall, or vther duetie. *In statutis gild. c. 48.* In the quhilk signification, it is commonly vsed in the French lawes.

FORENSIS, from the French word *Foraine*. In the burrow-lawes of this realme, signifies ane vn-free-man, quha dwellis not within burgh or out-dwelland man. And therefore is called *rure manens*, quha dwel-

De verborum significatione.

dwel and aland-ward, hes na priuiledge, or immunitie within burgh: Commonlie all strangers are called *Forinseci*, or *foreines*; vther-wais *aduena*. Quhair-anent it is statute, that na burges dwelland in burgh, fall harbourie onie strange man in his house, langer nor ane nicht, without borrowes, & caution. *leg. burg. Cap. nullus in burgo 88. quoniam attach. Cap. nulli 47. seruitium forinsecum* signifies sik service as the vassall, or tennent, suld doe to his over-lord and maister, fra hame, or in time of weir-faire. In England they quha are nocht borne English-men, are called *alienes*: Quha inioyes nocht libertie within the realme, except they be *Denized*, quhilk word appeares to be driven a *Danis*, *quasi danisatus*, that is maid lauchfull and free, as onie *Danes-man* was, quhen the *Danes* did occupie and possesse ane greate parte of that Realme. And in France they are called *ambani*, or *albin*, *quasi alibi nati*, strangers, nocht borne within the Realme of France, quha theirfore decease and in France, without lauchful succession of their bodies, hes na power to make testament. For their gudes and geare, are nocht given to their aires, or successoures, bot are confiscat to the Kingis vse, be the law quhilk is named, *Albinage*, ius *albinagij*. *Cheffan. in consuetud. Burgund. Rubric. 21. 5. verb. des confiscationi. Nu. 37.* In the acts of Parliamente. *Marie p. 8. Cap. 66.* it is called *droict d' Aubeyne*.

FORESTARIVS, ane forester, or keiper of wooddes, to quhom be reason of his office, pertainis the bark and the hewen branches. And quhen he rides throw the forrest, hee maie take ane tree als heich as his awin head. *leg. forest. Ca. 10. Foresta*, is called ane large wood, without dyke or closure, quhilk hes na water. *Sylua* is ane wood neare adjacent to ane flude of water: bot quhen the samin is inclosed with dike or hedginges, is called ane parke, *Cheffa. in consuetud. Burgund. Tit. des forests 13. in prin. per. gl. in c. cum dilecti. de donationib. Felin in c. Rodolpho, extr. de rescript. Nu. 21.* Quhair *foresta*, is called a place, quhairin are included wylde beastes and quhair sum hes libertie of hunting. Bot quhair their is ane flude of water, it is *Sylua*. And beand circled about, and environed with watters *Insula*. And inclosed with dikes or hedgeinges, *parcus*. *Ia. Andr. in d. Cap. dilecti. In feodatus in liberam forestam*, in feft in free Forrest, hes power to hunt, hark, and cutte trees, quhilk we call *potestatem venandi, aucupandi, & secandi*, quhilk libertie na person maie vse bot be speciall licence granted to him. *vid. Varenna vid. Venison. vid. Werd.*

FORISFACTVM, ane vnlaw, quhilk vtherwaies is called *amerciammentum*. *lib. 1. c. dos autem 19. Stat. Alex. c. si quis conquestus. 9. lib. 4. c. 3. leg. burg. c. forissfactum 42. vid. Amerciammentum.* It is taken for fornication committed beane woman being ane aire femaill within waird, *ut cum femina dicitur forissacere de corpore suo*, to forfair, or abuse hir bodie. *vi. Putagium.* Item it signifies quhatsumever fault, trespassse, and crime, and is called forefault in the Actes of Parliament. *Iam. 2. 2. August. c. 6.* And quhair it is written *pro uno forisfacto non debet esse nisi unum amerciammentum. leg. burg. c. de uno. 3.* In ane vther place it is said *pro uno delicto, non de-*

De verborum significatione.

bet esse nisi una misericordia. Aff. reg. Da. c. ad hoc 28. That is for ane fault their suld be bot ane vnlaw. And in the English Lawes, *Hen. 3. in carta de forest. c. 15.* all outlawes for the Kingis forestes, fall returne to his peace, & fall find to him sure pledges, that they fall nocht do onie fore-fault, or wrang in his forestes. *Forisfactum plenarium regis*, may be extended to the deth, as *plenaria iustitia*, quhilk suld be execute vpon him quha stops the sleuthhound, in persewing of theeves and thief, *lib. 4. c. & si quis, 35.* And it is statute that nane fall stop the Kingis burgeses to hye and sell frelie throw-out all the partes of the Realme *super plenum forisfactum regis, leg. burg. c. si burgenses, 141. vel super plenariam forisfacturam, lib. 4. c. Statutum, 38. Stat. Wilh. c. Item statuit. 19.* conforme to the quhilk constitution, he quha troublis or molestis merchandes dwelling within burgh, to vse their freedome & priuiledges: may be accused as an oppresfour of the Kingis lieges. *la. 5. p. 4. c. 26.*

FORISFAMILIARI, *forisfamiliat*, put furth of his fathers house, or maid free, and delivered furth of the fatherlie power, the sonne is called to be forisfamiliat be the father, quhen he with his awin consent and gud will, receiuis from his father onie landes: and is put in possession theirow, before his fathers decease. *lib. 2. c. porro, 33.* and is content, and satisfied theirwith. Swa that he nor his aires maie nocht claime or craue onie mair of his fathers heritage. *de Indiciis. capit. Item nota, 115.*

FORESTALLERS, *vid. Regraters.*

FORTALITIVM *la. 2. p. 3. c. 3. Stat. 2. Rob. Br. c. Item ordinatum 8.* Ane fortalice, ane Castell, and properlie ane house or Towre quhilk hes ane battelment an barmekin, or an fow sic about it 7, Feb. 1566. Lord Fleming contrair James Rosse.

FORTHOCHT felony, *præcogitata malitia*, quhilk is don & commietted wittinglie and willinglie, after deliberation and set purpose, and is different from *chaudmelle. quia ut scribit Cicero. l. 1. offic. in omni iniusticia. per multum interest. utrum perturbatione aliqua animi. quæ plerumque brevis est. & ad tempus: an consilio & cogitatio fiat iniuria. Leviora enim sunt ea, quæ repentino aliquo motu accidunt. quam ea quæ meditata & preparata inferuntur.*

FOSSA, ane pit, or fow sic. *Furca*, ane gallous, in Latine *cabalum*, quhilk was first institute and granted be King Malcolme, quha gawe power to the Barrones to haue ane pit, quhairin wemen condemned for theft suld be drowned, and ane gallous quhairvpon men thieves, & trespassours suld be hanged, conforme to the doome given in the Barron Courte thereanet. *Hector Boetius. l. 12. Erectio furcarum est meriti imperij. et alia iusticia. et significat dominium aeris. quia suspensi pendunt in aere. & merum imperium consistit in quatuor, sicut sunt quatuor elementa. In aere, ut hi qui suspenduntur. In igne, quando quis comburitur propter malefium. In aqua, quando quis ponitur in culeo & in mare proicitur, ut parricida: vel in amnem immergitur, ut fœmine furti damnate. In terra, cum quis decapitatur & in terram proster nitur. Chessa. in consuetud. Burgund. Rubric. 1. §. 1. verb. au territoire. Nu. 14. & rubric. 1. §. 8. Nu. 2. Porro iurisdiclio dicitur notio, quæ iuri magistratus competit. Mistum imperium, est*

De verborum significatione.

est potestas quæ iurisdictioni inest. Merum autem imperium est ius gladij, vel alius cuius maioris coercionis nominatim lege concessum. Cuius. l. 4. de feud. tit. 19.

FRIEBORGH, *liber plegius, vel fideiussor, quem Galli francum plegium vocant.* In the auld Britton lawes, *Bopher vel Bores*, is that quhilk we call borrows, borch, or cautioner. And *Aluredus* King of England, diuided England in *satrapias, centurias, & decurias*, as salbe declared in the worde Schiref: and ordaned that *decuria*, suld comprehend ten persones, and *centuria* suld containe 100. persones, quhair of ilk ane was cautioner and fouertie forvthers: in sik sort that the hail number, and ilk ane of them, was answerable for the fault and deede of onie ane of them, & swa was called *free-borgh, free-pledge, or cautioner. vide antiquas leges Brittonum.*

FVRCHÉ, ane word, quhair of I find na mention in the written lawes of this Realme, nor of onie vther cuntrie: And zit is vsed in the forme and ordour of the Chancellarie, from *furca*, ane forke. For quhen onie person is served and retoured narrest, and lauchfull aire to onie of his predecessors, of ony lands halden in chiefe, of ony vther superior the the King: The directour of the Chancellarie, causis his Clerkes direct to the said superiour three preceptes, commanding him to giue saising to the person retoured, of all and findrie the landes, contained in the retour, he doing theirfore to his superiour, all quhilk he aucht to do of the Law. Of the quhilk preceptes the second is called *Memimus a forma verborum quæ præceptum concipitur.* For the precept bearis that the King remembers, that he directed his first precept and command, quhilk was nocht obeyed, quhair of he mervails: And therefore zit as of before commands the superiour to giue saising. The 3. precept is called *furche*, for quhat cause I know nocht certainlie: Bot like as ane fork hes twa graines, this precept hes an alternatiue command of twa parts, for the King commands the superiour to giue saising, or else he certifies him, he wil command the Schireffe to giue the samin. *Itaque hoc præceptum est furcatum, vel bifurcatum, in eadem significatione, quæ barba bifurcata*, quhilk is diuided in twa tairs or parts. And in French *furche*, is called cloven futed, or forked.

G

GALNES, *lib. 4. c. si quis. 37. c. statuit. 66.* Ane kind of mendis, assithment, or satisfaction for slauchter. Of the quhilk word I finde na mention in onie vther place, or law of vther cuntries.

GANGIATORES, *Iter. camer. c. gangiatores. 14.* signifies them quha suld mark the clath, breade, or barrelles before they be fauld, with the mark of their office: or tryis or examinatis al measures, & weichts, baith dry & weete, for the French *Iage*, is that quhilk we call jug, met or measure.

GARBÀ *sagittarum*, an schaife of arrowes, conteining 24. vtherwaies called *schassa sagittarum. Stat. 2. Rob. Br. c. ordinatum est. 27.*

GARCIFER ane French word. Ane *Garson*, an seruant quha seruis in the myln, ane myln-knave. *leg. burg. c. quicumque. 64.*

GILDA, an societie and cumpanie of merchandes. For in the auld Britton lawes, *gilder* signifies the ordour or societie of religious men, or of craftes-men. *Vide antiquas leges Brittonum, verbo Contubernales.*

GIRTHOLL

De verborum significatione.

GIRTHOLL, girth, sanctuarie, in latin, *asylum*, *ass. reg. Da. c. si quis in aliquo. 27.* *Asylum* is driven from the greeke, *a particula privativa, et a g. b. e. traho. gl. in l. si quis. 17. ff. de adilit. edict.* Because it is not leasum to draw furth onie person furth of the girth. Quhairanent findrie actes of Parliament are maid, conforme to the law of God. *Exod. 21. 13. Ioshua. 22. 1. &c.*

GLEBA, ane gleibe, given and granted to Kirk-men and Ministers of the Evangel. *vid. Mansus.*

GVERRA, *lib. 2. c. sunt quidam. 72. Stat. 1. Rob. Br. c. 17. Stat. 2. Ro. Br. c. ordinatum est. 27.* Vtherwaies called *Verra*, battel, weir. And signifies nocht onelie publict weire and hostilitie, quhilk is proclaimed and denounced be the lauchfull authoritie of the Prince: Bot also private deadlie feede, quhen onie particular person would revenge onie privat injurie, done to him. For it is statute be K. David the second, *quod nullus de cetero moveat guerram contra vicinos suos quoscunque, sub pena plenaria forisfactura. 6. Novemb. 1357.* Mention is maid of courtes of *Guerra*, *la. 3. p. 8. c. 69*, quhilkis were halden be schireffes, Stewards, Baillics, and vther Officiars. Bot quhat was the speciall jurisdiction belangand thei to, I know nocht: and findis na mention thei of in onie vther pairt of the lawes of this Realme, alwaies as it appeiris that they were halden be the ordinar judges forelaides, anent strife, debates, crimes and trespasses committed betuixt familiar and domestik persons, subject to ane maister, within the jurisdiction of the saides judges conforme to the lawes of the fewes in *5. vl. de pace tenend. li. 2. de feud. Si ministeriales alicuius domin. inter se Guerra habuerint: comes sine iudex, in cuius regimine eam fecerint, per leges & iudicia, ex ratione prosequatur.* Quhilk forme of courtes being particular justice courtes, was prejudicial to the jurisdiction of the justice & his deputies, and grievous to the lieges of this Realme, and therefore are discharged be King James the thrid, in the place foresaide.

GYSARVM, ane hand axe. *Leg. Forest. Cap. sciendum est. 67.* quhair it is statute and ordained, that all men of the age, betuixt sextie, and sextene, fall haue armour, conforme to the quantitie, and the valour of their landes, and moveable gudes, that is, he quha hes fiftene pounce land, or fourtie markes in moveables, fall haue ane horse, ane habergeon, ane bonnet of iron, ane sword and ane dagger. And he quha hes fourtie schilling land, or abone, within ane hundreth shilling land, fall haue ane bow, arrowes, dagger and knife. And hee quha hes lesse then fourtie shilling lande, fall haue *Gysarum*, quhilk is called ane hand axe, ane bow, and arrowes. And all vthers, quha suld, or may haue armour, fall haue ane bow and arrowes.

H.

HAIMSYKEN, *lib. 4. c. raptus. 9. in fine. quo, attach. c. de cetero. 43. Stat. Wil. c. Item. stat. 9.* Ane Dutch word. For *Haim* signifies an house or habitation, quhair ane dwellis, and quhair he hes his winning, ryfing and

De verborum significatione.

and lying. As we say, an man is at hame, or nocht at hame. In the quhilk signification *Cuninghame*, is called the Kingis house or hame, speciallie quhen the Kinges of this Realme, quha of before did dwell in the Isles, came to the maine land to dwell, and remaine in *Doundonald*, and vther places. *Suchen* in the *Germane* toung, signifies to seike, or searce, perfew, or follow, as quhen ane gives vp kindnes to ane vther, hee sayes. *Harr, harr, Ich wol euch suchen*, swa hame-suchen, or hame-suken, is quhen onie person violently, without licence, & contrair the Kinges peace, enters within an mans hous, or seiks him at the same, or assaillies his hous (as is written in the best buikes) quhilk crime is punished, as ravishing of women. *quo attach. c. si quis aliquem. 50. Stat. Wil. c. Item stat. 10.* quhilk is esteemed an greate crime contrair the common weill, quietnes, and peace of the cuntrie, quia *univusque domus sua est tutissimum refugium: Ideoque de domo sua nemo debet extrahi. l. sed & si. 21. ff. si quis in ius vocat, quod verum esse in causa civili, non autem in criminali, notatur in gl. ibidem, quid sit domus. vid. l. 1. ff. de agnoscend. liber.*

HAWBERT, there is foure maner of halding of landes outwith Burgh. Sum landes are halden be the Kirk *nomine pure elemosyne*, & paies nothing bot *deuota animarum suffragia*, as was vled in the time of blindnes and papistrie. vther are halden in few, or few-ferme of the King, Kirk, Barrones, or vthers, quhilkis payes ane eertaine dewtie called *scudfirma*, fewferme: vther are halden blenche, be payment of ane pennie, an rose, ane paire of guilt spurres, or sum vther dewtie quhen it is asked, in name of blenche, or *nomine alba firme*: vther landes are halden be service of warde & relieve, and the aire heirof beand *minor*, is in the gairde, that is waarde, custodie, and keiping of his superiour, with all his saides landes vntill he be *maior*, and of perfite age. And siklike his mariage beand *Maior* or *minor*, and nocht married before the decease of his predecessour pertaining to his superiour, *vid. Varda*. Landes halden in this last forme and maner, are called *feodum de Hauberk*, or *Haubert*, or *feodum militare, de maritag. c. diversa. 7. ass. reg. Da. c. statutam fuit. 32.* Or *feodum Hauberticum*, or *feodum loriatum*. Because it is given vpon condition, that the vassall possessour thei of, fall cum to the hoist and armie, with *lak*, and armes: for *lorica*, *a loro*, signifies ane abulzement maid of cordes, and *Haubert*, signifies ane kind of armour, maid of mailzies, or circles like ringes, called an *Hauber*, *Haubergeon*, conform to the common proverb, manie mailzies makis an *hauber*, monie littles makis an meikle. Of the maner of *tenures* in the English lawes reade *Littleton*, and in the *Normand* lawe. *lib. 5. c. 3. cum seqq.*

HAIMHALDARE, *vindicare, actione reali repetere*, to repeat & seeke restitution of proper gudes & geare, & bring the samin hame againe. *quo. attach. c. 4.* as lauchfull and *haimhald* carrell. *mod. ten. cur. c. 13.* & *haimhald lint*, or *haimhald* hemp, is that quhilk growis at hame, within this realm & is opposed to lint, & hempe quhilk is in brocht furth of vther cuntries *haimhaldatio catalorum*, is quhen onie man seikis restitution to be maid to him of his awin guds and geare, wrangously taken fra him, quhair of frequent

De verborum significatione.

quent mention is maid in the auld lawes of this Realme. And he quha seikis the said restitution, suld sweare in this maner, ane buike beand put within the hornes, or vpon the fore-head of the beast, that is clamed before twa lauchfull witnes, that the said cattell acclaimed be him did wander awaie from him, and that the samin was nocht given, fault, or onie maner of waie annalied be him to onie kind of person. *vid. Catalla.*

HAR A *porcorum. vid. Cress. ra.*

HERREZELDA, is the best aucht, ox, kow, or vther beast quhilk ane husband man possessour of the aucht pair of ane dauach of land: (foure oxen gang) dwelland & decaifand theirvpon, hes in his possession, the time of his decaife, quhilk aucht and suld be given to his Landis lord, or maister of the said land. *lib. 4. c. si quis. 2. 2. ass. reg. Da. c. si quis. 41.* For *Herr* in dutch, in latine *herus, dominus*, signifies ane Lord, or maister, and *zeilde* is called ane gift, tribute, or taxation, as in the auld actes of Parliament maid be King James the first, it is written, that ane *zeilde* was gathered, for the releife of him out of England. And ane vther *zeilde*, was collected, for resisting the rebelles in the North. Swa *Herrezelda*, is ane gift given be onie man to his maister and Lord, quhilk suld be his best aucht 17. October. 1470. Quhilk is conforme to the auld lawes. *li. 2. c. tenetur. 35.* quhair ilk person makand his testament, suld recognosce, and acknowledge his maister with the best thing he hes. Swa it is manifest that the *Herrezelde* is given, be reason of the tennents deccis to his maister, as ane gift, for acknowledging, and honoring of him, and therefore in the civill law is called, *laudemium, a laudando domino*. Item in the auld Saxon, and Dutch language *Herr*, is ane hoist, armie, or weirsare. Swa (as sum thinkis) *Herrezelda*, signifies that quhilk is givē to the Lord, or maister passing to the hoist, or be reason of weirsare. For sik small husband men having onely foure Oxen-gang of land, and thereby, be reason of their povertie, nocht able to passe to weirsare in proper person, suld help their master, passand fordward theirvnto: like as *Herischulda*, is the paine of him quha obeyis not the proclamation maid for weirsare, for *schulda* is *debitum* or debt, and *heribannum* is ane charge or proclamation maid for weirsare. *Curia lib. 1. de feud.*

HILDA, *terre, Hida terre*, an pleuch of land. *vid. Carrucata.*

HOMAGIUM, *dicitur quando aliquis promittit se esse hominem alicuius domini, et stare et habitare, ubi voluerit dominus. Et super hoc facit homagium, id est promissionem, ut sit suus homo. Vel homagium dicitur fidelitas hominis, pro rebus temporalibus facta domino. Chessan. in consuetud. Burgund. rubric 3. §. i. verb. des fiefs. et in §. 3. nu. 3.* It is a band of man-rent, quhen ony person promittis to serue ane vther, in sik sort, that he sall be friend to all his friends, & foe to all his foes, against all deadlie. *Lib. 2. c. predictis. 60. le. Forest. c. quando 60.* It is therefore called *hominium*, and sulde be maid be the vassall being *minor*, or *maior*, to his ouer-lorde. *Lib. 2. d. Cap. 60.* And the samin becing maide gener ally, with-out exception of any man, is called

De verborum significatione.

called *homagium cum ligeantia factum. vid. Ligeantia*, homage differs from fidelitie, first be reaso of the persones makeris their of, for weemen makis na homage, bot onelie fidelitie. *lib. 2. c. predictis. 60.* Because Homage concerns service specially in weirsare, to the quhilk weemen are nocht subject. And likewaies consecrat bishrops, makis onelie fidelitie for their landes, and barronies. *lib. 2. c. fieri. 61.* In this forme, I sal be leill and trew, ^{Forme of fidelitie} to zow my liege Lord, and schir N. King of Scotland, and sall nocht heare zour skaith, nor see it, bot I sal let it at my power, and warne zow thei of, zour Counsell conceill, and heill, that ze schaw me: The best counsell that I can to giue zow, quhen ze charge me *in verbo Dei*, and as helpe me God, and the hialie Evangell. The second difference is be reason of the forme and maner, for he that makis fealtie, kneillis nocht on his kneis, Bot he that makis homage kneillis down: vtherwaies the forme of homage maid be barrones to the King, and the forme of fidelitie maid be them to the King, are nocht far different, for the forme of homage ^{Forme of Homage} maid be them is this: I become zour man my liege King, in land, lich, life and lim, warldlie honour, homage, fealtie & lawtie, against all that liue and die: Zour counsell conceill and that ze schaw me: The best counsell schawand, gif ze charge me: zour skaith or dishonour not to heare or see Bot I sal let it at all my gudlie power, and warne zow thei of. Swa help me God: The forme of fidelitie maid be the barrones to the King is this: I sal be leill and trew, to zow my liege lord, Sir N. King of Scotland. I sal never see zour skaith, nor heare it, bot I sal let it at my power, and warne zow thei of: Zour counsell schawin to me, I sal conceill: the best counsell I can, I sal giue zow, quhen ze charge me therewith, sa help me God. *Fiunt autē Homagia de terris et tenementis liberis solummodo et seruitijs: de redditibus a signatis in denariis, et alijs rebus. Pro solo vero dominio, non solet fieri homagium excepto domino principi. lib. 2. c. sunt. 66. Ita hic locus corruptus et difficilis legi debet.* Concerning the expolition of the quhilk it is to wit, that all homage is maid to the ouer-lord and maister, quhair of sum are maist cheife and principall, sik as the King, to quhome without onie exception *suprema fides, quae nullam exceptionem patitur iure optimo debetur.* vther ouerlords ar inferiour and subalterne, to quhom their vassalles are bund and oblied, and suld make their homage. And swa their is twa kinde of Homage, *aut enim est ligium, aut non ligium. vid. Ligeantia.* Baith the ane and the vther may be maid *pro rebus, tenementis, annuis redditibus:* Because ane free halder of landes, tenements, and annuell rentes, maie make homage to his immediat superiour for his landes or tenementes, exceptand the King and his elder ouer-lord, quhilk is *Homagium non ligium* *lib. 2. c. fieri. 61. leg. scilicet. c. quando. 60.* Or he may make homage to his ouer-lord *simpliciter*, without exceptio of ony person vther ouer-lord, quhilk is *homagium ligium. Pro solo dominio, na homagium can be maid, bot onelie domino Principi, quhilk is Homagium ligium:* Because it is vpon condition, and covenant that he to quhome it is maid, sal be maister, Lorde and maintrener allanerlie to the maker thier of. And hee quha makis

Here.
Zalde.

Laudemium.

Hero.

Herischulda.

Heribannum.

For
quhat
things
homage
suld be
maid.

Homagium
um ligium
& non li-
gium.

De verborum significatione.

makis the samin, sall acknowledge him & nane vther, to be his Lord and master for his maintenance, protectiō & defence, quhairanēt he makis exception of na person, & swa this kinde of homage, is maid to the King alantierlie, *pro solo ipsius dominio, quem solum & nullum alium omnes debent agnoscere pro solo domino. Hic locus admodū difficilis me diu, multūque torset, neq; aliter me hinc extricare possū, sed in hac re suum unicuiq; liberum esto iudicium.*

HVESIVM, *Hoyesum*, ane French word. *Oyez*, in latine *audite*, ane hoyes, or crie vsed in proclamations, quhairby ane officiar of armes, or messenger dois conveen the people, & foirwarns thē to hear him, *de maritag. c. sciendum. 17. de iudic. c. 57.* It is called als wa, an out-hoy, or crie, *leg. forest. c. si quis 91.* And ane theife suld be taken with the blast of ane horne with clamour, or hues, and presented to the Kingis Baillie. And gif there after he flies away, he maie be slaine leisumly, and hanged vp in the next gallous. *lib. 4. c. si quis latronem. 33.* Quhilk in ane parte is conforme to the Acte of Parliament. Ia. 6. p. 1. c. 21. And in the lawes of England *ann. 4. Edward. 1.* he quha followis not the hue, raised for apprehending of malefactoures, salbe accused therefore.

HVSBANDLAND, conteinis commonlie 6. aikers of sok & syith land: That is of sik land as may be tilled with ane pleuch, or may be mawed with ane syith. For as sum auld writers testifies, the Earle of March for the time, caused his servand *Simon*, or *Sim Salmound*, to divid the hail land in the *Mers* into husband landes. Ilk husband land containing 6. aikers, quhair pleuch and syith may gang. Quhat Earle of March this was I am nocht cerraine, bot I find that ane called *Simon Salmound* is foresalson of *Alexander Duke of Albanie*, Earle of *March*, *Mar*, & *Garrloch*, Lord of *Annanddale*, & of *Man*, brother to King *James* the thrid 8. Iulij. 1483. Bot the Lords of Councell esteemis the zeirlic mailes, fermes, and dewties of ane husband land, to five markes, in *Registro. 1. Decemb. 1545.* And ane vther husband land lyand beside *Dunbar*, they esteeme it to 14 bolles bear, & 3. bolles quheit, in *Registro. 14. Feb. 1544.* And ane vther husband land to 3. pounde. Swa I finde na cerraine rule prescribed anent the quantitie and valour of ane husband land.

IN FANGTHEFE, *lib. 1. c. 3.* ane Dutch word, quhair of I find divers interpretationes, for in the auld lawes of the *Brittones* maid be King *Edward*, Infangthiefe is an liberty or power perteing to him quha is infest their with, to cognosce vpon theft, committed be his awin man, taken within his awin dominio, & lands, like as in findry auld buiks, contenad the lawis of this realm. Infangthefe *dicatur latro captus de hominibus suis proprijs, factus de latrocinio*: & outfangthiefe is an forathese quha cums fra an vther mans land, or iurisdiction, & is taken & apprehended within the lands pertienad to him quha is infest with the like liberty. In findry vther buiks it is written, that infangthiefe is an liberty to sit & decid vpon theft, committed within the iurisdiction of him, quha is infest their with, be his awin

man

De verborum significatione.

man, or ony vther man quhatsumever, taken therewith, within his awin iurisdiction. And Out-fang-thiefe, is power or libertie to reduce, replege, and bring-hame to his awin court, all thieues being his awin men, and committand theft within his awin boundes, quha ar fugitiue and taken within ane vther mannis iurisdiction, with the fange, that is, hand haveand, and back-bearand. *Lib. 4. c. Si quis 11. Quoniam attach. c. nullus 22.* Quhilk fang in the civil law, is called *furtū manifestum*. Bot findry vthers ar in the contrair opinion, affirmand that it is not leasū to ony man hauand libertie of out-fang-thief, to replege or reduce his awin man, taken without his awin libertie for theft, to his awin court, & there to do justice vpon him. Because al thieues suld ynderly the law, and be judged be him, within quha is iurisdiction the theft is committed: in sik forme & maner, as is statute anent slauchter, & punishment thereof. Ia. 1. p. 2. c. 89. Amongst the interpretoures of the civil law, I find the like controuersie in this mater. *For. Bart. in l. Si dom. 48. Nu. 2. ff. d. furtū. Quocūq; (inquit) in loco reperitur fur cū re furtiva, ibi potest puniri. Veluti furtū faciens Florentia, Si reperitur in alia iurisdictione, veluti Mediolani, cum furto, potest à Mediolanensibus puniri.* Quha is opinion findry Doctours followis, as writs *Chessanens In consuetud. Burgund. Rubr. 1. Verb. simple larrecin. Nu. 15.* Albeit findry vthers ar in the contrair opinion; alleagand; that the thiefe suld be punished in the place quhair he committis the theft, *vrin additione ad Bartol. in d. l. 48.* Conforme to the quhilk, it is statute be the Law of this realme; that ane thiefe of stollen woodde, taken with the fang in ane vther Lord's lands, suld be arrestit with the wood, & sall suffer the law in his court, fra quhom the woodde was stollen. Ia. 1. p. 2. c. 34. Mair-over, ane thiefe is ordaned to be punished in the place quhair the theft was committed; because the crime may be best tryed there. *Stat. 2. Rob. Br. c. 4.*

INFEN SARE curiam. That is, quhen the judge informis the suters in sik things quhair of they ar ignorant. *Quoniam attach. c. ubi ab aliquo. 10.* Like as the civil law. *Tudex potest supplere ea que advocatis in iure desunt.*

ITER, From *Itinerare*, h. e. *Iter facere*: As *Iter camerarij*, the Chalmerlane aire, quhair of ane gud forme is written and extant in the buiks, containand the auld lawes of this realme. *Iter iustitiarij*, the justice aire, *quia iustitiarius debet itinerare per regnum*, as it is written in the English lawes: For he suld make course throw the realme, for ministratiō of justice, and ride in competent and easie number, to eschew grievance, and hurting of the people. Ia. 2. p. 6. c. 21.

The justice aire suld be halden twise in the zeir. For King *David* statute & ordaned, that the justice & his deputes, suld hald twa head courts zeirlic. *Ass. Reg. Da. cap. statuit dominus. 18. Quoniam attach. c. statuit 77.* And the Kingis justice, the Lordes of the regalities, and also the Kingis Baillies in his régales, suld hald their justice aires twise in the zeir. *Iam. 2. parlia. 3. cap. 5.* Vniuersallie in all partes of this Realme, anis on the grasse, and anis on the cornes. *Iam. 2. par. 13. cap. 94. Iam. 4. par. 3. c. 29.* And over all the Schires of the Realme, in the Moneths of Aprill, and

N

October

De verborum significatione.

October. Ia. 6. p. 11. c. 81. Baith in the in-land, and als wa in the Iles, South and North. Ia. 4. par. 6. ca. 59. Because the Iles and inhabitants thereof, suld be ruled be the Lawes of this realme. Ia. 4. p. 6. t. 79.

For what
causes ju-
stice courts
suld be hal-
den.

Justice aires suld be halden, for in-crease of justice and tranquillitie of the realme, for stanching of combers, slaughters, riefes, thieftes, extor-siones, and oppression of the Kingis lieges. And to the effect justice may be vniverfallie, throw the bail realme ministrer, for punition of the said crimes, sik authoritie suld passe with the justice, throw all the realme, to the justice aires, that trespassours, sik as men-slayets, riefers, thieues, and committers of vther enormities, in disobeying, and licht-lying of the Kingis lawes, may be punished without favours. Ia. 4. par. 3. c. 29. Ia. 3. par. 13. cap. 90.

Dittay, &
for quhat
crimes it
may be ta-
ken vp.

The justice aire, or court being proclaimed at the Kingis command, to be halden sik ane day as he pleasis, in the head burgh of the Schire: The justice suld cause dittay to be taken vp be his clerkes diligentlie and faithfullie. For the dittay is the principall and chiefe substantiall poynt of the justice aire; and the justice suld follow the ordour thereof.

Dittay may be taken vp, vpon all crimes pertaining to the justice, and his jurisdiction, as is manifest be the acts of Parliament. Read the worde Dittay in the Table of the saidis actes, and als vpon the crime of lese-majestie, or treason: As the death of the King, sedition within the Realme; betraying of the Kingis hoist or armie; Breaking of the Kingis protection; fraudfull hiding and concealing of ane hui'd or treasure; wilful fire, robbery, ravishing of weemē, murder, slaughter, thieft, fore-stalling, all kinde of falsed in doing of justice, in money, assise, weichtes, measures, writs; And generallie, al vther like crimes, quhilk be the law, ar punished be death, or cutting of ane member. *Lib. 1. cap. 2. Leg. Malcolm. Mak. cap. 3. Ass. Reg. Dav. c. nullus 17. de iudic. c. Placitorum.*

8. Mair over, the justice generall, may set particular justice Courtes vpon ony maner of crimes, quhen neede is, for punishment of particu-lar faultes that occurris; Sik as recent slaughter, mutilation, ravishing of weemen. Quhilk hainous and capitall crimes, may be first criminally persewed before him. And as for depredationes, ejectiones, spuilzies, the samin being first civilie discussed before the civill judge ordinar; Thereafter may be criminallie persewed before the justice and his de-putes, at particular diettes, set and appoynted therefore, or be way of dittay in the justice aire. Ia. 5. p. 4. c. 33.

Dittay
may be ta-
ken vp pri-
vatie, or
publicklye.

Dittay may be taken vp twa maner of waies; privatlie and publicklye; For the justice and his deputies may priviclie take vp dittay; be privie inquisition of malefactoures, and their receipters, be the aith of three gud, honest, & faithfull men, & of the principall man; sik as the Chalmer-laine or officiar within ilk village or town. *Stat. Alex. 6. 2.* And mair over, all Lords and heades; men of al parties of this realme, suld giue vp dittay vpon notour trespassours, without exception of ony persone, to be taken and justified without remission. I. 3. p. 13. c. 94. And sulde mak trew relation

De verborum significatione.

relation there anent to the Chancellor or justice, quhen they salberes quired. Ia. 3. p. 14. c. 98. And gif they be convict be ane assise in the con-trair, they fall perpetuallie time their court, in all time cūming. *Li. 4. c. aff. 20. stat. Wilb. c. Ass. 5.* Secōdlie, the justice suld direct publicklye the brieve of dittay to the Schireffe and his deputies, for taking vp of dittay, quhair of the tenour followis.

Wilhelmus & c. Institiarius Domini nostri regis generaliter constitutus, Vice- The brieue
comiti & Balliuis suis de .E. salutem. Quia indictamenta Regia, Deo duce, deci- of Dittay
mo die mensis .N. proxime futuri, cum continuatione dierum, apud .F. Infra vice-
comitatum vestrum levare intendimus, vobis precipimus & mandamus, quate-
nus summonetis, seu summoneri faciatis, legitime coram testibus legalibus, de
de qualibet baronia, duodecim vel quindecim homines, ad hoc opus magis suffi-
cientes. Et de qualibet tenendria, seu villa quatuor vel sex homines. Et de quoli-
bet burgo, duodecim, vel sexdecim burger ses, ad hoc opus magis sufficientes, se-
cundum quantitatem locorum, & numerum personarum in eisdem existentium.
cum seriando fabro, molendinario, brasiatore, & sectatore, cuiusque baronia, vil-
la seu tenendria. Quod compareant coram clericis nostris, pluribus aut uno, dictis
die & loco, cum continuatione dierum, ad sui sum reddendum indictamenta re-
gia. Et faciendum ac subeundum, id quod in hac parte, iuris ordo requirit. Et sitis
vos vicecomes, & balliui vestri, ibidem, coram clericis nostris, dictis die & loco,
cum continuatione dierum. Habent vobiscum summonitionis vestre testimoniu-
um, & hoc breve. Provideatis etiam pro expensis dictorum clericorum, quas vo-
bis in primis computis, de exitibus institutarii reddendis, faciemus plenius alloca-
ri. Et hoc nullatenus omittatis sub omni pena, quae competere poterit in hac parte.
Datum sub sigillo officii nostri institutarii. Quhilk brieve, the Schireffe suld reporte at the day appoynted, in the place, quhair the dittay sulde be taken vp, to the justice Clerke, and twa witnes at the least with him, for to verifie the execution of the brieve, to be lauchfullie done, cōform to the cōmand of the justice. Cōforme to the precept & cōmand abone written; the justice Clerke ane, or maa, convenis the day, and in the place appoynted, and there remainis susteined vpon the Schireffis ex-penses (quhilk is allowed to him in his comptes, of the issues & profites of the justice aire) and takis vp dittay be the relation, and deposition of the persons sūmoned, for the giving vp thereof. Quhilk dittay they suld keip quiet, and suld na-waies reveale the samin to ony person, nor tran-slate it vtherwaies then it was given to them, nor change names, ane for ane vther: Nor put out ony furth of the rolles; bot lauchfullie and trew-lie suld report and deliuer the samin to the justice, and his deputies. Ia. 2. par. 6. cap. 28. Dittay suld be given vp be vertue of the Kingis com-mission, direct to Earles, Lordes, Barronnes, Knights, and speciall Lan-ded Gentle men: And be foure of the Councell of everie Burgh, quha fall mak & giue vp dittay, be their awin knowlledge, or be ane sworne in-quest, or sworne particular men: Vpon all persones suspect culpa-ble of the crimes and faultes, pertaining to the jurisdiction of the justice

De verborum significatione.

justice and his deutes. Iam. 6. parlia. 11. cap. 81. Quhilk suld be likewise keiped quiet, and reported, as said is, to the justice. And dittay being taken vp, vpon any crime against any persones: Neither judge, bot the justice and his deutes, may mell there-with. Like as the Wardaine on the Bordoures, in his wardaine courte, may nocht intromet with any thing that perteinis to the dittay of the justice aire. Iam. 2. par. 11. cap. 42.

The dittay taken vp, in maner foresaid; The justice Clerke, at command of the justice, makis ane catalogue, containand the names of the persones indited: And vpon quhom dittay is given vp, quhilk is called ane portuous. Togidder with ane vther Catalogue, quhilk containis the particular dittay, given and taken vp, vpon transgressours and malefactours, called the *traistles*: Baith the ane, and the vther, is delivered be the justice Clerke, to the crowner: To the effect, that all the persones quhais names ar contained in it, may be attached, and arreifted be him to compeir in the justice aire, to answer to sik crimes as salbe imput vnto them. Ia. 1. p. 13. c. 139. la. 3. p. 14. c. 99.

The crowner, in making his arreiftments, suld passe to the habitation and dwelling place of the persones, given to him in portuous, and thereafter make proclamation at their Paroch Kirkes, vpon festuall daies, and take sovertie of them, sick as he will stand for to the King. And gif the persones swa arreifted, be nocht streinzicable; The Crowner fall arreift their gudes, and put them in sure keeping, to the Kingis vse: quhill the said sovertie be founde: Or else take their persones, and put them in the Kingis Castell, gif ony bee within the Schire. And gif there be na Castell, hee sulde deliver them to the Schireffe to be keiped. Ia. 5. p. 3. c. 5.

And mair-over, because findrie persones indited, vsis to flie and absent them selues; swa that the Crowner cannocht apprehend them personallie, to arreift them. In that case, it is sufficient that the Crowner cum to the dwelling place of the saidis persones, and make them warning, and charge to compeare in the justice aire nixt following, to answer to sik accusationes of crimes, as salbe imput vnto them. And thereafter vpon the nixt Sabboth daye following the said charge, the Crowner sal make open and publick intimation of his warning, charge, and premonition, maid to the saidis persones, be their names, in their Paroch Kirkes. Quhilk charges, premonitiones, and intimationes, fall stand to them for sufficient arreiftmentes, the samin being lauchfullie proven, as effeiris of the Law. Iam. 5. p. 4. c. 33.

And mair-over, gif he cannocht attache ony man personallie, be reason of his absence, he suld arreift all his gudes moveable, and vnmovable, to remaine vnder sure pledges, and to be furth cummand to he King: In case he be nocht answerable to the law, before the justice. *Leg. Malc. Mak. cap. 1.*

The

De verborum significatione.

The Crowner fall arreift at all times, allweil before the crye of the aire, as after the samin, all them quha ar given to him in portuous, be the justice Clerke, and nane vthers. Iames. 1. Parliament. 13. cap. 139. Bot all arreiftmentes, sulde bee maid before the time of the beginning of the justice aire, and seate of justice, & na waies after the samin. Ia. 3. par. 7. ca. 58. All persones charged to compeir, in the justice aire, suld be attached and summoned be the auld law of this Realme, vpon the space of fourtydaies at the least. *Ass. Reg. Da. c. ad Summonitiones. 19.* And albeit na man suld be attached or arreifted, except dittay be given vp vpon him. *Stat. Alex. c. 2.* Nevertheleffe, in attachementes, or arreiftments of ony person indited, na mention suld bee maid of the cause or crime, for the quhilk he suld be indited; bot the same suld be concealed be the clerke and na waies revealed be him. *Stat. Wilh. c. statuit etiam 6. leg. Forest. c. Si aliquis 52. quoniam attach. c. Si aliquis 49. Ass. reg. Da. c. 6.*

All the indwellers within the towne or village, suld concurre and assist the crowner, in attachement or arreifting ony malefactour to compeir in the justice aire, to vnderly the law. *Stat. Alex. c. 2.* And sik-like, quhen the crowner receivis his portuous, containand the name of ony person indited, quha wil not obey him, or quhom he dare nor, nor is not of power to arreift; he fall passe to the Lord of the Barronnie, quhairin that person dwellis: Vtherwaies gif he dwellis not within ane barronie, he fall passe to the Schireffe of the Schire, & require them to be borgh and sovertie, to enter the said person to the justiceaire; quhilk gif the barrone or Schireffe refusis, the Crowner sal require them to send their officiares, and sufficient number with them, to fortifie and supplie him, in making of his arreiftment, taking and keeping of the said disobedient person, quhill he be brocht to the Schireffe, to be keiped be him, vntill the time of the Justice aire. Iam. 3. p. 14. c. 99. Mair-over, the crowner fall bring all persones arreifted be him, quha hes not, or may not finde borrowes to the Schireffe of the Schire, quha fall receiue him in suertie, and firmanee, vpon the Kingis expenses, and quhair it failzies, on their awin gudes, quhill the nixt justice aire, and there present them to the justice. Ia. 3. p. 14. c. 102.

The Crowner, or makers of the attachementes and arreiftments, suld not intromet, or carie awaie ony gudes or geare, perteinig to the persones attached: Bot the Lord, or officiar of the towne, fall susteine them reasonable, vpon the expenses of the saide person, be the space of ane day, and ane nicht. *Stat. Alex. c. 2.* And gif the said person cannot bee personally apprehended: The crowner may remaine in his dwelling-house ane day and ane nicht, and suld be susteined with twa seruandes, and vther twa as witnesses, and his clerke suld haue twa schillings, and sa may nocht take any mair of the gudes and geare, perteinig to the said person attached, albeit he be absent. *leg. Malc. Mak. c. 1.*

Attachementes & arreiftments maid be Crowners and serjandes, may be provin be them and witnes. Ia. 3. p. 7. c. 52. That is, be the aith of the

N 3

Crow-mentes

De verborum significatione.

Crowner, & ane witnes cōforme to the auld consuetude. l. 5. p. 4. cap. 33.

The crow-
ners fee.

The crowner shall haue for his fee, for ilk man americiat or componand, ane colpindach, or thretrie pennies. For him that is clenged be ane assise, the crowner shall haue na thing. For ane man filed or condemned, the crowner shall haue all the dantoned horse notschod. *Leg. Mal. Mac. c. 1.* Quhilk is to be vnderstand, of dantoned Horse, depute to wark, and not to the saddle; that was never schod, nor vsed to schoone. l. 3. p. 14. cap. 113. The crowner shall haue all the cornes lyand in binges & mowes, casten and broken, al the in-sight, vtensile, and domicile, within the inner part of the house: That is, within the cruik hingand vpon the fire. And all and findrie scheip within twentie: And all the swine and Gaites with in ten. *Leg. Mal. Mak. c. 1.* Attachements and arreistmentes being maid,

Of persons
quha suld
compeir in
the justice
aire.

Precep-
tum stine-
ris iustiti-
aria

or directed to be maid; or in the time of the making thereof: The justice generall, directis ane charge, called *præceptum itineris iustitiariae*, to the Schireffe and his deputes, in maner and forme following. *Wilhelmus iustitiarius domini regis generaliter constitutus, Vicecomiti & Balliuis suis de E. salutem. Quia ordinamus iter iustitiariae domini nostri regis, Deo duce, tenem. de tota ballia vestra, apud E. Decimo die mensis N. proxime futuri, cum continuatione dierum. Vobis precipimus & mandamus, quatenus summoncati, seu summoneri faciat, legitime & coram testibus legalibus, omnes Episcopos, Abbatas, Priores, Comites, Barones, & ceteros libere tenentes, totius ballie vestre qui seclat debent. Ac etiam omnes illos, qui nihil nisi suas debent presentias, qui de domino nostro regetenent in capite. Quod compareant coram nobis seu deputatis nostris, pluribus aut vno, dictis die & loco, cum continuatione dierum, ad perficiendum, subeundum, & determinandum, id quod in hac parte, iuris ordo postulat. Præmonetis etiam, omnes indictatos, tam de novo, quam de veteri, & suos plegios, qui nondum coram nobis comparuerunt, & iudicium subierunt, ac etiam illos, qui prosequi habent, vel defendere in dicto itinere, secundum formam iuris. Quod compareant coram nobis, seu deputatis nostris, pluribus, aut vno, dictis die & loco, cum dicta continuatione dierum, ad perficiendum & subeundum, id quod in hac parte iuris ordo requirit. Et sitis vos Vicecomes, & Balliui vestri, ibidem, dictis die et loco, cum dicta continuatione dierum, habent vobiscum summonitionis, ac præmonitionis vestre testimonium. & hoc breue. Provi- deatis in super pro expensis nostris, bene & competenter. Quas vobis, in vestris primis computis, de exitibus iustitiariae reddendis, vobis faciemus plenius allo- cari. Et hoc nullatenus omittatis, sub omni pena, quæ competit in hac parte. Da- tum sub sigillo nostri officij iustitiariae.*

Assessours
and coun-
sellors

Quhilk precept & command, is conforme to the Lawes of this realme: Because all free-halders, haldand lands in chiefe of the King, within the Schireffedome, quhair the justice aire is halden, suld compeir & be presēt all excuse set aside, except the same be of seiknes, the kings service, or tin- fell of landes and heritage; To certifie and informe the justice and his deputes, in sik question and doubtis, quhilk incidentlie arisis, as emergent; and of before could nocht be fore-seene, nor knawen.

Ass. reg. Da. c. stat. 18. quoniam attach. c. stat. 77. Sik as Bischops, Abbots, Pri-
ors,

De verborum significatione.

ors, Erls, barones, & vther free tennents, being summoned & warned to that effect, *quoniam attach. c. ad summonitiones 78. l. 4. c. Stat. 19.* & they being lauchfullie warned and not compeirand, incurris, the paine of the vn- law of the court. *Li. 4. c. statutum. c. 19.* And may be punished as favourers of the transgressours, and airt & pairt with them. *la. 4. p. 3. c. 29.* And they and all vther the Kingis lieges, suld cum to the justice aire, and to all v- ther courtes, in sober and quier maner; and suld not bring with them, maa perones, then ar dailie in their houshald and families. And being cum to their Innes and ludgeing, suld laye their armour and weapones from them, and vse na weapons, bot their knife. *la. 2. p. 12. c. 83.* Mairo- ver, all Lordes, Spirituall and Temporall, Barronnes and vtheris, cum- mand to the justice aire, suld na-waies mainteinc, fortifie, supplie, de- fend, nor be Advocattes, nor stand at the Bar, with manifest traitoures, men-slayers, thieues, rievvers, nor vther trespassoures, nor perones per- taining to themselves, or vtheris: Saifand, it salbe leasum to them in fo- ber waies, to stande with their kin, and friendes, in defense of them, in their honest actions. *la. 3. p. 14. c. 98.* Quhen the justice aire is to bee halden vpon the Bordoures; The Wardaines, within their Wardainries, and their deputes, with the free-halders of the Schireffedome, being warned thero to be the Schireffe, be open proclamation, suld convoy the justice and his deputes, to the place appoynted for halding of the Court: And accompanie them, in-during their residence, and vntil they be out of the boundes of their Schireffedome, and received be the nixt Schireffe. *la. 6. p. 11. c. 81.*

In the justice aire, suld compeir all perones attached, and arreist- ed, conforme to the dittay given and taken vp vpon them; quhair of, some were arreisted of before, to haue compeired in the justice Courte preceeding, alreadie ended, and expired, and compeired nocht in the samin: quhais names ar given to the Crowner, to be of new attached, and arreisted, to the aire following, as of before: Vthers ar of newe in- dited, vpon quhom nae poynt of dittay was taken vp, in ony time by- gane, quhais names ar comprehended in ane Catalogue, called portu- ous. All the foresaidis perones indited, baith of auld and of new, sulde be attached and arreisted be the Crowner, to compeir and vnderly the law, the time of the justice aire, as is manifest be the precept foresaide, direct be the justice generall, to the Schireffe.

All persons arreisted, that may be apprehended, the time of the aire, in the Tolbuith, or in the town, quhair the iustice is, salbe taken and de- livered to the justice, to be justified for their crimes and trespasses. Swa that the arreistment be maid before the time of the beginning of the ju- stice aire, and seate of iustice. *Iam. 3. par. 7. cap. 57.* And quhair landes lyand in findrie Schireffdomes, ar annexed & vnited in ane Barronnie: The inhabitantes thereof, shall answer in the justice Court, quhair the landes lyes, and the Lorde, or proprietar of the landes annexed, givis presence or service, in the court of the Schireffedome, within the quhilk

Persones
attached

Inhabitantes
of annex-
ed landes.

De verborum significatione.

the barronnie lyeis, to the quhilk the landes ar annexed. Ia. 4. par. 6. c. 93. For in this case, respect and consideration is had to the naturall situation of the landes, and to the jurisdiction, within the quhilk they lye: rather nor to the imaginar, and civill forme of lying, of the landes be annexation.

Stewardries & Bailleries Attour, all inhabitantes of stewardries and bailleries, fall cum to the head burgh of the Schireffdomes, quhairin they lye: And within the quhilk head burgh, the Kings justice aires ar halden. Ia. 6. p. 11. c. 81.

The judge The judge in the Kingis justice aire, is the Kingis justice generall, or the Kingis baillie, in his regalles, havand lauchfull power and commission granted to them. Ia. 2. p. 3. c. 9. For the King, or the justice generall, may make aucht deputes; quha with ane depute of the Thesaurar, and ane vther of the justice Clerke, suld passe severallie throw the aucht quarters of the realme, and hald justice Courtes. Ia. 6. p. 11. c. 81.

The justices expenses. The justice generall, suld haue for his sustentation, ilk day of the aire, five pound. Like as the justice Clerke suld receive for ilk man clenged, be ane assise, and drawn furth of the rolles, foure pennies. And for ilk man amerciat, or coponand, ij. s. *Leg. Mal. Mak. c. 2.* For ilk Aetorney & commission; twa shillings. For ilk man quha producis ane remission, twa shillings. For ilk man that cummis in the justice wil, twa shillings. For ilk man convict and filed, twa shillings. For ilk letter of witnesse, sex shillings, aucht pennies.

The Schireffe. The crowner. The Schireffe suld be present, as he quha is warned be the justice precept, to answer to all the poyntes thereof: And touching the execution of his office, togidder with the Crowner, quha suld answer for his attachementes and arreistmentes, & verification thereof: And the Schireffe, with the Crowner, suld thoill ane assise, the last day of the aire, anent the ysing and execution of their offices, to quhome justice suld be ministrat, as they fall be founde innocent, or culpable. Ia. 3. parlia. 14. cap. 103.

The forme of the court. The day of compeirance being cum, to the quhilk the justice aire is cryed and proclaimed; The justice and his deputes, suld compeir with all vther persones, charged and commanded to concurre and assist with them. At the quhilk time, the sutes suld be first called, with their Lordes. For albeit the Sutures compeir, neverthelesse, their Lords and maisters ar oblissed likewise to compeir, and giue presence to the justice in his aire: They being lauchfullie summoned, & charged to that effect, be open proclamation, and be the justice precept abone written.

Commission 2 The Commission and power given to the justice, suld be produced and red: And gif the Commission be given and granted to maa persones nor ane conjunctlie: They suld be all presente; vtherwaies it is na lauchfull court. Bot gif they be constitute conjunctlie and severallie: It is sufficient that ony ane of them be present. And mair-over, the justice may nocht make and constitute deputes or substitutes vnder him, except he haue speciall power in his commission, to do the samin.

Lib.

De verborum significatione.

lib. 4. c. 27. Thirdly the judge suld begin and fense the court, conforme to the common ordour and consuetude vied and observed. Ia. 6. par. 11. c. 81. Quhilk suld be done at eleven houres before noone. Ia. 6. p. 11. c. 86. Fourthlie, the court beand affirmed, the dempster suld be called and caused to be sworne, that he fall leallelie and trewlie, vse and exercise his office. Fifthlie, the suites suld be called. Ia. 6. p. 11. c. 81. zit againe as of before ilk man, twife with their lords & masters, & the absents decerned to haue failzied, & therefore suld be vnlawed, & gif baith the suiter and his Maister be absent, ilkane of them be theselues suld be amerciat.

Sextlie, the assisouris being summoned be ane precept direct be the justice to that effect, suld be called, ilk persone vnder the paine of fourtie pounds, and the justice may cheise assiseane or maa, as he pleasis, of the best and maist worthie of the cuntrie, before quhom the haill accusation, reasoning, writtes, witnesse, and vther probation, and instruction quhat sum ever of the crime, salbe reasoned and deduced in their presence; and also in the presence of the partie accused, in face of judgement. Ia. 6. p. 11. c. 90. 91. And it is to wit, that he quha givis vp dittay vpon ane vther, suld not passe vpon his assise. Ia. 1. p. 3. c. 50.

7 The justice suld procede in his court, and put the offenders, gif ony be alreadie in prison, to the knowledge of ane assise; and minister justice vpon them, as they salbe founde innocent, or culpable. Ia. 6. p. 11. cap. 81.

8 He fall call thereafter the pledges, and cautioners of persones attached, quha found sovertie before the justice ony time preceeding, at ony particular diet, or court, to compeir the thrid day of the aire, or sooner, vpon fiteene daies warning. Ia. 6. p. 11. c. 81.

9 This being done, the clerke fall visit and consider the haill rolles, and journell, and call all them quha ar absent from the aires preceeding. Vpon quhais heades and names is written, *prima dies, secunda dies, tertia dies*: Be the quhilk, he vnderstandis, fra quhat aire or court they were absent. And that they may be therefore amerciat, ilkane of them bee them selfe, be reason of their absence. And gif the saidis persones, nocht compeirand of before, now compeiris and ar present: The clerke fall luik the auld dittaies and rolles, and accuse them, conforme thereto, in the best maner he may gudlie. And gif there be na particular poynt of dittay, or accusation; he fall lay commoun dittay to their charge.

10 Thereafter the justice fall call the persones newlie indited and arreisted; And gif they or ony vther of the arreisted persones foresaidis, compeir; they suld be presented to the court, and to the Schireffe, quha suld answer for them, vntill justice be done vpon them.

11 They quha ar attached, and compeiris not, may na waies be accused for their nocht compeirance, bot be the Kingis service; quhilk suld be verified be the Kingis letter, produced in court: Or be reason of seiknesse: Quhilk be the auld law, was tryed be ane assise, quhiddir it was trew

De verborum significatione.

Of persons absent or fugitive.

trew, or feinzied: Albeit the partie was absent. *Stat. 2. Rob. Br. c. 5.* Bot now it suld be proven and verified be the Minister of the Paroch, within the quhilk the person excused dwellis: And be twa witnes personallie compeirand in judgement. *I. 1. p. 9. c. 114.* And concerning persones absent, it is generallic ordained, that everie barrone and free-halder, sal answer in the justiceaire, for his awin men, dwelland vpon his awin proper landes, tackes, stedinges, rowmes, and baronies, and sal be halden to enter them, or els answer to the King, for their vnlawes. *I. 5. p. 3. c. 6.* Quhat is the vnlaw in the justiceaire. *vid. Amerciamentum.* Bot for the better vnderstanding of the lawes, concerning fugitiues and abentes: It is to wit, that be the auld lawes of this realme, gif the partie defender being lauchfullie warned, compeired not, bot send ane essoinzie, or excuse, the samin being reasonable, was received and admitted to the judge, three findrie daies or courtes: And gif he compeired afterwarde, and verified not his essoinzies to be lauchfull, he was distreinzie, & poynded therefore. Bot gif he neither came, nor send ane excuse: The partie perfewer compeired at lauchful day and time of court, and offered him reddie to perfew, quhilk he did be the space of three daies. And the thrid courte beand by-past, the defender was summoned to compeir the fourth day: The quhilk fourth court was peremptour, because sentence definitive was given against him, conform to the claim and petition, gif he compeired nocht, *Lib. 1. c. summonitus. 9.* The like forme and ordour of processe was observed in justice courtes. For mention is maid of the first aire. *Ia. 3. p. 13. c. 94.* And of the second aire. *I. 5. p. 4. c. 32.* And of the fourth court. *I. 3. p. 14. c. 101.* And gif ony person indited, and lauchfullie attached, compeired not, the said three courts, his pledge or law borch was called and amerciat for the first, second, and thrid court, and at ilk time after ilk ane of the saidis courtes, the said pledge was poynded and distreinzie, and the distresse or poynd was letten to borch, and maid free vnder caution; that the saide person indited, suld compeir in the next aire following, to vnderly the law. And gif he was absent at the fourth court, the peremptour doome was given against him. That ilk ane man was in ane amercia ment, and at the Kingis horne, and his landes and all his gudes escheit to the King, except he come within fourtie daies, and did bide the law: And thereafter the court beand ended, the saide person was denounced rebell, and put to the horne openlie at the mercat croce of the head burgh of the Schire. Quhilk forme of processe, was sa lang and prolix, that in mony zeires, parties hurt and grieved, gat na justice: And trespassours and crimes passed vnpunished: quhilk was the occasion to mony persones to commit crimes, trusting na hastie punition nor correction to follow. Therefore King James the Fifth, statute and ordained, that the proces of justice aire, and justice courtes, suld be peremptour at the second aire or court, swa that fugitiues not compeirand at the second aire or court, suld be denounced the Kingis rebelles, and put to his horne, and

The fourth court.

The second court.

De verborum significatione.

and all their gudes his escheit. *Iam. 5. Parlia. 4. Cap. 32.*

12 Hereafter the Lordes of regaltie may desire their men to be remitted to their awin justice Courte, and replege them, schawand their commissiones, power, and pay and therefore, and leivand ane caution behind them, called *Culrach*, quha sal be acted and oblised, in the justice Court, that justice sal be done and ministrat, in the court of the regaltie, to the partie compleinand vpon the person repleged.

13 The justice or his Clerkes, fall demand and speare at the Baillies of Burrowes, gif they be reddie to present ilk burges within their Burgh, indited to the Kingis justice aire: Quhilkis persones suld all enter personallie before the justice, vnder the paine of ane vn-law and amercia ment of court: quha is names the saidis baillies fall put in writ, and deliver the samin to the justice, or his clerkes. And gif they will borrow or replege their saidis nighboures; they fall schaw their commission, and pay therefore; And thereafter they fall draw, or oblise themselues, their Commission, and burgh in pledge: That thay persones quhom they replege, and quha is names they giue in write, sal be furth-cummand, and answerable to the laws, and challenge of the justice. At the quhilk time, he and his deputes fall assigne to them ane certane day, to vnderlie the law, either in that aire, or thereafter quhen he fall think speedefull. And at the samin time, it is leasum to the Kings justice, sittand in the principall burgh of the royaltie, to giue ane assise to all the saidis burges, repleged of their awin nighboures, that best knowis the veritie, dwelland in the same burgh with them. And gif there be nocht ane sufficient number of the said con-burges: It sal be leiffull to choose ane assise of the burges of the said head burgh, quhair the justice and his deputes sitis, as he fall think expedient. *Ia. 4. p. 1. c. 1.*

14 Gif the partie accused compeirand, alleagis to his remission or resper, he fall produce the samin in court, and fall finde sicker borrowes to assise and content the partie compleinand, within fourtie daies following: Quhair vpon ane act is maid in court, quhair by he and his cautioner, ar oblised to assise and satisfie the partie, within the space foresaid: Quhilk is called the acte of Adjournall. And gif he refusis to finde caution, he fall remaine in the Kingis prison, quhill the said fourtie daies be runne, and then his remission sal be expired, and of na value. *Ia. 2. p. 14. c. 75.* And in this case, quhen ony man takis him to his remission, resper, or composition, in the justice aire, or justice court, and findis sovertie to assise the partie: It is leasum to the partie to call the said sovertie before the Lordes of Councell, conforme to the acte of Adjournall, maid there anent. *Ia. 5. p. 3. c. 7.* As gif ony man becummis sovertie for ane vther, anent spuilzie committed be him; and for restitution or satisfaction to be maid be him therefore. He as sovertie may be called and conveened for the gudes spuilzied. For the violent prices thereof, for the damage, skaith, and interest susteined be the perfewer, throw the committing of the said spuilzie. *10. Martij. 1500. William Keith, contrair the Earle*

Replegia- tion, be reason of regaltie.

Replegia- tion of burrowes.

Remission, or resper.

Act of adjournall.

De verborum significatione.

Earl of Caithness. And the said sovertie being condemned, hes gud acti-
on against the principall partie, for his reliefe, be ane simple charge, vp-
on sex daies warning, without peremptour summoundes, or ordour of
table, 11. Julij. 1543.

Persones
cummand
in will.

15. Gif the person attached compeiris in the Courte, and beand ac-
cused, hes na relevant exception, or reasonable defense, of necessitie he
suld passe to the knowledge of ane assise, conforme to the Lawes of the
Realme. At the quhilk time, the haill assisours suld be called, and the ab-
sentis amerciati. Ia. 6. p. 11. c. 76. And the partie accused, suld be heard to
propone all and sundrie, his lauchfull defenses, against the haill assisours
or ony of them, to repell them, as he may best of the law, and stay them
to passe vpon his assise. At this time the person compeirand accused,
cummis in the will of the justice, or he is clenged be ane assise, or he is
filed and convict. Gif he submittis himselfe, and cummis in will, It is
leasum to the justice, to draw him furth of the rolles, and to declare his
will, and to charge him to pay ane composition, or sik ane sūme of sil-
ver, as he pleasis to modifie, after the qualitie of the crime and person,
for vp-taking and in-bringing quhair of, the justice aire being ended,
The justice directis his precept, called, *Preceptum extractus itineris iustitia-
rie*, in this forme.

The pre-
cept of ex-
tractis.

*Wilhelmus iustitiarius generalis, Vicecomiti & Ballivis suis de .E. salutem.
Quia in itinere iustitiarie Domini nostri regis, per nos ultimo tent. apud .F. deci-
mo die mensis .N. Anno Domini .Etc. Diversi fuerunt amerciati, & pro suis de-
lictis convicti, & in nostra voluntate positi. Quare vobis precipimus & manda-
mus, quatenus de infra scriptis personis subscriptas summas levare faciatis, &
pro eisdem secundum formam iuris distringatis. Et primo de .N. sum-
mam &c. De quibusquidem summis solvatis pro expensis nostris in dicto itine-
re summam .N. Residuum vero dictarum summarum solvatis offerariis Domi-
ni Nostri Regis: Vel cui vobis assignabitur infra tempus legitimum, hoc est infra
quadraginta dies primum diem dicti itineris proxime & immediate sequen. Et
hoc nullo modo omittatis.*

Persones
charged

Quhen ony person is clenged be ane assise, the justice directis his
Testimoniall, called *Litera testimonialis de homine munito per assisam*, in
maner following.

*Wilhelmus iustitiarius generalis, universis & singulis ad quorum notitias
presentes literae pervenerint, salutem. Noveritis quod compars corā nobis in itinere
iustitiarie Domini nostri regis, tent. apud .F. decimo die mensis .N. anno Domini
&c. I. de .B. indictatus, & per rotulos Regis calumniatus, de arte & parte talis
furti, vel talis rapina, vel incendij &c. Quamquidem calumniam dictus .I. in
facie iudicij penitus denegavit. Et super hoc ad recognitionem assise utique se
submisit. Quaequidem assisa hinc inde diligenter consultā, Et plenius auisatā,
dictum .I. a dictis calumniis sibi impositis, quittum declaravit, penitus & im-
munem. Et hoc omnibus quorum interest, vel interesse poterit, notum facimus
per presentes. In cuius rei testimonium sigillum officij nostri, appendi curavi-
mus.*

All

De verborum significatione.

All thay persons quha cummis in will, & ar drawn furth of the rolles,
& also they quha ar clenged be ane assise, can na waies in ony time there
after be called or accused for that crime, for the quhilk they cum in will,
for anis quit & clenged, ay quit & clenged. Zit nevertheles, gif ony perso
be accused criminalle of life & lim, at the instance of ane vther private
man allanerlie, and is clenged & maid quite: the Kingis justice & his de-
putes, be reason of their office, may thereafter tak inquisition anent the
said crime, & in the Kingis name accuse the committer thereof, cōforme
to the Law. Notwithstanding that of before, he was clenged thereof be
ane assise. *Lib. 4. c. Si querela. 58.* Because the action or persute of ane priuy
partie, prejudgis not the King in his richt or entres, competent to him,
be reason of his royal power. And therefore the Thesaurar, & the Kings
Advocate, may persew all malefactoures: Albeit the parties desist, or pri-
vatelie agree amangst themselues. Ia. 6. par. 11. ca. 76.

Quhen trespassours & malefactoures ar convict, as breakers of the sta-
tuts, & acts containd dittay, they aucht & suld be punished according
to justice, & conforme to the tenour & paines contained in the acts bro-
ken & contraveened be them. Ia. 4. p. 4. c. 45. And sa gif the paine contei-
ned in the act be pecunial, they suld pay the samin. And gif it be capital,
they suld vnderly & suffer the samin, except the King giue them remis-
sion, and speciall grace there anent. As for example, landed men, lauch-
fullie and ordourlie convict of commoun theft, recept of theft, stouth,
or riefe, incurris the paine of treason, and therefore suld be punished be
rinfell of life, and confiscation of landes and gudes. Ia. 6. p. 11. c. 50. Al-
waies the Crowner may not intromet with ony gudes or geare pertei-
ning to ony trespassour, convict & condemned to the death, at his awin
hand, untill the Schireffe or his deputies, passe, or send with him, and vi-
sif all the haill gudes, and deliver to the Crowner sa-meikle, as he sulde
haue be reason, and as perteinis to his office, and bring the remanent to
our Sovereine Lord, and his Thesaurar. I. 3. par. 14. c. 102.

Persones
filed and
convict

The justice aire beand ended, the justice sall deliver the extract there-
of, subscribed be him to the Thesaurar, quha sall cause take vp the sūmes
contained therein, and make compt thereof in the nixt Checker, in
the quhilk compt salbe allowed the expenses and charges of the justice,
his deputies and Clerkes, as the samin salbe modified be the Lordes, Au-
ditoures of the Checker. Ia. 6. p. 11. c. 81.

The ende
of the aire.

LAST Of gudes, how meikle it contains vid. Serplait.

LEIT Lands to borgh, *dimittere terras ad pleg. vid. plegius vide Recog.*

LEX Apparens lib. 4. cap. 4. de iudic. c. 24. Leg. Forest. cap. Item in pla-
cito 16. Signifies the law concerning singular battell. And lib. 4. cap. 1.
it signifies ane inquisition, maid, or taken beane inquest or assise. And
in the law of Normandie. li. 9. c. 10. It is called *Loy apparissant*. And lib. 8. c. 3.

O

All

De verborum significatione.

All quarrelles of possessiones or moveables, quhilkis ar called *Chat-
tel*, or of landes and immoveable gudes, suld be decided be commoun
and simple quarrelles, conforme to ordour of lawe, or be lawes *Appari-
santes*; quhilkis ar determinat, ather be singular battell, or be ane inquest
of the cuntrie, vtherwaies called, *Loy recognoissant*. It islikewaies called,
Lex paribilis, a parium pugna, vel concertatione, from the combat of peeres
and *Campionis*, or *lex duellorum*, quhilk law is vngodlie, and not to be v-
sed among Christianes. *Cuiac. lib. 1. de feud.*

LIBERATIO, Ane fee given to ane servand, or officiar, quhilk
is called ane liverie: *Leg. Malcolm. Mackenneth. c. 4.* Feodum, or fee, is
commonlie of silver and money, and ane liverie is of meate or cleithes.
Bot this distinction or difference, is nocht perpetuall.

LIBERVM Tenementum, is commounlie, and properlie called,
frank-tenement, or life-rent: In Latine, *usus fructus*, conforme to the
dailie practique of this Realm. And neverthelesse, *Liberum tenementum*,
signifies, the propertie, fee, or heritage. *Donatio liberi tenementi, & con-
cessio hereditatis*, is baith ane. *Lib. 2. c. potest. 21.* *Tenementum Regium*, is cal-
led the Kingis heretage. *Lib. 2. c. Dicitur. 74.* In the quhilk signification,
*Minor dicitur esse in tenemento. lib. 3. c. Generalia. 24. c. Remanere 26. Et placi-
tum de recto & liberi tenementis per breue domini Regis de recto debet termi-
nari. Lib. 1. c. 6.* And King *Alexander* gaue and disponed to *Duncan For-
beys*, *tenementum de Forbeys*. That is, the landes and heretage of *Forbeys*:
quhilk Charter is zit extant. *vid. Tenementum.*

LIGEANTIA, *Lib. 2. c. Fieri. 61.* From the Italian word *Liga*,
ane league, band, or obligation: as *homo ligius*, ane man, quha is oblised
& bound fra the quhilk cumis. *Alodii, in libris feudorum, quasi possessio sine
leode: Cuius possessor nemini est leodes sine ligius.* And *ligeantia*, is the mu-
tuall band or obligation, betuixt the maister and the servand. *Lib. 2. c. plu-
rib. 14. lib. 4. c. Si quis super. 36. Vid. Affidatio.* Item, the mutuall band and
obligation, betuixt the King and his subjectes, quhairby wee ar called
his lieges, because we ar bounde and oblised to obey & serve him. And
he is called our liege King, because he suld maintene, & defend vs. And
the doctours of the law writis: *Quod imperator dicitur dominus totius mundi,
eodem modo quo rex regni. bene a Zenone. C. de quadr. prescript.* Quhilk suld
be vnderstand, concerning the defense & maintenance, & not aient the
propertie. *Quia reges non sunt domini privatarum possessionum. Glo. in. L.
Barbarius de Offic. prator. Homagium ligium, vel cum ligeantia factum,* Is
quhen the vassall, absolutelie makis homage to his superiour, against,
all, and quhat sum ever persones, without exception of onie man.
quhilk suld be done to na vther, bot to the King allanerlie. *Homagium
non ligium, vel sine ligeantia*, is that quhilk the vassall makis to his Over-
Lord, excepting and reserving the fidelitie, quhilk he aucht to the King,
or his elder Overlord, or maister. *Lib. 2. c. fieri. 61. Chiffanius in Consuetud.
Burgund. Rubric. 3. §. 3. Verb. & homage. Nu. 10. cum seqq.* Quhilk vassall is
called, *vassallus non homologus*. Like as the vther is *vassallus homologus*, in
quhais

De verborum significatione.

quhais aith na person is excepted. *Cuiac. lib. 2. de feud.*

M

MACHAMIVM, *Mechanium*, from the auld French worde
Mechaigne, quhilk we cal, Manzie, hurt, mutilation, demembratio, or
the losse or tinfell of ony member of ane mannis bodie: Or the breaking
of ane bane, or quhen ane mannis harn-pan, or ony part thereof, is cut-
ted away, or dung in. *Li. 4. c. 4. Res cum machamio dicitur res minus sana. Lib.
3. c. ex causa. 8.* Be the auld Law of this realme, he quha is mainzied, hes
ane iust cause to excuse himselte fra singular battell, and zit he will bee
compelled to purge, clenge, and defend himselte, *Per ignem & aquam. li.
4. c. 4. cap. Si quis pro latrocinio 15. Quoniam attach. c. Si quis 58. Lib. 4. c. assisa
20. Stat. Alex. c. quicunque 31.* Quhair of the power pertainis not to ony
Barronne; For na subject may compell ane vther to purge himselte be
fire or water. *Stat. Alex. c. preterea 32.* This kinde of purgation was ane
maist scharp and extreame kinde of purgation and triall: Like as we dai-
lie vse in commoun proverb; quhen we say be way of menacing, & boa-
sting, that we fall gar ony person pas *per ignem & aquam*; That is, to suf-
fer and vnderly that kinde of tryall that is maist severe and extreame. It
is called, *iudicium Dei*, the judgment of God, as knawin to him allanerly.
Iter. Camer. c. cum hoc. 25. And was in great vse amangst the *Longobardes*,
as is expoued be *Hotomannus de feud. c. 44.* In the auld Saxon tounge, and
zit in Dutch, it is called *Ordeil*, *ordalium*, from, or, quhilk they vse as *pri-
uatiua particula*, and *Del*, quhilk signifies ane part or portion: quhilk
word we vse in the same signification: and swa *Ordeil* signifies innocent,
quha hes na part, or is not participant of the crime, quhair of he is accu-
sed. Purgation be the fire, is quhen ony man with bair feete, passis throw
the fire, without ony harme or hurte, or quhen ony man dois carry and
bear in his bare hand hoat burnand iron, without ony hurt of his hand,
quhilk is called *ferri candentis iudicium*. In the quhilk case, he was decer-
ned to be *Ordeil*, or na waies participant of the crime. Vtherwaies, gif his
fute or hand was hurte be the fire, or hoate iron: He was condemned, as
participat & fowle of the crime. And siklike, *Purgatio per aquam*, is quhen
ony man suspect or accused of ane crime, was casten in hoate or cauld
water. And gif he passed to the bottome, without ony hurt of his bodie:
he was decerned *ordeil* & innocent. Bot gif he did not fal to the ground,
bot did swimme abone, he was condemned as fowle of the crime, as is
written in the auld laws of the Brittones. *Verb. Ordalium.* And be *Cuiac. li.
2. de feud. Purgatio vulgaris*, is discharged bee the Cannon law. *c. dilecti.
extr. de purgatione vulgari. c. ex tuarum. 8. de purgat. canonica:* And likewaies
be the lawes of this realme it is forbidden as vnleasū. *Aff. Reg. Da. c. Stat.
etiam. 30. In fine ubi pro fossam, lege aquam. Stat. Alex. c. Statuit Dominus 6.*

De verborum significatione.

And be the law of God it is commanded, that nanē sulde suffer their sonne or dauchter to go throw the fire. Deut. 18. 10.

MANELET A, Anē kinde of evill and Pestilent herbe, quhilk growes amangst the cornes, called *Guld. de Iudic. c. 7*. The Law of *maneleta*, or of the Guld, was first institute be King *Kenneth*, quha ordained that he quha throw his fault or negligence, sufferis sawen landes to be filed with noysum herbes: For the first fault, fall pay ane Oxe; for the second fault, ten Oxen; and for the thrid fault, salbe remoooved fra the possession and laboring of the land. *Hector Boetius. lib. 10*. And gif anē mailer, or tennent, filis the land with guld, & will not elenge the famin; he may be punished as ane seducer, quha bringis, or convoyis ane armie within his maisters land, to wrack and destroy it. *Leg. Forest. ca. Si natus. 28. de Iudic. c. 8*. And gif thy awin natiue man, or bondman (*nativus tuus*) hes guld within thy lande; For ilk stock or plant thereof, he suld pay ane Mutton, as ane vnlaw. *Leg. Forest. d. c. 38. de Iudic. c. 27*. The quhilk lawe, and constitution is kepted and observed, within certaine partes of this Realme; quhair the tennent sufferand the guld to grow amangst his cornes, payis ane wedder or scheipe, to his maister.

MANERIV M, landes laboured with hand warke, *quasi manurum, à manu*. Anē mainnes, or domaine landes; Or *terra dominicales*: Because they ar laboured and inhabited be the Lord, and proprietor of the famin, gif there be twa mainnes, perteing to ony man that is deceased, the principal maines suld not be divided; bot suld remaine with his aire and successour, without divison; togidder with the principall messuage. And full satisfaction suld be maid to his wife, or relict therefore, furth of the second mainnes, or vtherwise. *Lib. 2. cap. Dos autem. 19. de Iudic. cap. 112*.

MANSVS, *Amanendo*, ane habitation or dwelling place, specialle quhair husband-men, labourers of the ground dwellis a-landwart; to the effect they may labour their land mair commodiouse. *L. Si plures. Nu. 9. C. de condit. infertis. Molineus in Stil. cur. part. 3. c. 85*. Bot *Bartol. in l. Si ita. Nu. 10. de Aur. & argent. legat. affirmis*, ane Manse to be als meikle lande, as may be gudlie tilled be twa oxen in the zeir. *Cuiac. lib. 1. de feud. writtis*, that *mansus*, is sa-meikle lande, quhairby ane man may susteine honestlie him selfe, and his familie, and pay the dewtie to his Maister, quhilk is called *Heredium*. Bot in the practique of this realme, it is rather called *Gleba*; That is, ane certaine portion of arable lande. In Latine *Terra culta*: Or *terra veluti nativi venditi cum gleba. h. e. terra, Qui nativi ascripti vocantur. Lib. 2. c. Pluribus. 14*. And the four aickers of land, quhilk is graunted to the Ministers of the Evangell, within this Lande, is called ane gleebe, the quhilk suld be free fra payment of ony teindes. *L. 6. p. 5. c. 62*. And *Carolus Magnus*, to the effect, that the Ministers of the word of God, suld nor perish be hunger or povertie, gawe to ilk Kirk ane manse. For the quhilk they suld paye na dewtie or service. *Quinc. Lib. 1. de Feud.*

MANVS

De verborum significatione.

MANVS, *Mortua*, dimittere terras ad manum mortuam, hoc est, ad multitudinem sine universitatem, quam nunquam moritur. Quhilk vtherwaies is called *Mortificare terras*: That is, to giue and dispoone landes, to the hand or power of the Kirk, College, Communitie, or ony Vniversitie, capable to posscede, bruike, or ioyis gudes or landes; The quhilk is saide *per contrarium sensu*. Because ilk Kirks, Colleges, Communities, or vniversities, dois nocht die, albeit the particular members thereof ar mortall, alters, and deceasis. *Ius Normand. Lib. 5. c. 7*. Quhilk is conforme to *L. Proponatur. 76. ff. de iudicis*. Swa *Manus* may signifie power, as in the Latine tounge. Or *Manus mortua*, may bee conforme to the Scottishe word, borrowed fra the Dutch worde *Meinzie*, quhilk signifies ane multitude; and specialle of folke and people. And swa *dimittere terras ad manum mortuam*, is to giue landes to ony Vniversitie, and multitude of people. Alwaies it is not leasum to ony man to mortifie ony part of his lands to the Kirk, without consent of the King. *Lib. 2. c. Notandum. 26*. Because the King may be thereby prejudged in his tennendrie, dewtie & service fra the quhilk the Kirk men in auld time wer excoemed.

MARK, *In tractatu de ponderibus & mensuris*, signifies ane ounce weicht, or halfe ane pound, quhair of the dram is the aucht part. Like as the ounce is the aucht parte of ane mark. *Chessa. in Consuetud. Burgund. Rubric. 1. §. 7. Verb. 65. solz. Tarmays. solidus (inquit) in iure capitur pro aureo, quorum 72. faciunt libram auri. Et duodecim uncia. faciunt Libram. & octo uncia. faciunt Libram. Gl. & Ia. Fabr. in §. nos autem. verb. solidos. insti. de attil. tutor.*

MARCHE TA, King *Evenus* did wickedlie ordaine, that the Lord or maister of the ground, or Land, suld haue the first night of ilk married woman within the famin. The quhilk ordinance, was after abrogate be King *Malcolm*, the Thrid; quha ordained, that the Bride-groome sulde haue the vse of his awin wife. And therefore suld pay ane peece of money, called *Marca*. *Hector Boetius. lib. 3. c. 12*. For the quhilk, certaine Kye, was vsed to be payed. *Lib. 4. cap. Sciendum. 63*. Bot vtherwaies in my opinion, Mark, or March, significth ane horse; In the auld French, Irish, and Dutch tounes. For in the French tounge, *Marcher*, is to ride, or gang; as *Marcher devant*, to ride or gang before. And *Paulus Diaconus. Hystor. Longobard. writtis*, that *Mar* is called in Latine, *Equa*, quhilk we call ane Meare. *Alciatus de singulari certamine. c. 32. Marcum (inquit) Germani. equam dicunt, unde Marcomanni (qui hodie dicuntur Moravi) equitatu pollentes populi. Et Maroboduus Rex. Marcomannorum, cui corpus instar equi erat.* Mair, over, I finde ane auld constitution, written be *Lotharius Imperator. & Carolus Rex*. In this maner: *Et missi nostri in illos misitatis (h. e. com. missarii nostri in iis locis ad quos mittuntur) curam habeant ne homines nostri, aut alij quilibet, vicinos suos maiores, vel minores, tempore aestatis, quando ad herbam suos caballos mittunt; vel tempore Hyemis, quando Marecalli illos ad fodrum dirigunt depreedentur, aut opprimat.* Be the quhilk it is manifest, that *fodrum*, is a dutch word, *pro pabulo equorum*, quhilk we call fodder, & *marchallus* or *mariscallus*, is a master of stable, or a servad that hes cure of the horse.

O 3

for

De verborum significatione.

Marche
Schalk
Trimar-
chiffa.
Horsnar-
schall.
Downe.

for *March* signifies ane horse; and *Schalk* in Dutch, is ane servand, as *Godschalk*, the servand of God. And *Albiatus. d. 6. 32.* Affirms that the troupes of horse-men, in the armie of *Brennus*, was called *Trimarchissa*, because ilk man had three horse. And in the samin signification, we vie the word, *Hors-marschel*: Quhair horse is adjoyned, for interpretation of the word *Marche*. As likwaies in *Silverdown hill*: This word hill, is the interpretation of the vther word *Downe*, quhair of the anc, and the vther signifies ane thing. In Latine, *Mons*. Swa hors-marschel, is ane servand that keipis or curis horse, as is commounlie vfed within this Realme; Quhilk opinion findrie Germane writers confirmis, and speciallie the *Scholastes* of *Guntherus lib. 8. Austrados*. Swa leavand to ilk man his awin opinion and judgement, free to himselfe: I think that *Marcheta mulieris*, is the raide of the woman, or the first carnall copulation and conjunction with her; quhilk in respect of her virginite, is maist esteemed be men. Quhilk interpretation is confirmed als wa bec *Quat. Lib. 1. de feudis*.

Maritagi-
um legale

The mari-
age pertei-
nis to the
eldest su-
perieur.

The mari-
age pertei-
nis to the
King.

Maritagi-
um con-
ventionale

MARITAGIVM Heredis, The mariage of ane aire maill of femaill, quhilk is modified and liquidat be the Lordes of the Session, to ane certaine summe of money, after consideration of the rentall, and value of the landes pertaining to the aire; quhilk is either legall, or conventionall. The mariage Legall, is that quhilk be the disposition of the Law, perteinis to the superiour, and Over-lord. For the mariage of ane aire maill, or femaill of landes halden be service of warde and relieue, being within lesse age, or being of perfite age, and not married the time of the decease of his father, or vther predecessour, to quhom he is aire, perteinis to his immediat superiour; be the commoun disposition of the law of this realme. And gif there be maa superiours, the mariage perteinis to the first, and eldest superiour, to quhom the predecessours of the said aire, maid first leageance and homage: Or of quhom they haue the first infestment of their landes. *Leg. Forest. c. si alieni. 75.* Mair ouer, gif ane aire haldis certaine landes be service of warde of the King immediatlie: And certaine vther landes be the like maner of halding immediatlie of ane vther superiour, Spirituall or Temporall: The mariage of the aire, suld perteine to the King allanerlie, without ony respect of the quantitie of the landes, or of the prioritie, or posterioritie of the halding: Because the King hes not ane peere or companion, far les ane superiour within his realme. *Lib. 2. c. Restituere. 44. c. 45.* *Maritagium conventionale*, is that quhilk cummis not be disposition of the Law, bot be the convention & consent of parties: As quhen ony man haldis his landes in blench, or in few-ferme: His awin, or his aires mariage, na waies thereby perteinis to his superiour: Bot zit gif hee payis ony dewtie for his landes *nomine alba firma*, or *nomine feudi firma*, *uno cum matrimonio heredis cum contigerit*: Gif he happenis to decease, the mariage of his aire, nocht being married, perteinis to his superiour, not be the nature of the halding of his landes, bot be the convention and provision contained in his infestment

De verborum significatione.

Single and
double a-
vaile of
mariage

festment. The availe of ane aires mariage, is either single or double. For gif the superiour requiris not ane aire; to marie, and the aire marie with out his consent: The superiour suld obtene allanerlie for his mariage, be the estimation of the ordinar judge; sa-meikle as may be ane competent summe; or to cher to the said aire, conforme to his zeirlic rente: Or gif the aire refusis to marie; hee cannot be compelled to doe the samin; *Quia matrimonia debent esse libera*. Bot quhen he cummis to perfite age, he sall giue to his superiour, als meikle as he micht haue fra ony vther person, for the same mariage, before he receiue his landes out of the hands of his superiour, *quia maritadium eius qui infra etatem est, de mero iure pertinet ad dominum feudi. leg. Forest. c. si quis. 66.* The double availe of the mariage of ane aire, perteinis to the superiour, quha makis ane lauchfull offer of ane partie, to the aire in mariage: Providing that the partie offered, be of equall parage: For gif the superiour dois marie the aire, with ony person in disparage, as with ane burgeesse man, or with ane villaine. Gif the aire, bec of the age of fourtene zeires, or mair, and gives his consent to the saide mariage, the samin is gude and valable of the law. Bot gif the aire be within the age of fourtene zeires, quhair throw he may nocht giue ane lauchfull consent to his mariage: In that case, gif his kinsman compleinis, the Over-lord sall tene and omit the warde, and all commoditie that he may haue thereby, vntill the aire be of lauchful age of twentie ane zeires; Quhilk sal be converted and employed, be the sight of his friendes, to his vse and commoditie, be reason of the schame and dishonour done to him. *Leg. Forest. c. si qui domini 65.* Quhilk is conforme to the Lawes of England. *Hen. 3. stat. Merton. c. 6. c. 7.* Swa gif the mariage of ony aire, or heretrix, be fallen in the superiouris handes; and the aire be and lauchfullie required be the superiour, or his donatar, or be ony cled with their richt, to marie ony agreeable partie without disparage offered to him, refusis to do the same, and maries ony vther person, without the licence and consent of the superiour, or his donatar; He aucht, and suld be reason of his contempt and disobedience, pay not only the single availe of his mariage; bot also the double thereof: That is, als meikle againe, as the single, be the modification of the judge, after the zeirlic rental, availe, and quantitie of the landes and living, pertaining to the aire. And mair ouer, in this case, be the auld law of this Realme, it is leasum to the superiour, to hald and reitene the landes, albeit the aire be of twentie ane zeires of age, vntill he be compleitlie satisfied of the saide double availe. *Leg. Forest. c. de heredibus. 64.* And it is to wit, that the saide requisition, suld be maid in this maner: The superiour his donatar, or the assignay maid and constitute be the Donatar, or ony vther person, haue and richt thereto; aucht, and suld be him self, or be his lauchful procurator, havand special power in writ, to that effect, offer to the aire, personallie apprehended, then being of lauchfull age for mariage, ane agreeable pattie, expremand the said persons name, and sur-name, without disparage to him: Sick-like beand of lauchfull age, and convenient for mariage

The forme
how ane
aire suld
be requi-
red to ma-
rie.

De verborum significatione.

marriage, and require the said aire to solemnize, & compleit the band of matrimonie, in face of halie Kirk, with the person that is offerred; And for compleiting thereof, assigne and affixe ane lauchfull daye; To wit, the space of threttie daies at the least to him to compleit the samin; within ony Kirk, appoynted be the maker of the offer, to that effect. And in the meane time of the said requisition, or before, or after the samin, the donatar, or ony vther assignay, havand richt and title, of him, or of the superiour (for the superiour himselfe; needis nocht to mak ony intimation of his richt & title, he beand notourlie knawin to be superiour) fuld make be himselfe, or be his procuratour, intimation of the richt, and disposition maid to him; and schaw the same, and mak the samin patent, in presence of the said aire; and cause the samin to be read before him, or giue, or offer him ane copie thereof: To the effect, that he thereafter may not pretend nor alleage ignorance thereanent. And thereafter the said person, viz. The superiour, or ony vther cled with his richt, bee quhom, or in quhais name the said requisition & intimation was maid; aucht and fuld personallie, or be his procuratour, compeir at the day, & kirk appoynted of before: Bringand with him the said partie offerred, in proper person, reddie and willing to marie, quha was offerred in marriage; And there in lauchfull time, before twelue houres of the day, offer him reddie to accomplish and fulfill that quhilk he offerred, and required to be done of before. And to that effect, there remaine quhill the Sermon, or divine service be done, or quhill ane houre after noone. And gif the aire compeiris nocht, or compeiris and refusis to marie, he fuld take instrumentes thereupon, in the handes of ane sufficient Notar, of the refuse maid be the aire, or of his none-compearance; and the offer of the agreeable partie, togidder with the intimation foresaid, quhilk cannot be proven be witness, bot be writ. *Pen. Feb. 1567. The Laird of Drumlangrig, contrair Marion Carrutheris. 21. Junij. 1568. William, Lorde Forbess, contrair the Laird of Boyne. 4. Junij. 1575. The Laird of Glenberrie, contrair the Laird of Vdny.*

MARITAGIVM Tocher gude. *Lib. 2. c. dos autem 19. in fine. c. post 21. cum seqq. Vid. Dos.*

Præco
Regis

MARVS, Ane officiar, or executour of summondes. *I. i. p. 9. c. 111. p. 13. c. 140. Vide Recordum.* He is vtherwaies called, *Præco regis. Lib. 1. cap. cum autem. 8.* Quhair it is said, *Quod die dominico vox præconis cessare debet*, because na sumonds fuld be execute vpon ane Sunday. The kings Maire is of ane greater power and authoritie, nor the messengers or officiares of armes, and speciallie in justice aires, and punishing of trespassours. Bot now the said office is given in fee and heritage to Maires of fee, quha knawis nocht their office: Bot ar idle persones, and onely dois diligence in taking vp of their fees, from them, to quhome they do enagude, nor service to the King.

MATERTERA, properlie is the Mother sister, *Quasi Mater altera.* Bot sum-times improperlie it is taken for the Father sister, in Latine,

De verborum significatione.

Latine *Amita.* For *Lib. 2. c. Deficientibus 34. Post Avunculum. h. e. patrum eiusque liberos, Matertera eiusque liberi habent ius successionis.* And be the Law of this Realme, the bairnes descendand of the mother sister, hes na richt of succession: Quhilk in the awin place and degree, is competent to the bairnes borne of the Father sister; quhilk is manifest. *De iudicib. c. heredum. 113. c. Item Nota. 115. Vbi expresse, Matertera dicitur esse Amita. vid. Avunculus.*

MELLETVM, *Medletum. lib. 1. c. 2.* Ane French word, Melle, diffension, strife, debate, as we saye, that ane hes melled or tuilzied with ane vther. And in the actes of Parliament, and practique of this realme, *Chand-mella* is ane faulte or trespassse, quhilk is committed be ane hoate suddaintie, and nocht offset purpose, or *pracogitata malitia. Jam. 1. 11. Mar. c. 51.* And in *Libro M. Willielmi Skene fratris mei, Commissarij Sancti Andree. Fol. 121.* It is written, that Flycht-vyt is libertie to hald courts, and take vp the vnlawe *pro melleis.* Because Flycht, is called flyting; In French, *melle*, quhilk some times is conjoyned with hand-straikes. And in summe buikes *Placitum de melleis*, is called the Mute, or pley of beating or striking. *Lib. 1. c. 2.*

MENETVM, *Leg. Forest. c. 2.* Ane stock horne. In the quhilk place, it is wrangeouls written *Cornuare minutim, pro Cornuare menetum*, to blaw ane stock horne, quhilk commounlie is maid of Timmer & wood, or tree, with circles & girds of the same, quhilk is zet vsed in the Hielands and Iles of this realme; quhair of I haue seene the like in the Cuntre of *Helvetia*, in the zeir of God, ane thousand, fve hundreth, sextie aucht, amangst the *Zuitzers.*

MEREMIVM, *muremium*, The timmer of ane house. *Lib. 4. c. Si quis 55.* In the English Lawes, *Carta de Foresta.* It is called *maremium.* And ane charter given be *Iacobus Senescallus Scotia* (king James the First, before his Fathers decease) To *Thomas Browster*, of the landes of *Sacerland*, beside *Passay*; now perteing heretablie, to *Matthew Steward* of *Barscube*, cōteinis *potestatem incidendi meremium*; That is, licence and power to cutte sa-meikle greenē woodde in the Kingis Forest of *Raise*, as fuld be necessar to the said *Thomas*, to big houses to his awne use.

MESE Of Herring, conteinis fve hundreth, for the commoun vse of numeration, and telling of Herring, be reason of their greate multitude, is vsed bee thoufandes; And therefore ane Mese, comprehendis fve hundreth, quhilk is the halfe of ane thousand. From the Greek word *μείον*, In Latine *medium.*

MESSVAGIVM, *Lib. 2. c. Dos autem 19. c. Si quis plures 30. cum seqq.* Ane principall dwelling place, or house within ane Barronie, quhilk in the laws of Englad, is called *Manour*, ane hall, place, or court Iudge, or *Manour house.* Albeit *Valentine Leigh*, in his buik of surveying of lands affirmis *messuagium* to be the tenement or lands arable, And the dwelling house or place, or Courte hal thereof, to be called *Sit*, from the Latine *Situs*; quhilk wee call the seate, or on-sette. And it is not leasum
to

De verborum significatione.

give the principall messuage, to the wife within burgh, in life rent. *Leg. Burg. c. Nullus. 107.*

MILITES, *Leg. Malc. Mak. c. 2.* And generallie in the auld lawes of this realm, ar called free-holders, haldad their lands of barons in chief; quha hes na power to hald courts of life and lim: bot onely of injuries, wrang, and vnlaw. Bot *militare servitium*, Knichtes service, is that maner of halding of lands, quhilk is called, service of ward and relieue. *Et miles opponitur Soccomanno*, and he quha halds his landes, *Per militare servitium lib. 2. c. Si quis 30.*

MISERICORDIA, Ane merciment, amerciament or vnlaw. *Leg. Forest. c. 5. de iudic. c. 40. Misericordia domini regis*, or the Kingis merciment in purpresture. *Lib. 2. cap. dicitur. 75. vid. Forisfactum. vide Amerciamentum.*

MUTE, Mute, pley, action, quarrell. Quhen King *Malcolme* the Second, gaue all his landes to the Barronnes of this realme; he reteneid to himselte *montem placiti de Scone*. The mute hill of *Scone*: quhair hee michthald his courtes and do justice to his subjects, in deciding their pleyes, and controversies. *Leg. Mal. Mak. in prin.* Mute in the Lawes of this realme is called *placitum*. And likas in the civil law, actiones ar divided in civil and criminall: *Swa placitorum, aliud est civile, aliud criminale.* Pleyes ar civil or criminall: Civil ar called actiones of injuries, wrang, and vnlaw. *Leg. Malc. Mak. c. 2.* And concernis pecuniall paines, or lands and heretage. Criminall pleyes, touchis life or lim, or capitall paines, called *pena sanguinis. Lib. 1. c. 2. c. 3.*

MORTGAGE, *mortuum vadium, dicitur pignus, cuius fructus, vel redditus percepti, in nullo se acquiescant.* It is ane French worde, signifies ane deade wed, sik as ane certane summe of silver, given vpon landes in wedfet, and vnder reversion; quhilk is called ane deede wed, Because be the auld law of this realm, the profit thereof: that is, the annual of the silver, is recokened as ane parte of the stock & principal summe. And therefore the said stock is dead, without ony profite, as ane barren and dead tree, quhilk producis na fruit. *Lib. 3. c. 4. c. 6.* Contrair the commoun forme of alienation of landes vnder reversion, dailie vsed within this realme, called *pactum de retro-vendendo*, quhair be the annuell, is zeirlic payed, vntill the redemption of the landes. At the quhilk time, the principall summe suld be likewaies compleitlie payed. And swa baith the annuell, and the stock being payed, the profites ar not recokened in the stock, bot ilkane of them ar severallie recokned, and severally payed, sa meikle for the profite, and sa meikle for the principall summe. *vide Vadium.*

MULIERATVS *Filius*, is ane lauchfull sonne, gotten with ane lauchfull wife. *Lib. 2. c. Si autem 22. Ex legitima muliere seu uxore, quia mulieris appellatione vxor continetur. L. Mulieris. 13. Et ibi Gl. de verb. signif.*

MURTHRV, *Lib. 1. c. 2. lib. 4. c. 7.* Quhair of sum is called, privat, that is mannis slauchter, quhair of the author is vnknawin: Quhair of the inquisition pertainis to the crowner; As quhen ane person is founde slaine,

De verborum significatione.

slaine or drowned, in ony place or watter. Vther is publick committed be fore-thocht-fellonie, *Quia non debet murthrum adiudicari, ubi infortunium interuenit: sed locum habeat murthrum, in interfectis per feloniam.* And swa murther is committed be fore-thocht-fellonie, and not be suddainrie, *Chaud mella*, or *infortunium*: That is, be chaunce or fortune. *Leg. Malcolme. Mak. cap. 2.* And in the lawes of England. *Anno 13. Edward. 2. cap. 1.* Murther is quhen ony man be ane propensed malice, lyes in waite to slay ane vther man. And according to his malicious intent, slayis him. *Molinaus in fil. Cur. Parl. part. 1. cap. 13.* Conforme to the law of *Normandie. Lib. 12. cap. 1.* Affirmis, that murther is different from simple slauchter. Because murther is committed wittinglie, and willinglie, bee ane quha offet purpose lyes quietly in awaite for that effect. And slauchter is committed without ony fore-thocht-fellonie, vpon ane haistie suddainrie, quhilk in Latine is *Rixa*; And in French, *Chaud mella*; In the quhilk place he writtis, that three crimes pertainis to the high justice; wilfull fire, ravishing of weemen, and murther. Bot be the law of this Realme, foure crimes ar called the foure poyntes of the Crowne; wilfull fire, ravishing of weemen, murther, and robbetrie or riefte: Because the iurisdiction, or cognition thereof, pertainis allanerlie to the King, and to na subiect Spirituall, nor Temporall; except the samin be speciallie granted to him be the King. *Lib. 1. c. 2. leg. Malcolme. Mak. c. 4. lib. 4. cap. De lina. 13. aff. reg. Da. c. 1.*

Rixa.
Pleyes of
the crown

N

NAMARE, *Namos capere*, to take ane poynd, or ane distresse. It is ane auld Saxon word: For *Naman*, in latine *Pignori* sine *pignus auferre*. And *Namatio*, signifies the taking of ane poynd. *Leg. Britonum. Nam. verb. Pignori.* In the Law of *Normandie*, *Nam* commounlie signifies ony gudes or geare moveable, or vn-moveable, taken for execution of ane decreet. *Pignora capta, & bona capta pignori. ut in L. a Diuo Pio. 15. ff. de re iudicat.* Be the Laws of this realm, na poynd suld be taken, bot for ane confessed or proven debt. And the samin suld be publicklichawin, & maid manifest to all passengers be the way, and to all parties following the samin. *Lib. 4. cap. Si quis namos 30. cum seqq.* Na man may poynde within ane vther mannis boundes or iurisdiction, bot for debt aucht, and to him, except the Kingis Baillie be present. The poynd or distresse, suld be conforme to the quantitie and valure of the debte. Na person may be poynded, bot the debtour, or his sovertie or pledge. The poynd suld remaine within the samin Barroonie, quhair it is taken, in ane place pertainig to him, quha takis the samin, or at the least, in the nixt adjacent barroonie, within the samin Schireffedome, and nor in Fortalicees or Castelles. *Stat. 2. Rob. Br. cap. Item ordinatum. 8. Curia de namo vestito*, that is, of deforcement, be the auld Law, pertainis to the king allanerlie. *De Maritag. cap. Sciendum. 17.*

NATIVI

De verborum significatione.

NATIVI, Borne slaues or servandes, vide *Bondagium*.

NON-ENTRES, Is quhenane vassall, vest and sailed in the fee and propertie of the landes, decais, leavand behinde him ane aire, quhaband of lauchfull age, may enter to the landes, be taking of saising thereof, and zit enters nocht. In the quhilk case, the landes ar in the handes and power of the immediate superiour, be reason of none-entresse, *Propter negligentiam heredis, ius suum non prosequentis. Stat. Rob. 3. Cap. Nota. 21.* Mair-over, there is twa kinds of None-entres: The ane simple, nocht followand after ane warde, in the quhilk, the superiour of the Landes, vntill they be declared be decreete of ane Ordinar judge, to bee in None-entresse, suld haue allanerlie the retoured maill thereof, conforme to the new extent. And after the declaratour, the superiour may remoue the tennentes, or occupie the landes, as he pleasis, induring the time of the None-entresse. The vther kinde of None-entresse, is that quhilk followis after ane warde: As quhen landes ar halden be seruice of warde and relieue; and the aire is *Minor*, and may nocht enter: The samin landes pertainis to the superiour, be reason of warde, and nocht of None-entresse. For quhair there is warde, there is na None-entresse, be reason the warde, sa lang as it induris, stoppis the None-entresse. Bot quhen the warde expyris, togidder with the twa termes of the relieue, The None-entresse beginnis, gif the aire beand of perfite age, enteris nocht to the landes, and obtenis saising thereof. The quhilk None-entresse, requiris na declaratour, bot is of the like nature, with the warde preceidand. And induring the time thereof, the zeirly mailles and dewties of the landes, as they giue be tack and assedation, pertainis to the superiour; or he may remoue the tennentes and possessours thereof, and occupie the samin as he please; like as he micht do, in the time of the warde. Mair-over, this kinde of None-entresse, beand given and disposed be the King, or vther superiour, to the appearand aire himselte, or to ony vther person, is sufficient and valiable to the donatar, for all zeires and termes, preceeding the gift and disposition, and three termes after the perfite age of the aire allanerlie. And endis and ceasis after the ischue and out-running of the saids three termes. And gif the aire enters nocht within the said space: It is leasum to the King, or vther superiour, to dispone of new, the said none-entres, to quhom he pleasis, to be vsed be him, vnto the entrie of the lauchfull aire, as was decerned and ordained, be the Lordes, and Auditours of the Checker, in the Moneth of Iulij. 1396. And cōforme thereto decided be the Lords of the Session 9. Iulij. 1397. The Laird of *Capringtoun*, contrair the Laird of *Hessilhead* quhilk is not disconforme to the laws of the sewes, quhair be the aire of the vassal, not desirand investiture, or possession fra his superiour, within zeir and daye, after the decease of the vassal his predecessour, tuis and foresaltis his sew, and the samin pertainis to his superiour. *§. Et ibi. Gl. quo temp. miles investitur, petere debent. lib. 1. de feud.*

NOVA *Dissasina*, recent spuilzie or ejection. *vid. Dissasina.*

OCHERN

De verborum significatione

O

OCHERN, *Ogetharius*, Isane name of dignitie, and of ane free-halder. *Stat. Alex. c. recordatio. 26.* and appeiris to be of equall honor, and preheminence with the son or daughter of ane *Thane*, quha baith hes the like *Marches*, viz. twa Kids, or twelue pennies. *Lib. 4. c. sciendum 63.* And likewise the *Cro* of ane *Oye* of ane *Thane*, & of an *Ochier* is four *Kye*. *lib. 4. c. statuit. 64.* And the vn-lawe quhilk the King may take fra ane *Thane*, is sex *Kye*, and from ane *Ochier*, fiftene *scheip*, or sex *schillings*. *Ass. reg. Da. c. recordatio. 17.*

ORA, ane auld Saxon worde, and signifies mettall, sik as brasse or golde: And mairouer, in auld times it was ane piece of cutzied silver or golde. For *tres ora aurea*, are the price of ane *Cowe*. *lib. 4. c. sciendum 63.* Vre. From this comes the worde zit commonly vsed, *Vre*, as leid *Vre*: and in the *Garviach* within the schireff dome of *Aberdene*, there is ane hill called *Dounyndure*, *monticulus metalli*: and the *scheep* there pastured, hes theirteeth couloured with zeallowe coulour, quhilk is ane taken of abundance of mettall.

ORIGELLVM, *quasi aurigellum*, ane *Habergion*, maid of mailzies quhair of the edges are of mailzies of zellow coulour, resembland the coulour of golde or brasse. *Stat. 2. Rob. Br. c. ordinatum 27.* quhair it is called *Habergellum*. *vid. Hawbert.*

OVT-FANG-THIEF, *vid. Infang-thief.*

P

PANNAGIVM *Porcorum*, ane French worde, signifies the dutie quhilk is giuen to the king, for the pastourage of Swine in his Forrestes, *Leg. forest. c. 3. 6. 8.* As it is manifest in the lawes of England, in the chartour of Forrestes, quhair *Pannage*, is called ane certaine summe of siluer, quhilk the awner of ane Parke, or of some great wood, quhair in there is great store and abundance of Mast, Aike, Betche, or vther trees, vsis to take of his tennents or vthers, for their Swine, that fall feede there, betuixt *Michael-mes* and *Martine-mes*. Item *Pannagium*, signifies ane pairt of the Kingis demaine, or propertie, giuen to his second, or vther zoun-ger sonne, or cousing, quhair of *Chopin* writes, *de domanio regis Francie*. But hereof no mention is maid in the lawes of this realme.

PARTICATA, *vel perticata terra*. From the French word *perche*, meikle vsed in the English lawes, ane ruid of land. *leg. burg. c. 1. c. particata. 140. stat. Wils. c. perticata. 13. quon. attach. c. de breuibz 31.* It is of verity, that three beare cornes without tailes, set togidder in length, makis ane inche. Of the quhilk cornes, ane sulde be taken off the mid rig, ane off the side of the rig, and ane off the furrow. Twelue inche makis ane fute of measure: Three fute and ane inche, makis ane Elne: Sex elnes lang, makis ane Fall: quhilk is the common lineall measure and mette. And sex elnes lang, and sex elnes broad, maks an squair & superficial fall, of mea-

P

sured

De verborum significatione

fured land: And it is to be vnderstand, that ane rod, ane raip, ane lineal fall of measure, are all ane, and signifies ane thing, for ilk ane of them containis sex elnes in length, albeit ane rod is ane staffe, or gade of tymmer, quhairwith land is measured, in latine *peritica*. Ane raip is maid of towie, sikis hempt, or vther stufte, and sa meikle lande, as in measuring fallis vnder the rod, or raip, in length, is called ane fall of measure, or ane lineal fall, because it is the measure of the line, and length allanerly. Like as the superficial fall is the measure, baith of the length, & the bredth *quia linea est mensura solius longitudinis, superficies vero est mensura longitudinis, & latitudinis*. Item, ten fallis in length, and foure in bredth, makis ane ruid: foure ruid makis ane aiker. And swa ane discret and true man, may measure ilk aiker of land, lang or schort, with rod or raip, be the measure of the fall. Swa that he keepe just count, and gud remembrance, that the endes of the rod, or raip, be richtly and eauen laide, without fraude or guyle. But it is necessare, that the measurers of land, called landimiers, in latin, *agrimensores*, obserue and keep, ane just relation, betwixt the length and the bredth of the measures, quhilk they vse in measuring of landes, quhairanent I finden a mention in the lawes and register of this realme, albeit ane ordinance thereanent be maid be King *Edward the first*, King of England, the 33. zeir of his reigne: and because the knowledge of this mater is very necessare, in measuring of lands, dayly vsed in this realme. I thought gud to propone certaine questions, to *John Naper*, fear of *Merchisoun*, ane gentleman of singuler judgement and learning, specially in Mathematicque sciences. The tenour quhairof, and his answers maide thereto followis.

First, be quhat rule fall we vnderstande the length and bredth of the fall. It is answered: There is twa fortes of fallis, the ane lineal, the vther superficial: the lineal fall, is ane met. wand, rod, or raip, of sex elnes lang, quhair be length and bredth, are feuerally met. Ane superficial fall of lande, is sa meikle boundis of landes, as squairly containis ane lineal fall of bredth, and ane lineal fall of length, quhair of followis, that be the lineal fall, lande is measured, and be the superficial fall, lande is rekned. Nowe quhair it is inquired be quhat rule the length and bredth of ane fall fall be vnderstand. I answer, That quhen, so-euer the elnes of bredth being multiplied be the elnes of length, do produce 36. elnes: the number product, is ane superficial fall, and the saide bredth and length, are the just bredth and length that makis ane fall. Swa 36. elnes lang, of ane elne broad, are ane fall of land. Item, aughtene elns lang, twa elnes broad, are the like: allwa, twelue elnes lang, of three elnes broad. Or nine elnes lang of foure elnes broad, are ane fall. Lastly, sex elnes alwayis, that is to say, sex elnes lang, and sex elnes broad, makis ane fall. To this fall the litle ruid, or ruid of warke, or of buirdes, or of maison, or skait warke, is equal, quhilk is maist properly the ruid, as after followis.

Secondly, how many kindes of ruids are in vse. Answer. Twa, quhair of the ane is proper, the yther improper. The ruid properly, is ane superficial

De verborum significatione.

ficial fall, and containis threttie sex squair elnes: Ane squair elne, being the boundes of ane elne in breadth, and ane elne in length, squarely included. The vther vulgare and improper ruide of lande, containis fourtie of thir formerruies, or superficial fallis, and is the quarter of ane aiker of lande, because foure of thir ruies makis ane aiker as saide is.

Thridly, be quhat rule may the just measure of ane aiker in length and breadth be vnderstand? It is answered, Multiply be Arithmetically multiplication, the number of the fallis that ar in the length of the land, be the number of fallis that are in the bredth thereof: Euerie aicht-score fallis of the number produced, and resulting of the said multiplication, is ane aiker: and therefore aicht-score fallis of length, and ane fall of bredth, makis ane aiker: and foure-score fallis of length, and twa fallis of bredth, makis ane aiker. Item fourtie fallis of length, and foure fallis in bredth makis ane aiker. Allwa twentie fallis in length, and aicht fallis in bredth, makis ane aiker. Lastly, ten fallis in bredth, and sextene fallis in length makis ane aiker.

Fourtly, seing there is ane kinde of measuring of land be Rod, and raip: quhat is the forme thereof? And gif there be ony maa forms, how are they called? and quhat is the forme and maner of the samin? It is answered. There be knawin to expert Mathematiciens, mony and diuers wayes to mette land, all agreand togidder in ane, bot of the vulgar people there is bot ane forme of metting vsed and vnderstand, to wit, be rod and raip, that is to say, be ane rod or gade of sex elnes lang: Or be ane string or coard, of sex elnes lang, stented betwixt twa staues. The coarde being ane schaft length abone the pykes, or nether endes of the staues. The said rod or raip, or either of them, is called ane fall: to wit, the lineal fall foresaid. With these fallis, ilke square piece of lande, is met ouer the middis, quhat fallis and elnes it hes of length, & thereafter is met croce-ouer the middis, quhat fallis and elnis it hes of bredth. Thereafter the fallis and elnes of the length on the ane pairt, and the fallis and elnes of the bredth, on the vther pairt, are multiplied togidder, and the producte schawis the number of the aikers, ruies, elnes, quhilk the said piece of land containis. As for example, gif the piece of land be 51. fal, three elnis of length, and 10. fallis 2. elnis of bredth: multiply 51. fallis 3. elnis. or 51. fallis to be 10. fallis 2. elnis: Or be 10. fallis: The product will amount to 512. fallis: Or 512. fallis 6. elnis: quhair of euerie aicht-score fallis, are ane aiker. Swa 532. fallis 6. elnis, are three aikers and ane quarter, 12. fallis, and 6. elnis of met land.

PATRIA, *Affisa, vel recognitio per affisam*: Ane Affise or inquest of cuntrie men, quhilk is called *recognitio patris. lib. 3. c. cum autem. 6. vid. Bona patria.*

PEDELLVS, *Leg. burg. c. elatio. 109.* The serjand or beddle of the burgh, quha suld execute summondes: make attachementes, or take pointes. *quon. attach. c. nullus 57.* quhair of they haue na power, without their awin jurisdiction. *Aff. reg. Da. c. nullus 13. Dicitur autem pedellus a pedo*

De verborum significatione.

hoc est baculo, because all sik ferjandes suld vse ane wand, staff, or halbert.
Ia. 1. p. 6. c. 99.

PEDER, *pulcherosus*, ane French word, *pied poldreux*, dustie, fute, or an vagabound, speciallie ane merchand, or cremar, quha hes na certaine dwelling place, quhair the dust may be dicht fra his feet, or schone, *de Maritag. c. si quis. 9. leg. burg. c. si burgensis. 141. de iudic. c. 47.* To quhom Iustice tuld be summarlie ministred, within three flowinges, and ebbings of the sea. Ane pedder, is called ane merchad, or cremar, quha beirs ane pack, or creame vpon his bak, quha are called beirares of the puddill be the *Scoties-men* in the realme of *Polonia*, quhair of I saw an greate multitude in the town of *Cracovia. anno Dom. 1569.*

PENSION, ane dewtie, sik as ane annuel-rent, for that quhilk in the act of Parliament. Ia. 2. p. 11. c. 41. Is called the pension of *Cadzow*: In the Checker rolles is called the annuel-rent of *Cadzow*. And siklik in the famin place mention is maid of the pension of the ferme meil of *Kirkpatrick*, quhilk conteinis fue chalder of ait-meill, quhilk the Abbot, and convent of *Paislay* payis zeirlie furth of the kirk of *Kirkpatrick* to the K. as an pairt of his annexed propertie, as is manifest in the Schireffe rolles of the Checker of K. Ia. 3. 1487. *In libris feudorum*, *Soldata* is an zeirly frie gift & donatiō, induring the lifetime of the giver, & is swa called, *a solido, quia plerumque in solidorum donatione consistit. §. 1. quis dicatur marchis. lib. 1. de feud.*

PLACITVM, From the French word, *Plaider*, pley, contention, strife, or debate. *Placitare, significat litigare & causas agere. Molinæus in sil. suprem. cur. Par. part. 1. c. 6. part. 2. c. 3. Et D. Smith. lib. 2. c. 10.* Of the com-moun weil of England. *Vid. Note. Placita corona*, pleyes, or criminall acti-ones pertaineing to the Kingis Crowne and iurisdiction allanerlie, or to his iustice generall, quhilkis ar foure in number, robberie, or riefte: ra-vishing or deforcing of weemen: murther, and wilful fire, sik as burning of houses wilfullie, and malicioullie, *vid. Murthrum*. Quhair of, or of ony ane of them, gif ony happenis to bee convict; all his gudes pertainis to the King allanerlie, in the famin maner, as is statute of the gudes of trai-toures. *Leg. Mal. Mak. cap. 3.*

PLEGIVS, an pledge, borgh, or cautioner, *dimittere terras ad plegiū*, To let landes to borgh, is quhen ony controversie, being for the pos-session of landes, the famin after inquisition, and tryall taken there anent given and committed to the last lauchfull possessour of the famin lands, vnder borgh and caution, that he fall restore the famin to him, quha fall be found to haue richt thereto. Ia. 2. p. 14. c. 62. Or quhen twa persones contendis be way of deede and armes, for the possession of ony landes; The superior thereof, may recognosce, or take to himself, the possession of the lands, vntill it be tryed, quha was last lauchfull possessour thereof; And then let the lands to him to borgh, and vnder caution, as said is. *Sta. Ro. 3. c. Nota. 21. Item, the 12. No. 1500.* Certain corns growand vpo deba-table lands, betuixt the L. *Rushven*, and the Laird of *Copemalindie*, be de-creete

De verborum significatione.

creit of the lordes, are latten to borgh to the said laird, he findand cauti-on that the famin salbe furth cummand to them, quha recoveris the fa-min belaw, without prejudice of the richt of onie of the parties theira-nent in time cumming. And like as the over-lord, or judge for the causes foresaid, lettis landes to borgh, to the possessour thereof, the tennent or possessour, *petit terras dimitti ad plegium*, desires the lands to be letten to him to borgh or vnder caution. *Stat. Rob. 3. c. 4.*

PORTEOVS, *portuis*. Ia. 1. p. 13. c. 139. Ia. 3. p. 14. c. 99. Ia. 5. p. 3. c. 5. *a portando*, quhilk signifies to carie, or beire: in French *portes vons*, and sig-nifies ane catalogue, conteneand the names of the persones indited to the justice air, quhilk is given & delivered be the justice Clerk, to the Crow-ner, to be attached, and arreisted be him, to compeire, and answere, to sik accusations and crimes, as salbe impute vnto them, and the porteous conteinis the names of them quha are of new indited, and the names of them quha were indited of auld and of before, and compeired nor: And quhen onie Iustice aire is cried, or proclaimed, command is given be the justice to warne all persones, alsweill indited of auld, as of new, to compeire in the said aire, to vnderlie the law. The Crowner receivis the porteous as said is, and caries the famin with him, vntil the attachements and arreistmentes be maid, conforme thereto, and reportes the famin a-gaine to the Iustice court: That theirby he may be controlled in exe-cution of his office, sa far as concernes the making of attachements and arreistments or probation theirow.

POST-NATVS *filius*, ane second sonne, narrest to the first begot-ten, conforme to the French word, *le puis aîné. lib. 2. c. si ergo. 23. c. praterea. 25. c. maritus. 32. l. aîné*, is the first borne sonne, and therefore *le puis aîné is post primo-genitum*, the second sonne.

PRISÆ, ane French word *prîses*, in latine *captiones*, sik as ane poynd, distres, or moveable gudes, taken for execution of ane decreit: for be the lawes of France *prise sunt rerum mobilium: sasinæ vero immobilium, quia bona immobilia non capiuntur, sed saisuntur. Rebuffus in constitut. Reg. in tract. de li-ter. obli. art. 5. gl. 2. et de præconum licitationibus. ar. 1. gl. 2.* Quhair anent I find ane ordinance maid *de modo capiendi prisas*, be King David 2. 18. Februar 1369. the 40. zeire of his reigne. *Prise seu captiones domini regis, persolventur & capientur, secundum consuetudines antiquitus approbatas, et de terris illis de quibus prise regis, et servitia debent sumi, & quod in ijs faciendis non fiet taxa-tio iuxta numerum davarum, sed secundum verum valorem bonorum.*

PROPORCITAS, *proportatio assise*, the proport, report, declara-tion, or deliuerance of ane assise. *Stat. Alexand. c. statuit dominus. 5. quon. at-tach. c. si quis appellat. 53. assise. a. reg. D. c. 9. c. statuit 30. c. statuit dominus 38.* V-therwise, it is called, *verdictum assise*, the veredict or suith-saying of ane assise. Because the assisours are sworn to declare the trueth and veritie, and therefore are called *Iuratores*. Like as the assise is called *Iurata*, or *Iura-ta patria sive vicineta*, lib. 2. c. dicitur. 74. And in the Englishe lawes, ane *Iurie*.

De verborum significatione.

PURPRESTVRE, *Purpursion*, ane French worde, for ane wrangeous vsurpatio, taking, or occupation of ane vther mans landes, quhair of there is three kindes, *Lib. 2. c. dicitur. 74. de iudicib. c. purprestura. c. 138.* The first is, quhen any man occupis vnjustly onye pairt of the Kingis domaine, and proper landes. Or quhen ony stoppis, or closis vp the Kingis common way, passage or streete: Or returnis or divertis rinnand waters fra their richt course: Or within the Kingis towne and burgh, occupis the Kingis callay, or commoun gaite, biggand vpon onie pairt thereof: Or remoueand onie thing there-fra: Or converting onie pairt thereof to his awin vse. And generally, quhen onie wrangeous occupation is maid to the hurt and skaith of the Kingis tenement, the Kingis street, or common way: Or of the Kingis Burgh. The quhilk kinde of *Purpresture* suld be decided before the Kingis justice and his deputies, be ane condigne assise. And he quha is convict theirof, salbe in the kingis mercie, and punished conforme to his will in his bodie, & in al his landes quhilk he halds of him: and mair ouer fall restore that quhilk he injustly bigged and occupied. The second kinde, is quhen onie vassall occupis, and vsurps any lands against his ouer-lorde, vther then the King. Quhilk controverfie may be decided be the ouer-lord in his awin court, and gif the vassall is convict to haue done wrang, hee tynis perpetuallie all the landes quhilk he halds of that superiour. The quhilk iurisdiction and power of halding of courtes of *Purpursion*, perteinis to ane Barron, and to vthers, quha are abone him in power & dignity, sik as Erls & Lords. For na vassall, subiect, nor vther tennent vnder ane Barron, hes power to hald sik courts. *Ja. 3. p. 10. c. 79.* The thrid kind of *purpresture*, is against ony vther except the King and the superiour: As betuixt nichtbor and nichtbor, subiect and subiect: quhen ane wrangeously occupis the lande pertein- ing to ane vther, or troublis him in his meithes, and marches: quhilk molestation perteinis to the schireff, to be tried before him, be ane brieue, *de nova diffina. or de rationabilibus diuifis.* Be the law of Englad. *an. 4. Edward 1. de bigamis. c. 4.* gif ony vsurpis, & occupis within the Kingis liberty, or ony vther place, contrair the King: Incontinent without proces or ordour of law, the king tuik the land in his awin hand, and thereafter it was leifum to ony person, havand entres to compleine thereanent. The like forme is permitted be the lawes of this realme, anent the kingis customes. *Ja. 1. p. 1. c. 8.* And his annexed propertie. *Ja. 2. p. 11. c. 41.*

PVTAGIVM, ane French word, huiredome or fornication. *lib. 2. c. in custodijs. 50. c. ult. 53.* Quhair it is manifest, that ane air femaill, being with- in ward, & of les-aige, & committand fornication, tynis & forsaits her pairt of the heritage, and the samin accrescis, and perteinis to the rest of the co-heirs, or comportioners, gif onie be. And gif their be an heretrix a- lanerly, quha commits the said fault, all and haill her heritage, perteinis to the superiour: But gif an heretrix of lands, hes bairnes lauchfully got- ten in mariage: and after the decease of her husband, in the time of her viduitie, committis fornication: neither sche nor her bairnes, tynis the

he-

De verborum significatione.

heretage. *Quia putagium matris non admittit hereditatem.* The huirdome committed be the mother, dois nocht disherish the lauchfull bairnes.

Q

QVARENTENA *viduarum*, in the statutes *Rob. 3. c. de viduis. 22.* from the French *la quaresme des veufes*, signifies the priviledge of fourtie daies, granted to widdowes, after the decease of their husbandes, conforme to the Lawes of England, *anno. 20. Henr. 3. c. 1.* Quhair it is sta- tute anent widdowes, quha after the death of their husbands may nocht haue the dowrie, without pley: That quha-focuer deforcis them of their said dowries, of the landes quhairin their husbandes died vest & faised, and it fall happen the saids widdowes to recover the samin their- after be pley or proces: They quha troubled and molested them, being convict of sik wrangeous deforcement, fall zeild and paye the damages and skaith, to the samin widdowes. That is to say, the valour of the haill dowrie belanging to them, from the time of the death of their hus- bandes, vnto the day that the saides widdows, obteneis decreit in iudg- mente. And the said deforcereis neuertheles salbe americiat, at the Kingis pleasure. In the quhilk place it is plaine, that *Quarentena viduarum*, con- teines the space of fourtie daies, during the quhilk space, ane widdowe may tarie and remaine in the chiefe dwelling place of her husband, vn- till her dowrie be assigned to hir, and in the meane time suld be suste- ned vpon the proffites of the heritage. As it is likewais written in *magna carta, anno. 9. Henr. 3. c. 7.* quhilk is conform to the laws of France, as writis *Ivan. Papon* in his arceistes. *lib. 15. Tit. des dots. c. 7. & lib. 10. tit. substitutions. c. 30. per authenticam preterea. C. unde vir & uxor*, and in the Burrow lawes of this Realme, the second, or thrid wife of ony burges, after the decease of hir husband, may nocht remaine in the hous perteinig to his aire gotten of ane vther wife, bot onelie fourtie dayes. *leg. burg. c. si burgensis duas. 25.*

QVHATECVS, ane kinde or forme of bread, quhilk wee call ane sage, or phage, from the greeke word *φάγω, comedo* to eate.

R

RACHETVM an French word, *Rachapt*, ane ransom, in sum buikes it is called *Rechatu*, *transpositis literis. Stat. 1. Rob. Br. c. 1. Stat. 2. Rob. Br. c. 7.* quhair it is called theft-bote: & in sum auld buikes *Rachatum* is called theft-bote or redemptio také for theuis, robbers, or vther malefactours.

RAPTVS, rape, rauishing or deforceing of weemen, quhilk is ane of the foure points or pleyes perteinig to the Kings Crown & to nane vthers. *vid. placitum. vid. murthrum.* Ravishing is an crime, quhair of ane woman accusis ane man alledgand, she is oppressed, or defiled be him, a- gainst the Kinges peace. *lib. 4. c. raptus 9.* The quhilk complaint sulde bee maid the same day, and night, in the quhilk the crime is committed, *quia lapsu diei hoc crimen prescribitur. Quo. attach. Cap. De cetero. 48. Saint Wilh.*

c. Item

De verborum significatione.

Item Statuit. 9. In the lawes of England *Westm. 11. c. 34.* Rape is quhaire ane man ravishis, or takis ane vther mans wife, widdow, or maiden, violentlie, and hes a doe with her against her will. And albeit she afterward consent, zit it is fellonie, quhilk is confirmed be *Chesf. in consuetud. Burgund. Rubric. 1. verb. Es droicts d'icellis. Nu. 43.*

REIF, or robberie, is likewaies ane of the foure pointes of the Crown *lib. 4. c. dieluna. 13. leg. malc. mack. c. 4. aff. reg. Da. e. 1.* Robberie is quhen an man lyis by the Kings hie waie, passing to mercat Townes, in wooddes, ditches, or onie vther secreit place, quhair people cummis furth by, and robbis, & spuilziez them; albeit he take away bot the valour of ane penne, or lesse, it is felonie: for the mala-pertnes of the deed, breaking of the Kings peace, and the danger in the quhilk ane man is of his life, causis the offence to be the greater, then gif the gear swa robbed or spuilzied had bin thieftouslie stollen, as is written in the lawes of England *an. 23. He. 5. c. 1.* In the law of *Normandie. li. 3. c. 1.* Robbery is the taking of vther mens gear be force and violence: And the committers theirow in latine are called *raptores*, in French *voleurs*, or *Robbeurs*, & is different from theft quhilk is committed quietlie, and prively, without violence. Maire-over reise is ane greater crime then theft, because reise is committed baith in the gudes, and in the person of the possessour theirow, and theft is of the gudes and gear allanerlie *Chesf. in consuet. Burgund. rub. 1. §. 5.* Be the law of this Realme, the complaint of reise or robberie suld be maid be him quha is robbed, and damnified within the like time, as is foresaid, of the ravishing of wemen. *quo. attach. c. de cetero. 48. lib. 4. c. raptus. 9.*

Diff-
rence be
twixt
reife &
theft.

RECOGNITION of landes is commonly vied in the law, and practique of this realme. *Sicut feudum dicitur aperiri domino: ita ter. a dicuntur cadere in commissum: sicuti fit in hoc casu ob culpam vassalli, & in Emphyteusi.* or fewe landes, ob non solum canonem seu pensionem. *lib. 3. c. ex locato. 11.* For the vassall tynes landes halden be him be seruice of warde, be reason of his awin fault, as salbè hereafter expounded: & the proprietar of fewe lands, may tyne & for fault the samin, for nonpaymēt of thezeirly dutie. *Cognoscere* is to knaw & vnderstād, *recognoscere* is to knaw again or at the 2. time to vnderstand. For generally, al superiors, of quhō lands ar haldē in chief, first hes bin proprietars of the samin lands: quhilk lands being annalied, and sauld be them heritably, to be halden of themselves and their aires, ceasis to be propertie to them: and becomes tennendrie immediatly halding of them and their aires. And gif it happens the vassall, or possessour, to quhom the landes are sauld, to commit ane fault or crime, quhairby he tynis and fore-faultis the landes: the superiour hes entresse and regresse to the propertie of the landes, and may recognosce the samin, and as it were the second time vindicate to himselfe the propertie thereof. Swa the samin landes, quhilks were first propertie to him, and thereafter tennendrie, be reason of the alienation, now becomes againe propertie, and returnis to their first nature and condition, *iure accrescendi. seu potius consolidatione proprietatis cum superioritate, ob culpam vassalli.*

De verborum significatione.

falli. Recognition properly in the practique of this realm, is quhen ony vassall, or free tennent, haldand his landes be seruice of warde and relieue, sellis and annalies all and haill his landes with their pertinents, or the maist pairt thereof, without licence, consent, or confirmation of his over-lorde. In the quhilk caise, all and haill his landes, alweill nocht annalied, as annalied, and halden as said is, may be recognosced and relaised in the superiours handes, and baith the propertie and possession theirow pertainis to him to be bruiked, or disponed be him, at his pleasure quhair of divers and sundrie practiques are extant in the Register in the daies of King *James the Fourth*, of gud memorie. The superiour vnderstanding the landes to be wrangeouslie annalied, as said is: incontinent thereafter may vse the recognition theirow, & without proces, or ordour of law, may tak saisie of the samin, conforme to the auld practick of this realme: Because the samin alienation is done to his dishonour and contempt be his vassall, quha suld doe reverence, and service to him, & therefore without his consent suld nocht do onie thing to dissolue the league and band, quhilk is betuixt them. Maire-over the vassall, may nocht make the said alienation, because theirow, he may becum puir, and vnable to do to his superiour sik service, as he suld do of the law. *Cuia. lib. 1. De feud. And nocht withstanding that the saisie is takē be the superiour, zit the vassall or possessour tynis not forefaultis na waies the propertie of the saides landes, vntill zeire and daie be our-run: Siva that he doe diligence within fourtie daies after the said recognition, and taking of the saisie, to craue and aske fra his superiour the saides landes to him to borch, that is to repledge them, findand plege and caution, that he sall be reddie to do to his superiour anent the saides landes, all that equitie and lawe requiris. Stat. Rob. 3. c. 2.* This kinde of recognition is conforme to the laws of the fewies, *quia feudū amittitur, si fidelis libellario nomine, amplius medietate in feudum dederit, aut propignore plus medietate obligauerit. §. 1. quib. mod. feudum amittitur. & §. 1. de alienatione feudi. Et in iure Canonico. c. 2. & ibi. gl. ex tr. de feud. Perro libellarius contractus dicitur, venditio, quae sit scriptura interueniente, certo pretio, & certa pensione constituta, in annos singulos, ut post Fendistas scribet Cuius. in d. §. 1.* Recognition of landes is sum times generallie taken, monie waies. *Stat. Rob. 3. c. nota quod iste. 21.* First gif the vassall, decessis the superiour may recognosce, and reteine all the landes halden of him vntill they be recovered fra him be the entresse of the righteous aire, and that be reason of none entres.

2. After that the aire hes recovered the landes, furth of the handes of his superiour: Nevertheles the superiour may recognosce, and reteine the samin, vntill securitie be maid to him for payment of the relieue.

3. Gif the vassall is fugitiue for slaughter, and nocht law bidand, the superiour may recognosce the land halden of himselfe, sa lang as the felon or manslayer happenis to live. Conforme to the quhilk be the actes of *Parliament*, the liferēt of the vassall, being zeir & daie at the horn pertainis to the immediat superiour, except he be rebell for treasō, in the quhilk case

The causes of recognition.

Libellarius contractus.

Sundrie terms of recognition.

De verborum significatione

case, his life-rent, and all his lands, gudes and geare moveble, & inmoveable, pertainis to the King allanerlie, *Quia pena debet eidem applicari adversus quem committitur culpa.* 4. Gif the vassall annalies his landes, or the maist part thereof, without licence, consente, or confirmation of his Over-lord; The Overlord may recognosce the same, as said is. Bot in this case he is obliged to let the landes to borch, to his vassall; askand, and cravand the samin within the lauchfull space of fourtie daies, after the recognition; and saising taken vntill it be tryed be the judge Ordinar, quihidder the cause of recognition be lauchfull or nocht quihilk being founde lauchfull, the judge suld counsell the King, and decerne ony vther superiour, to hald his handes fra the landes, and let them to borch to his vassall. And gif the cause be found iust and reasonable; The judge suld decerne the propertie, and possession of all and hail the landes, to pertaine and remaine with the superiour. 5. Quhen twa or mair parties contendis be way of deede and armes, for the possession of landes, the superiour thereof, may recognosce and sequestrar the samin, vntill it be tryed, quihilk of them is lauchfull possessour; and thereafter let the landes to borch to him, quha is found to haue best richt of the possession.

6 The superiour may recognosce and retaine lands halden of him in chiefe, for service aucht to him, furth of the samin landes. Bot be the practique of this realme: The service aucht to be proven and liquidat, and thereafter the landes may be lauchfully comprised.

7 Landshalden in fewferm, payand ane certaine zeirlic dewtie, *Nomine feudi ferme*, may be recognosced be the superiour, for none paymet of the few dewtie, & that twa maner of waies. The first, *ex provisione legis, & matu a contractu*. For the fewfermiorer nor payand his fewferm, for his ingratitude and vn-thankfulnes, tinis and fore-faltis his fewferm, be the disposition of the Law, quihilk as zit was not in practique and vse with in this Realme.

The seconde is, *ex provisione hominis, et conditionibus contractui insertis*, quihilk is called ane clause irritant, as quhen ane clause and provission is contained in the infestment, that if twa or mair termes run in ane of non-payment of the fewferme duetie: then and that cause, the infestment of fewferme to be *irritum*, null and of nane availl, quihilk is conforme to the dayly practique of this realm; *Quia pacta conventa legem contrahentibus prescribunt.* vid. l. 1. et l. 2. c. de iure emphyteu. Alwayes, be the act of parliament maid be 14. 6. p. 15. c. 246. Alienations of lands maid in fewferm, are null for not payment of the fewferme dueties, be the space of twa zeires, albeit na paction or provission bee maide thereanente in the infestment.

RECORDVM; *Recordatio* lib. 1. c. contingit. 31. quhair anent I finde difficultie. Alwayes *recorda summonitionis*, signifies the rehearse, report, or restification of the execution of the summondes, brieve, or vther precept. 14. 1. p. 9. c. 112. quihilk execution, is now called *Indorsation*. Because commonly it is written *in dorso*, and vpon the backe of the summondes.

Indorsation.

De verborum significatione.

leg. Forst. c. 23. and be the practick and daylie consuetude of this Realme. zit observed, the execution of all brieves before inferiour judges, and of all criminal summondes before the three Estaites in Parliament, are verified in judgement, be the record of the excutor theirow, and twa witness at the least. And in auld times the serjandes, or maires, maid the record of the summondes, be word, or be writ, as they pleased: and verified the samin as said is. And vntill the samin were done, the defender could nocht be compelled to make ane answer. lib. 1. c. cum autem. 8. de iudic. c. 30. And King David the second. 18. Febr. 1369. and of his reign the fourtie zeire, statute and ordaned anent the record of serjandes, or maires, that the summondes & record theirow, salbe put in writ gif it please the serjand or mair, and he sal reade the samin gif he can; in plaine court vtherwaies, he may make the record be word: in the best form he may, and gif he failzie, he may be helped and supplied be interrogatours of the judge, concerning all and findrie clauses or articles, necessarlie vsed in the record of ane summondes; quihilk record the serjand or mair fall priue sufficientlie be lauchfull witness. And the said record being swa maid, the samin salbe received as lauchfull; and the contrair partie fall nocht be heard, to object against the same, or to propone ony exception against the lauchfulness theirow. And it fall be leifsum to the schireffe, his depuie, serjand, mair of the, or onie vther depuie serving in the office of ane serjand or mair, be the authoritie of the King, or of onie vther haueing power to make rehearse of the summondes of the record or indorsation theirow, swa that they be qualified, and abill to doe the samin. 14. 1. p. 9. c. 112.

ITEM, *recordum curie*, signifies the report, rehearse, or minute of that quihilk is done in court, or the interloquutor of the court. lib. 1. c. contingit. 31. *Quo. antich. c. nullus testator.* 20. In the Normand law. 14. 9. c. 37. vid. *Sectator vid. Varda*, quihilk in auld times was nocht written in buiks, bot inrolled togidder in paper. Like as the Kinges rolles are zit written in parchement in the Checker. Therefore they are called the rolment of court. As the Kinges rolles or *rolli*, and the Clarke of Registar *clericus rotularum*, in latine properlie *olumina*, quia, *involuntur*, & *in se quasi retorquentur*. And it is to wit that actiones and pleyes, are either directlie and from the beginning perfewed in ane court: or they cum fra an inferiour court, to ane superiour *per translationem*. lib. 3. c. praterea. 10. as quhen ane pley or cause, is advocat from ane inferiour judge, to ane superiour: quihilk advocations ar permitted and leifsum to be maid to the Kinges court allanerlie, be the auld law of this Realme, sik as the justice court, or schiref court: and now be the practick vsed, and observed, to the Lords of Session, and College of Justice. And swa because he quha alleged that wrang was done to him in the inferiour court, raised the record, or interloquutor pronounced against him, & summond the judge to compeire before the Kinges Justice or schiref, to heare and see him decerned to haue done wrang. Therefore *procuria domini regis, dicitur habere*

Rollment of Court.

De verborum significatione.

bere recordum. h. c. Potestatem cognoscendi de recordis & interloquutorijs, quæ transferuntur ab inferiore curia ad superiorem. Albeit ilk lauchfull court, sik as ane Barrone court, hes their awin records, in all sik actiones as are intended and decided before them, and nocht Advocate to ane superiour judge.

Dardana
vij.

Forestallers

REGRATERIS. *leg. burg. c. regraterij. 70.* Quha byis onie merchandice or vther thing, and takis vnclesumlie greater price for the samin afterward, as is expounded be *la. 2. p. 6. c. 23. 24. la. 6. p. 12. c. 143.* In the civill law, regrateris are called *dardanarij, qui emunt, ut possint postea plus vendere. l. annonam. 6. de var. & extraord. crim. A quodam Dardano, qui annonam flagellabat. Alciat. lib. 4. de verborum significatione.* And swa regrateris are so called be reason of the augmentation and hichting of the prices. Fore-stallares are properlie they quha pre-occupies and byes merchandes before it cum to the mercat, or to the stall, or place quhaire it suld be sauld, or the time of day statute and ordaned theirto. *la. 5. p. 4. c. 20.* And mair-over it is statute that na man dwelland within burgh, or without the samin, fall vpon the Faire daie, bye onie thing outwith the portes of the burgh. *leg. burg. c. nullus. 75.* And likwaies na person suld bye fish, flesh, victuall, or onie vther thing before mercat daie, or the ringing of the bell in the steipell. *Stat. gild. c. 29.* And mair-over forestallers are challenged, and accused becaufe they sell their gudes, and payis nocht the Kinges custome: that they sell their gudes privlie vpon their awin fluire, that they are fore-byars of quheate, beare, aits, cattel, & are coperis and sellers theirow, turnand the samin in merchandice. *leg. burg. c. de modo calumniandi foristallatores. 154.*

RELEVIVM ane French word, from the latine *relevare*, quhilk is to relieue, or take vp that quhilk is fallen, for it is given be the tennent or vassall being of perfite aige, after the expiring of the warde to his over lord, of quhome he haldes his landes be knicht service, that is be warde and relieue, and be payment thereof he relievis, and as it were raisis vp againe his landes, after that they were fallen downe in his superiours hands, be reason of waird. *lib. 2. c. dicitur autem. 72. leg. Forest. c. si quis Comes 73. de iudic. 65.* And the profitis of the landes of the zeire foresaid, after the ende of the waird, quhilk suld be given in name of relieue, are vnderstande to be the retoured maill, of the saides landes, conforme to the new extent thereof. And therefore gif there be bot onelie wairde, and the aire enter before ane terme run thereafter, the King or vther superiour suld haue na relieue, *quia herede ad statem perveniente, et facta ei hereditatis restitutione, quietus erit a relevio, ratione custodie. lib. 2. c. tandem. 70.* Be the auld law and consuetude of this Realme, the superiour might nocht be compelled after the waird, to restore the landes to his vassall, vntill hee had bene first satisfid, for the relieue: becaufe he had libertie to reteine the landes, vntill the said satisfaction were maid. *Stat. Rob. 3. c. nota quod iste 21.* Or else it was lesum to him as he pleased, to poynd the ground there, fore *quia dominus potest distringere tētes suos pro suo relevio, et servitio de feudo suo*

De verborum significatione.

suo, sibi debito, li. 2. c. Sunt quidam. 73. But now be the common practique, the non-payment of the relieue, is na lauchfull excusation to the superiour, anent the receiuing of his vassall. But he will be compelled be preceptes of the Chancellarie, to receiue his tennente, or else he tynis the superioritie, induring his life-time. And it is leasum to him to poynde the grounde for payment of the relieue. *Quia relevium est debitum reale, & adheret fundo.* The beginning, and the firste institution of the warde and relieue, was in the time of *Malcolme* the seconde, called *Malcolme-Mac-Kenneth*, quha gaue all and haill the landes of this realme to the inhabitants thereof, and reserued nathing to himselve in propertie, bot onie his royall power and the Mute hill of *Scone*, quhair he suld hald court, and receiue homage, and fealtie of his vassalles: In recompensation quhair of, all the Barronnes gaue vnto him, the warde, and relieue of the aire of ilk barronne, for his princelie sustentation. In the English Lawes, read in *Magna Carta. Anno. 9. Hen. 3. cap. 2.* And the statute of wards and relieves, maid be King *Edward* the First. 18. zeir of reigne.

REPLEGIARE, To replege, that is, quhen ony man, be vertue of his awin iurisdiction, bringis back againe, or reducis to his awin court his awin man, fra ony vther mannis court, and leavis ane plege, or cautioner behinde him, for administration of justice. *vid. Culrach.* It is not leasum to ony man to replege fra ony vther court ony person, bot his awin liege man, or halding land of him, or remainand in his service, as ane of his familie or consanguinitie. *Stat. Alex. c. Anno. 4. Statut. 2. Rob. Br. cap. 11. Aff. reg. Da. c. Statut. 37.*

RESEANTISA, *Lib. 1. c. Effsoniorum. 10.* Ane seiknesse and infirmitie, quhairby ony man is heavelie vexed. *Effsonium de Rescansisa, idem valet quod excusatio, de malo lecti, Bedde evill. Cum quis morbo ita affligitur, ut sit lecto affixus.* In French, *Mal de Lit. stat. 1. Rob. Br. c. 5.* In the Lawe of *Normandie. Lib. 9. c. 10. Effsoinzie*, or excusation of *Mal reseant*, is quhen onie person lyand bed-fast in his awin house, or ony vther place, is heavelie vexed with seiknesse, that he may not travell without danger of his life. *In iure civili morbus Sonticus dicitur, qui cuiusque rei agenda, impedimento est, veluti febris: Et legitimam excusationem ac dilationem prabet. L. Questum. 60. ff. de re iudic. Aulus Gellius. Lib. 20. cap. 1. Appellat Morbum Sonticum, quemlibet morbum vehementiorem, vim grauior nocendi habentem.*

Effsonium
de Rescansisa
valet
quod
excusatio

Morbus
Sonticus

RESPONDE, Or the buike of *Responde. la. 6. par. 11. c. 73.* It is maid and writen be the directour of the Chancellarie. For quhen hee directis preceptes to the Schireffe, to giue saifing of ony landes retoured before him to the Chancellarie: He makis ane memoriall of the dait of ilk precept, and dewtie of the lands, and commandis the Schireffe, to take securitie for the samin, during the time of the warde, & non-entres, & of the relieue auchtard to the King, gif the lands be halden be service of ward & relieue. Or of the doubling of the few-ferme, or of the blench ferme

De verborum significatione.

ferme, according to the halding of the landes. Quhilk buike zeirelie is presented to the Checker: And ilke Schireffe, and vther judges, givers of saifinges vpon preceptes, direct furth of the Kingis Chancellarie, are charged there-with in their comptes, compelled to make answer thereto, and paymente of all summes conteyned therein: for the quhilke cause, it is called *Responde*, quhilke is the first worde of ilke article of the said buik. Further in the end of the saidis preceptes, it is said, *presentibus post proximum terminum minime valituris*. And therefore, gif the obtainer of the precept furth of the Chancellarie, lye out and take nocht saifing vpon the samyn, quhillane terme and maabe by-run after the dait thereof, he sulde come againe to the Chancellarie, and raiseane new precept, quhairin is augmented the by-run mailles of the lands, sen the dait of the first precept, and ane newe memoriall or *Responde*, is maide thereof.

RETOVR, quhom be it is maid, and quhy it is la called. *vid. breve de morte antecessoris*.

REGRES, from *Regrediendo*, like as

REVERSION, a *Revertendo*: For like as the byar of landes, lettis them returne to the seller thereof, be the reversion giuen vnto him. Even swa be the regresse of the superiour of landes wed-set, be his vassall, after the redemption thereof, suffers the first seller of the samyn to come back againe to his awin place, anent the halding of them as he did before the said alienation. Swa reuersion & regresse are different, for reversion is giuen be him quha byis the lande, *Cum pacto de retro-vendendo*, to the annalier thereof. In Frenche it is called, *Ius reacseptus* or *reacsept*. And ane regresse is giuen be the superiour of landes, to the annalier thereof, quhairby hee promissis to receiue againe him, or his aires to be his vassalles, as they were of before, quhen it fall happen onye of them to redeeme the saidis landes. 27. November 1567. George Halyburnton, contrare the Laird of *Haltoun*. And gif onye man annalies landes vnder reversion, to be halden of him and his aires, ane regresse is not necessar: For they being afterward redeemed, he quha first annalied the, recouers the property thei of, without ony new saifing, & the same returnis to him, & is consolidat, with the superioritie quhilke he referued to him & his aires, the time of the alienation. But gif ane man annalies landes to ane vther, vnder reversion to be halden of the superiour, and the byar thereof obtaine infestmente, and saifing halden of him: The annalier thereby is denuded of the propertie, and als swa is na langer vassall to his former superioure, and can na wayes recover his former estait, but be redemption of the landes, conforme to the reversion graunted be him quha boucht them. And als swa be ane regresse, giuen to him be the superiour: In the quhilke cause it is necessare to him, quha first annalied the landes, and there-after redeemed them to tacke newe saifinge, To the effecte, the propertie quhilke was firste annalied, may returne to the seller. And that he may halde the samyn landes in

Reacsept.

Landes annalied to be halden of the annalier and his aires.

Landes annalied to be halden of the superiour.

De verborum significatione.

chiefe of his superiour, and his aires, as he did before the alienation. And it is generally to be obserued, that quhaire ane regresse is required, ane new saifing is necessare. In aulde rimes, the reversion was conteined in the chartour, as is manifest be diuers chartours, zit extant in the register, giuen in the time of King *David* the second: conteinand the tenour of the reversion after the clause, *Teneant et habeant*. and vthers aulde chartours in the forme after following.

OMNIBVS hoc scriptum visuris vel audituris. I. dominus de A. Salutem in domino. Noveritis me concessisse, impignorasse, & ad immobile vadium dimisisse, & hoc presenti scripto meo confirmasse, nobili viro V. de F. Omnes terras meas de A. cum pertinentiis, in baronia de C. infra vicecomitatum de B. pro viginti Marcis vsualis monete Scotie, mihi per predictum V. tempore confectiōis presentium, ad opus meum valde necessarium, gratanter mutuatis, & in usus meos conversis. Teneant et habeant, prefato V. heredibus suis et assignatis a me heredibus meis et assignatis in feodo et hereditate, cum omnibus comoditatibus, libertatibus, & assamentis ac iustis pertinentiis quibuscunque, adeo liberè, et quietè, plenariè, et honorificè, bene, & in pace: sicut ego vel predecessores mei, prefatas terras cum pertinentiis, liberius aut quietius tenui, aut possedi, tenuerunt, aut possiderent, aliquo tempore preterito. Et semper quousque ego predictus I. heredes mei, vel mei assignati viginti marcas prefate monete, predicto V. heredibus suis, vel suis assignatis, in vno die inter solis ortum et occasum eiusdem, apud ABIRDENE in Ecclesia parochiali eiusdem, super magnum altare, simul & semel, persolvero, vel persolverint sine fraude. Fructibus, firmis, vel quibuscunque alijs comoditatibus seu emolumentis medio tempore per predictum V. heredes suos vel assignatos, percipitis vel percipiendis, levatis vel levandis, indicta summa viginti marcarum, aut eius solutione, nullatenus computandis. Quia dedi, concessi, & assignavi prefato V. heredibus suis, et assignatis, omnes prefatas firmas, fructus, et alias commoditates quas-cunque, & emolumenta de dictis terris cum pertinentiis, provenient. toto tempore, quo predicta viginti Marcæ (ut premititur) non fuerint persoluta: ex mea libera donatione, & pura voluntate, pro suis consilijs, auxilijs, & gratitudinibus, multipliciter mihi factis & impensis. In quibus quidem terris cum pertinentiis, prefato V. tradidi saisinam, & possessionem corporalem sibi, heredibus suis, & assignatis iuxta tenorem presentis scripti remansuram. Ego vero predictus I. heredes mei & assignati, totas terras predictas de A. cum pertinentiis, prefato V. heredibus suis & assignatis, iuxta vim, tenorem & effectum, presentis scripti, in omnibus & per omnia, contra omnes mortales varrantizabimus, acquietabimus, & defendemus. In cuius rei testimonium huic presenti scripto meo, sigillum meum apposui, & propter maiorem rei evidentiam, sigillum Andree Giffard, tunc aldermanni de ABIRDENE, presentibus apponi procuravi. Apud ABIRDENE 23. Augusti anno Domini 1419. Testibus Laurentio de Abernethie, Domino de Rothemay, Domino Wilhelmo de Lundoris vicario de Abirkerdour, cum multis alijs ad premissa specialiter vocatis. But nowe the Chartour is giuen be the seller of the landes, and the reversion be the byar thereof, feuerally, sealed and subscribed be them, and the byar keepis the chartour, and the annalier keeps the reversion. Quhilke forme appeares to haue the be-

Ane forme of chartour containand ane Reversion.

De verborum significatione.

ginning in the dayes of King *James* the thrid, quha in his actes of parliament. p. 3. 20. November, cap. 27. callis the bying and seiling of landes, be chartour and saifing, and taking againe of reversionis, ane new invention, and for the mair securitie, ordainis all reversionis to bee registrate, vid. *Sterlingus*. vid. *Vadium*.

S

SCACCARIUM, the *Checker*, in *French* *Eschequier*, the place quhair the Kingis rentes and patrimonie, allweill propertie, as casualities, is inbrocht, compted and receiued, and the profites of all landes fallen in the Kingis handes be reason of warde. *Lib. 2. cap. Si vero dominus. 46.* Some callis it the soveraigne and supream court, in the quhilk all causis and actiones are decided in the second instance, speciallie in the cuntrie of *Normandie*. For it is written in the lawe of *Normandie*. *Lib. 15. c. 1. in fine.* That *Philippus pulcher*, did institute twa parlamentes in *Paris*, and twa Checkers in *Roan*. *Paulus AEmilius* writes, *Scaccarium* to be as it were, *Statarium*, quod homines ibi in iure sistantur, vel quod sit *Stataria* & *perennis curia*, cum cetera curiae essent *indictiva*, nec loco, nec tempore *stata*. As writes *Budaus* in *Annotationibus in Pandectas*. Be reason as said is the Checker was ane certaine stable court, and nocht deambulatoure, or runnand fra time to time, or fra ane place to ane vther: As the Session of this realme was before King *James* the Fifth. *Qui instituit Statariam curiam, cum antea esset indictiva*: Be reason it did sitte thrie in the zeire, quhair and quhen it pleased the Kinge. Vthers thinkis that *Scaccarium* is so called, a similitudine *ludi Scacchorum*: that is, the playe of the Chess: because mony persones convenis in the Checker to pleye their causes, contrare vthers, as gif they were sechtand in ane arrayed battell, quhilke is the forme and ordour of the saide playe. *Ius Normand. Lib. 15. cap. 1. in fine.* Vthers alleadgis, that it cummis fra ane aulde Saxon worde, *Scata*, as writis *D. Thomas Smith*: quhilke signifies treasure, taxation, or imposte, quhair of, & of vther casualities, compt, & reckoning is maide in the Checker. Quhilke compt (like as all vther comptes) is maide in sik sorte and forme, that *tabula accepti*, that is, the charge, and *tabula expensi*, that is the discharge, ar equall, and sic *aquè*, because the comptar hes giuen furth na mair, nor he hes receiued: and allwa hes giuen als meikle furth as hee hes receiued. Quhilke is called *pariare rationes*, and this comptar is called *Pariator*, *l. ult. §. idem quesit de conduct. in deb. l. penult. §. conductore de iure immunitat*. Or els the charge & discharge are inequall, in sik maner, that the comptar hes received mair nor he hes expended, and sa at the fute of the compt, he is found restand awand certain fums vp-taken be him, and not given furth, quhilke is *reliquare rationes*, & this comptar is called *reliquator*, & is oblished *reliqua inferre* to pay the rest auchtand be him, *l. creditor 102. §. Valerius de solutionibus*. Or thridly, *tabula expensi superat tabulas accepti*, quhen the comptar hes giuen furth

De verborum significatione.

furth nor he hes receiued, and swa is superexpended; quhilke is called *supererogare*, vel *supererogationes seu tabulas accepti*. And the comptar quha makes sik ane compt, is called *supererogator*. *Supererogationes*. Quhilke word is vsed in the Evangel of *S. Luk. c. 10. 35*: quhair the *Samari-tane* have and pittie and compassion vpon the man, quha betuixt *Ierusalem* and *Iericho* was spuilzied, and wounded be thieues and robbers, did commit him to be cured be the hoste of his ludging, and gaue him twa pennies, and promised to recompense, quhatsumever he spended mair, vid. *Balliuns*.

SACREBORGH, or rather *Sickerborgh*, *securus plegius*, ane sicker sure, sufficient cautioner. *quo. attach. in prin. l. 2. p. 14. c. 75*. Is ane maner of borgh, or caution, quhilke ane findis to ane vther, & speciallie in actions, or pleyes, for quhen onie man hes action to an vther for thieft or slaughter, quhair of he offeres to accuse him iudiciallie it behuiffes the persewar, to knit and oblish him, in the handes of ane officiar, or before ane judge competent: and find sure caution, and sicker borgh, that he sal persew in forme of Law. *Mod. ten. cur. c. 44. lib. 4. c. 1. Stat. Alex. c. 9. c. si quis conquestus. 10*. In the civill law, the accuser in criminall causes *cogitur inscribere nomen. l. 3. ff. de accusat*. And conforme to the practick and law of this Realme, the persewar quhan he raisis the letters, findes caution, to reporte the famin againe, dewlie execute and indorsat. And also to persew at ane certaine daie, conforme to the tenour of the letters. And moreover quhen he accuses ane vther criminallie, before the justice and his deputies, he suld sweare the dittay to be trew, quhair vpon he accusis the defender, bot the Kings advocat, accusand criminallie, ony of the Kings lieges, is na waies oblished to sweare in this case.

SAK, *lib. 1. c. 3*. In sum auld buikes it is called *placitum et emenda de transgressione hominum in curia nostra*. In the *Britton* lawes of King *Edward* it is written *Sacha, est si quilibet aliquem nominatim de aliquo calumniatus fuerit, et Sacha: ille negaverit, forisfactura probatiois vel negationis (si euenerit) sua erit*. Quhilke may be called the vnlaw or amerciament paid be him quha denies that thing, quhilke is proven against him to be trewe, or affirmis that thing quhair of the contrar is of veritie.

SATINA, ane French word saifing or possession, vid. *Dissasina*.

SCHAFFA, *sagittarum*, ane scheife of arrowes, containing twentie foure. Vtherwaies called *garba*. Ane scheife of Irone, contains sextene gades; ane scheife of steile contains fourteene gades. *leg. nauium*, or schip lawes. *l. 2.*

SCHIREFF, ane principall ruler, or iudge of ane certaine part of the Realm. In latine *praeses provinciae*. *Aluredus* in the confederatio maid with *Gumtherus* king of *Denmark*, divided England in *Satrapias*, *centurias*, et *decurias*, and called *Satrapiam* ane schire. That is ane cutting or section, as is written in the auld *Britton* lawes *verb. centuria*: like as we say as zit, schaire cornes, or schaire grasse, or ane paire of schires, quhair with claithe is cutted And swa ane schaire, or schiref-dome, is ane part of land, cutted and sepe-

De verborum significatione.

rate be certaine meithes & marches from the rest, within the quhilk the schireffe, as judge, dois justice, and pronuncis decreites and domes, to all the inhabitantes theirow. Quhilk is called *comitatus, provincia, vel vicecomitatus. lib. 3. c. tali autem. 18. lib. 4. c. si quis. 28. c. si quis in manibus. 42.* schireffs in this Realme hes their offices given to them be the King in heritage, contrair to the act of Parliamente, *Iam. 2. par. 11. Cap. 44.* Quhilk is the cause of greate enormities and wranges, be reason the Schireffes being infest heretablie, thinkis themselues sure of their office, and regairdis nocht the execution theirow. And to the effect that gude men may make conscience of their calling, (quhair of they fall make compt and reko-ning to God, of all evill committed, and of al gude omitted) And that vthers may be instructed of their dewtie, and ather mooved to doe the samin: or els be punished for neglecting theirow: I have collected and gathered furth of the lawes of this Realme, ane schort rehearfall, and summe, of al thinges pertening to the office of ane Schireffe: And first of persones, sik as schireffes, deutes, Clerks, and serjands. Secondlie, of Schireffe courtes. Thridlie, of his office, and jurisdiction. quhilk generallie consistis, in observation and execution of all the Kinges lawes. And particularlie, in particular actiones and pleyes, pertening to his jurisdiction and court. Quhair of sum are civill, vthers are criminall, & last of the paines and punishment of malitious, or negligent schireffes.

Deutes
& Clerkes

First schireffes suld be in al & findrie partes throwout the haill realme and speciallie in the North partes, and West partes of the samin, sik as the North Iles, and South Iles, for the acquieting of the peopill be justice: and in Rosse and Caithnes. *Ia. 4. par. 6. Cap. 59. Cap. 61.* And to the effect they may the better exerce their office, and doe justice to everie person, as effeiris, they suld be gud, sufficient, and qualified men, as is statute be King *David. 2. 6. Nouemb. 1357.* In ilk schireff dome they suld doe justice to the Kinges lieges, hauld courtes in lauchfull time, and continew the samin according to law, swa that Actiones and proces, begun and intended be fore them, fall na waies be delayed throw their negligence, fraud, or malice. *Stat. Rob. 3. ex libro Sconensi,* and suld doe justice and ful law, all weil to puire as to rich, vnder al paine and charge that may follow. *Ia. 1. p. 2. c. 45* and briefelie all schireffes and vther ordinar Iudges, their deutes and Clerkes, suld know and vnderstand the lawes of this Realme, and acts of Parliament, quhair of the execution is committed to their charge, quhilk they suld cause be execute without delay. *Ia. 6. p. 12. c. 124,* and suld not onelie be qualified in judgement and knowlege, to minister justice, bor also suld haue sufficientlie of their awin, in lands, gudes & gear, quhairin they may be punished, being found culpabil in execution of their office. *Ia. 1. p. 1. c. 6.*

The
Schireffes
sic.

The schireff suld haue for his fee of the escheittes, ten pundes. *Leg. Mal. Mak. c. 1.* Quhilk fee suld be payed to him of the extractes and escheittes of his awin courte, and na vtherwise: but na fee sulde be allowed to him, untill first he make compt to the Checker of his intromission. *Aff. reg. Da.*

De verborum significatione

Da. ex libro Sconensi. And vnder pretence of his fee, he sulde take nathing, nor vse onie extorsion vpon them, quha cummis to faires, parliament, or generall Councelles. *Iam. 3. par. 5. c. 33.* Nor sulde take na distresse of gudes and gear of little price and quantitie, cummand to the faires or mercattes. Alwayes hee sulde haue the best Oxe, or Cowe, or vnrid-den horse, quhilkis are stalled, or brought to be faulde. *Iames 2. parliam. 13. cap. 60.*

Al Schireffs sal haue gud and sufficient deutes, or baillies, for quhom they fall answer. And gif ony persone be infeste with sik office in aulde time, and is vn-able. or vn-apt to vse and exerce the samin in his awin proper persone: he fall present to the King, ane sufficient depute, to exerce the said office in his place, for quhom he salbe answerable, as is statute be King *Da. 2. 6. Nouemb. 1357.* quhilk is confirmed be *Iam. 1. p. 1. c. 6.* And generallie it is trew, that ilk schireff, and vther ordinar judge, salbe halden to answer for their deutes, as themselues. *Iam. 3. p. 5. c. 26.* And therefore all Schireffes, and judges, for their awin better securitie, sulde make their deutes ane or maa, gude and wise substantialious men, of best fame, knowlege, vnderstanding, & experience, and least suspect within the Schiref-dome, and sulde cause them be sworn the time of their admission, that they fall leillly & truely vse their office: and gif they continue them fra an zeir to ane vther: they fall cause them be zeirly sworn, for administratiō of justice, at the head court after *Michaelmes. 1. 5. p. 6. c. 73.*

Schiref de-
putes and
their qua-
litie.

Schireff-Clerkes suld be honest famous men, quha be themselues and their sufficient deutes, salbe alwaies resident, within the head burgh of the schire, for registration of letters of horning, and better execution of their office. *I. 6. p. 6. c. 75.* Be the auld law of this realm, the schireff Clerk was in-put, and out-put be the King: and had na league nor bande with the schireff, but was bound & oblised to the king allanerly, and was susteined in his hienes house, as occasion & time required, & did al things concerning his office, with the counsell and advise of the King. *Aff. reg. Da. in libr. Sconensi.*

Schireffes.
Clerkes.

The schireff Clerk receivis for his fee of ilk amerciament or vnlaw, twa shillings. *leg. Mal. Mak. c. 1.* gif he sal happen to be found culpable in execution of his office, & specially anent the registration of letters of horning: he suld be punished of all his gudes moucable, to be applied to the kings vse, and the schireff fall pay for the fault of his Clerk, ane hundredreth poundes to the King, and all damage and interesse of the partie grieved. *Iam. 6. p. 11. c. 71.*

Deutes
& Clerkes

Schireffes suld send their deutes and Clerkes, ane or maa zeirly, at the first day of November, to the Lordes of the Session, to be examined and admitted be them, vnder sik paines, as the Lordes fall please to modifye, in case of failzie, to be employed to our Sovereine Lordes vse. *Ia. 6. p. 11. c. 80. Ia. 6. p. 12. c. 124.*

Serjand.

The Schireffs serjand, or officiar, suld haue ane horne, and ane reide wand of three quarters of ane yaird lang at the least, and gif hee haue nocht the samin, he suld be challenged therefore, be the Schireffe in

De verborum significatione

in his head court. Ia. 1. p. 6. c. 99. Quhair of the anc and the vther is necessar to him in the execution of his office, for with the sound or blast of the horne, he denuncis the disobedient rebelles. And also persewis malefactoures, quha are fugitiue fra the Law, and raises the inhabitantes of the cuntrie, to concur and assist in taking and apprehending of them. And with the wand, he relaxis them quha returnis to the Kingis obedience fra the horne, and receiuis them to the kingis peace, As I haue said alreedy in an vther place. Likewaies all schirefs stewarts, & baillies sal caus the mairis, serjands and officiars, haue ane signet containand the 1. letter of their name, quhair with all letters, and precepts extant be them, & indorations theirot, sal be marked and stamped. Ia. 5. p. 6. c. 74. The schirefs serjand suld haue for his fee of ilk amerciament or vnlaw of court, an colpindach, or thröttie pennies. *leg. Malc. Mack. c. 1.*

Schireffs
courts.

sure and
presence.

It is lesum and necessar to the schireffe and his deutes, to halde schireffe courtes, for execution of his office. Quhilks courts ilk Schireffe be the auld law of this Realme, is oblised to halde after the space of ilk fourtie daies. *lib. 4. cap. Statutum. 19. ass. reg. Da. c. ad summonitiones. 19.* And now all Schireffes, Stewarts, and Baillies suld hald three heade courtes in the zeire, be themselves in proper persone. Except they haue just and lauchfull excuses of seiknes, or of the Kingis service. And all barrones and free halders, quha aw suit and preface in the saides courtes, sall compeire personallie. And the absentes suld be amerciast, and all they quha aw bot suit allanerlie, sall send their suitoures, honest and qualified men, able to decide onie action or cause. And all they quha cumis to the Courte, sall remaine vntill the samin be ended. And sall passe vpon inquestes and assises, and assist the Schireffe doing their office, and service, conforme to their infestmentes. Ia. 5. p. 6. c. 71. The Schireffe in his courtes sall keipe and obserue sik forme and ordour of proces, as is vsed before the Lordes of Councell, and Session. And he suld set his court peremptourly vpon fiftene dayes, and all preceptes direct be him to summond and warne the parties, suld be execute vpon fiftene dayes. *Iam. 1. par. 9. cap. 130. Iam. 5. par. 6. cap. 72.* And gif the indwellers within the schireff-dome and royalte thereof, compeirs nocht in sufficient number, or sendis nocht their attournayes, to passe vpon seruing of in-queists or retoires, swa that thereby the schireff court is weake, and nocht weil stufed. The schireff may warne the gentlemen of the regaltie, to compeir and enforce his court, but prejudice of their regaltie. *Iam. 1. par. 9. cap. 130.* Item, all Barones, Knights, free-halders, and stewarts of Bischoppes, of Abbottes, and of Erles, suld be present at the schireff court, vnder the paine of the Kingis vn-lawe. *lib. 4. c. Statutum 19. Ass. reg. Da. c. ad summonitiones 19.* All the saidis persones and vthers, quha coms to the courtes, sulde come in sober and quiet maner, with als monie persones, as they daylye susteine in house-halde and familie: and beande come to their ludging, they sulde weare na weapones, but their knife, and gif ony of them dreadis bodily harme of ane vther, the schireffe sulde

De verborum significatione

suld grant him law-burrowes. Ia. 2. p. 14. c. 83, & it is leasum to the schiref to charge all persones to cum to his court in sober maner, & gif they refuse to skail their gadderings, and conuocation, he may stay or continue the court: & the persones disobedient, sal be punished be warding of their persones be the space of ane zeire: and be payment of the expensis and damage susteined be the partie, throw delaic of justice. Ia. 3. p. 14. c. 104. And albeit all friehalders & vthers persones suld cum to court in quiet maner, as said is. Nevertheless, it is lesum to the schireffe, stewart bailly, & vthers the Kinges officiars, to ride with greater number, for execution of justice, and furth setting of the Kingis authoritie. Ia. 5. p. 4. c. 27. The vnlaw of the Schireffe in his court, suld not excede the summe of 16. schillings, & to his clerk 2. schillings, & to his serjand an colpindach, or 30. pennies. *leg. Malc. Mack. c. 2.*

The vnlaw
of courtes.

The jurisdiction of the Schireffe consistis and standis generallie in diuerse and sundrie pointes. Bot first of all it is to wit, that the schireffe his depute, & serjand, hes na jurisdiction or power outwith the boundes of his awin schireff-dome, to summond or attache ony person, or to poynd or take ane distres of onie mans gudes and geare: for they suld make faith that they fall faithfullie serue the King, within their awin schireff-dome, and sal nocht trouble or molest onie person within the samin, against law and reason. *ass. reg. Da. c. nullus. 13. quo. attach. c. nullus. 57.* Swa it is manifest, that the Schireff hes onlie jurisdiction, within his awin Schireff-dome. Within the quhilk, he and his deutes suld cause the lawes & acts of Parliament to be published, red, and proclaimed in his courtes, and to be keiped and observed be all our Sovereine Lordes lieges, als weil in the courtes of al Prelates, Erles, Barrones, and vthers have and power to hald court, as in his awin schireffe court, & suld giue to them the copie of the lawes, that na man pretend justlie ignorance theirot. *stat. 2. Rob. c. Robertus. 28.* And siklike in all burrowes of this realm, the schireff sall cause 12. leil and honest men of the burgh, sweare and make faith, that they fall cause the Kingis lawes be keiped and observed. *Stat. Alex. c. Item in omni. 25.* & to the effect the samin may be the better done be him, the actes of Parliament being registrat, suld be delivered be the Clerk of the Register to him: quhilk he sall cause be proclaimed oppenlie, in cheife place of the schireff-dome, and suld give copies of them to prelates, barrones, & burrows within his schireff-dome vpo the expenses of the asker, & suld cause all indwellars within his schireff-dome baith to land & to burgh, to keipe & observe the saides lawes & statutes, vnder the paine of deprivation of his office. Ia. 1. p. 3. c. 67. Ia. 2. p. 14. c. 90. And likewaies to the effect the schireff suld see justice lauchfullie done and ministred: he suld be present in al courts of Bischoppes, Abbots, Earls, Barrones, & friehalders to quho it is not leasum to hald their courtes, except the schireff or his deutes be present, or summoned to that effect. *li. 4. c. die lune. 14. Stat. Alex. assisa. 10. ass. reg. Da. c. 1.* And siklike na barrone may hald court of battell, water, or iron, except the schiref, or his deutes be present to see justice done. *Stat. Alex.*

Jurisdiction.
on.
The
Schireffe
hes na jurisdiction out
with his
awin territory.

The
Schireffe
suld cause
the lawes
be proclaimed
and
observed.

The
Schireffe
suld be present
in all
courtes.

De verborum significatione

The
Schireffe
suld repaire
to the
King.

He suld
not exe-
cute or o-
bey vn-
lauchfull
cum-
mandes.

The
Schireffs
office in
the justice
aire.

Alex. c. preterea. 28. vid. duellum. vid. mahamium. And mairover the schireff and all vther judges within the schireffedome; suld repaire and cum to the King, the first night he cummis within the schireffedome, to answer to all complaintes maid against him, anent the nocht keiping and observation of the lawes: & sal nocht departe, nor passe away without licence asked and obteneid, vnder the paine and vnlaw of aucht kye, *aff. reg. Da. c. statutum. 20. quo. attach. c. Statutum. 80.* And also fall nocht passe awaie fra the King, except he haue with him the Actes of Parliament, and his instructions given to him in writ. *aff. reg. Da. ex libro Sconensi.* Last concerning the execution and observation of the lawes, the schireffe, nor na vther officiar of the law, fall onie waies obey, or execute onie command direct to them be the King, vnder the greate seale, privie seale, or signet, repugnant or contrarious to law or reason. Bot gif onie sik precept be presented to them, they sal receiue the samin reverentlie, write vpon the back thereof, and remit the samin againe. *Rob. 2. 1372.* And of his reigne, the first zeire.

The schireffe suld nocht onie make the publication of the laws, and cause the samin to be kepted & observed: Bot also suld concur and assist with vthers to do the samin, sik as the justice generale, chalmerlane, & auditours of our Sovereine Lordes Checker.

The schireffe at command of the justice general, suld sumound certaine persones to burgh and to land, to giue vp dittay, to the justice Clearkes, and suld be presente in proper person at the justice aire with the verification of the saides sumounds. He suld susteine & pay the expenses of the justice cleikes, in the time of the taking vp of the dittay. Quhilk suld be allowed to him in his comptes, he suld (conforme to the justice precept direct to him) sumound all Bishops, Abbotes, Erles, Barones, Freeholders, & al vthers quha aucht presence in the justice aire, & are immediate vassalls to the K. to compeir in the justice court, to fortifie & assist the justice. Likewaies he suld sumound all persones indyted of new, & of aulde, al pledges oblised for the entrie of onie man in the air, all persones quha will persew, or defende, in the saide court, to compeire doe, and fulfill that quhilke accordis of the Lawe. Hee sulde be presente in the court, with sufficient testimonie of the execution of the saide sumoundes. And suld make provisioun for the justice and his Clerkes, quhilke sulde be allowed to him in his first compt in the Checker. He suld take vp sik summes of money and gif neede beis poynd therefore, as the justice modifies to be payed be them, quha are amerciat, or cummis in will. *vid. Iter.*

Mairover gif there be onie persones, quhome the Crouner may nocht nor dare nocht arreist: He fall deliver their names to the schireffe, quha sal be becum borgh and cautioner to enter and present them in the justice aire. Or fall passe, or send sufficient number of men, to fortifie the Crouner, making the arreistment, and bringing the person arreist to the Schireffe to be kepted be him. Quhilk gif the Schireffe failzie

De verborum significatione

failzie to doe, he sal pay ten pund to the King. *James. 3. par. 14. Cap. 99.* Because the schireffe suld keipe the persones arreist be the Crouner, & enter them to the justice aire, gif there be na Castell perteing to the King within the schireffedome, quhairin they may be kepted *James. 5. p. 3. Cap. 5.*

Mairover, the schireffe or his deutes suld passe, or send with the Crouner, and visie the gudes, perteing to all persones convict in the justice aire, and deliver to the Crouner sa meikle thereof, as he suld haue be the law, and inbring the remanent to the Thesaurar. *James. 3. par. 14. Cap. 102.* And the last day of the aire, the schireff suld thoill ane assise anent the vsing, and execution of his office. *James. 3. par. 14. Cap. 102.* Finallie the schireffe or his deutes be their Clerke, suld inbring to the thesaurar, all extractes of the justice aire, and summes of money conteined thereintill: quhilk gif hee failzie to do, na allowance salbe granted to him in the Checker of his comptes, albeit hee haue the Kingis letter in the contrare, granted to him in his favours. *Ass. reg. Da. ex libro Sconensi.*

Quhen the chalmerlane is to hald his aire, within onie burgh, the schireff be vertew of the Chalmerlains precept direct to him, suld attach and arreist without delaie, vnder sure pledges and cautioners, all them quhais names the Provest and baillies of the Burgh fall give to him in writ; To compeire before the chalmerlane, or his deutes, day, place & time of the air, to answer to sik things as sal belaid to their charge. At the quhilk court, and aire, the schireff and his deutes suld be present, bring, and with them the said precept and verification, or testimonie of the execution thereof. *Iter. camer. c. 2.*

All schireffs suld be examined zeirelie in ilk checker, howe they haue kepted the acts of Parliament, and how they haue punished the transgressours thereof. For in the Checker, the schireff, or ane sufficient depute for him, haue and sufficient power, suld compeire and sweare there anent, in *animam eius*: Vnder the paine of ten pound, and tinfall of his office at the Kings will. *Ass. reg. Da. ex libro Sconensi.* In the quhilk Checker, the schireffe suld make compt, and full paymente, *eq.* with the Rolles, sa far as he hes intrometted, or micht intromet with the Kingis propertie or casualties, sik as escheits and wardes, vnder the paine of warding of his persone. *James. 5. par. 7. Cap. 96. James. 6. par. 11. Cap. 74.* And suld bring with him, his court buikes, with the compt of escheits, and vnlawes, intrometted with be him, togidder with the registers of hornings registrate be him in his buikes, and of all saisinges. *James. 6. par. 12. Cap. 124.* And suld find cautioners, burges men within *Edinburgh*, acted in the buikes of Councell, that he fall zeirelie make compt in the Checker, and payment of all things intrometted with be him. *Ia. 6. p. 11. c. 80. James. 6. par. 14. Cap. 230.* And gif he be found restand at the fute of his compt onie summes of silver, to the King or his Thesaurar: it is leasum to the Thesaurar, as he pleasis, to poynd the Schireffe and his deutes

De verborum significatione

deputes, or the partie to quhome saising is given, for the saides summes, conforme to the buike of *responde*. Ia. 6. p. 11. c. 73.

The Schireff, jurisdiction in civil matters.

The jurisdiction and office of the schireff, consistis allwa in particular civill actions and pleyes, and decission theirol in his Courte, and likewise in execution of decreits given be civil judges, sikas the Lordes of Councell, and session. The schireff and his deputes is judge competente to their pleyes and actiones after following. That is, the pley or mute of barrones betuixt barron and barron. The mute of ane reasonable Terge pertaining to wemen as lauchfull wives, be reason of the decease of their husbandes, complaintes tuiching the breaking of appoyntments, aggrecances, and end of pleyes made in court, and not keiped. *lib. 1. c. 4. c. contingit. 3. lib. 2. c. dos. 19.* Mutes and pleyes of natiues, that is of bondes, & servandes fugitiue fra their awin maisters: making of Homage: Receaving of relieues: allwa actiones and pleyes of debt aucht and be an to ane vther, may be followed before the schireff, with vther actiones of wrang & vnlaw. *lib. 1. c. 4. lib. 2. c. consequenter. 13.* The brieve of richt, & free tenements, suld be determined before the schireff, in the second instance, quhair as complaint is maid, that the court of barrones hes done wrang thereanent, be reason wranges done in the barron court, warremeded in the schireff court, be the auld law of this Realme. *lib. 1. c. placita. 6. lib. 3. c. solent. 17. c. ad vicecomites. 19.* Bot be the law and practick now vsed & observed, the Lordes of Councell and session are onelie judges competent baith in the first instance, and second, to al actiones and matters tuiching fee & heritage. Siklike all pleyes tuiching Meithes & Marches of lands, betuixt nighbour and nighbour, suld be decided and declared be ane assise before the schireff, *lib. 2. c. vlt.* Conforme to the quhilk all actiones of molestation, in troubleance of the possession of propertie, & commonrie suld be decided be the schireff of the schire, or vther ordinar judg, quhair the landes lyes, be the determination of ane assise, of the best and worthiest of the cuntrie, least suspect, and that best knowis the veritie. Ia. 6. p. 11. c. 42. The schireff is judge competent to the remooving of tennents fra lands, conforme to the varning maid against them to that effect, *Mar. p. 6. c. 39.* The schireff is judge to the brieve of inquest, quhair be ane desiris to be served, & retoured narrest & lauchfull aire to his predecessour. *lib. 1. c. Generalia. 25. quo. attach. c. De brevibus. 31. Ia. 1. p. 9. c. 127.* Quhilk brieve suld be served in plaine court, be the maist worthie of the schireff dome, summond and called vpon the premonition of 15. dayes. *Stat. Rob. 3. c. 1. Vid. breue de morte antecessoris.* And na commission for serving of the said brieve, or vthers suld be granted to onie person, in prejudice of the schireff, Stewart, or baillie, vntill he be first warned to heare and see the samin given, or else to alleadge ane reasonable cause, quhy the samin suld nocht be granted. *Iames. 5. par. 6. Cap. 82.* And in case ony sik brieve sal happen to be served and retoured before onie judge, commissioner, the precept of saising suld be direct furth of the Chancellarie, to the Schireffe, as is before said, *verbo. breue de morte antecessoris.* For generalie

Molestationes and cognitions

Removing

Brieve of inquest.

Commissions.

De verborum significatione.

nerallie all preceptes of saising furth of the Chancellarie vpon retoures suld be direct to the Schireffe, and vther judges ordinar, with the clause, *Capiendo securitatem*. *Iam. 6. p. 12. c. 124.* And all saisinges passing vpon sik precepts suld be given be them, their deputes and Clerkes. *Mar. p. 6. c. 34.* Quhair of they suld write the day & zeir of the giving of ilk saising, and bring the samin, togidder with all vther saisinges, given be private Notars zeirly, to the checker. *Ia. 4. p. 6. c. 89. Ma. p. 6. c. 47. I. 6. p. 11. c. 65.* Siklike actiones of ejection and spuilzie, perteinis to the Schireffe, and his jurisdiction. And therefore, gif ony man is wrangeouslie ejected furth of his land, or violentlie spuilzied of his guds and geare: The Schireffe suld tak cognition thereanent. And the ejection or spuilzie beand proven, sal cause him quha is ejected or spuilzed, to be restored to his awin landes, gudes, and geare, with the profitis thereof, and damage & skaith susteined be the partie. *Aff. reg. Da. c. stat. 31.* Specialie gif the persones quha ar ejected and spuilzied be religious men, clerks, widdowes, aged persones, or sik vthers, quha be the law, ar excused fra singular battell. *Aff. reg. Da. c. stat. 38. stat. Alex. c. 3. stat. Ro. Br. 3. c. 6.*

Saisinges upon precepts of the Chancellarie.

Ejectiones & spuilzie

And in ejectiones, quhen ony man is ejected furth of his landes, fee, or heritage, the Schireffe at commande of the Lordes of Session, sal furth with gar restore the ground, without prejudice of ony partie, and recognosce the landes in the Kings handes, vntill they be lowsed be the King. And in the meane time, inquisition is taken be the Schireffe, quha was lauchfull possessour of the landes: And the samin beand retoured to the King, the landes ar letten to borghe to the said person. *I. 2. p. 14. c. 62.* And generalie, the Schireffe suld arreist, and put in the Kingis ward, all maisterfull and wrangeous occupiers of vther mennis landes, and sal cause the ground to be maid voyde of them and their gudes. *Ia. 2. p. 14. c. 78.*

Ejectiones

Concerning spuilzie, the Schireffe suld compell spuilziers, and their receipters (the spuilzie being proven) to restore their gudes spuilzied, and charge them to answer therefore, as law will: And in case they disobey, he suld denunce them rebelles, and put them to the Kingis horne. Quhairin, gif he be negligent or partiall, he sal be punished as the principall spuilzier. *Iam. 2. parlia. 5. cap. 10.* The like restitution suld be maid be the Lordes of regalities, quhilk gif they doe not, the Schireffe suld cause the samin be done within the regaltie. *Iam. 2. p. 5. c. 11.* Last of all, actiones of recent spuilzie may be persewed before the Lords, or the Schireffe, within xv. daies nixt after the committing of the spuilzie. *Iam. 4. p. 6. c. 65.*

Spuilzie

Execution not onely of decreetes of ejection and spuilzie, as said is, bot also of all vther decreetes perteinis to the Schireffe, be reason of his office & jurisdiction. For ane decreet beand given against ony man, letters ar direct to the Schireff of the Schire, Stewart, or Baillies to bugh, orto land, chargeing them to put the said decreet to execution: quhilk suld be done be ilkane of them, within their awin jurisdiction, and suld

Execution of decrees

R

re-

De verborum significatione.

receiue for their office & fee xij. d. for ilk li. recovered or cōteined in the decreet, to be takē of him, against quhom the decreet is givē. And gif the Schireffe or vther officiar failzies to do the same, he sal tene his office for iij. zeirs, gif it be here able: & perpetually, gif he hes it in life-rent, or for ane certaine time; & sal pay the principal sūme recovered, to the partie, with the coasts & expenses susteined: be him. Ia. 4. p. 3. c. 30. Ia. 4. p. 6. c. 67. Likewaies, al sentences & decreets given be the Lords of the session, suld be execut be the Schireffe of the Schire, or his deputies, quhair the party dwellis, against quhom the decreet is given. Or els be Herauldes, pursuantes, or Maisers: And for execution thereof, nane sall take mair nor is preferued be the act of Parliament foresaid, except be liberalitie of the partie, vnder the paine of deprivation of their office. Ia. 5. p. 5. c. 58.

Poynding

For the better and mair reddie execution of decreetes: It is leasum to the Schireff, to poynd the guds & gear perteinig to the debtour, be the brieue of distres: quhilk brieue perteinis to the Schireffs iurisdiction. *lib. 1. c. Placitum. 7.* Quha suld cause execut the forme of poynding, & taking of distres. *Quoniam attach. c. de breuiibus. 31.* Bot the Schireff or vther judge may not poynd ony man, or tak ane distres, bot within his awin iurisdiction allanerly; And gif he dois in the contrair, it is plaine riefse or spulzie. *Stat. Rob. 3. c. Item stat. 13.* And it is not leasum to the Schireffe, or ony vther judge, within his awin iurisdiction, to poynd oxen, horse, or vther guds perteinig to the pleuch, or that labouris the ground, the time of the labouring thereof; gif there be vther streinzieable gudes, quhilk may be poynded. And gif ony man wil tak ane poynd within the Schireffdom, he fall cum to the Schireffe or his deputies, and desire him to concurre and assist with him therein till. And thereafter the Schireffe, or his deputies, fall passe with him to the house of the debtour, fra quhome the poynd suld be taken. And gif the debtour confessis the debt, and priewis payment thereof to bee maid be him, or bee vtheris in his name: Na poynd suld be taken. And gif ony is taken, the samin suld be delivered againe, vtherwaies, gif he grantis the debt, and proovis it not payed: The Schireff suld tak the poynd, & cause the creditour be payed. And gif the debtour denyis the debt, the poynd sal not be taken fra him, except it be manifest, that the debt is auchtand to the creditour, because na distres or poynd suld be takē bot for debt cōfessed or proven. *li. 4. c. Si quis namos. 30.* And gif the debtor hes na moveable gudes, or hes not sameikle within the Schire, as is equivalent to the debt recovered against him. And gif it happenis that he have some moveable gudes within ane vther Schireffdome; The Schireff of the yther Schire, within the quhilk the saids moveable guds lye, sal cause the same to be poynded & cōprised, & the creditor to be payed. And failzieing of moveable guds, the Schireff sal cause the lands & immoveable guds perteinig to the debtour, to be cōprised conforme to the acte of parliament, & cause the samin to be sauld and annallied, to the availle of the debet, and the creditour. Ia. 2. p. 5. c. 36.

Criminal causes

Diverse and findrie criminal Actiones, perteinis and belangis to the Schireff.

De verborum significatione.

Schireffe, and his iurisdiction, quhair of some ar capital, vthers ar pecuniall, as after followis. And first generallie the Schireffe may follow and persew al trespassours, in the Kings name, and cause his Maires and serjantes arrest them; albeit na partie persewer compeir, or assist. Ia. 1. p. 13. c. 139. Like as the Thesaurar, and Advocat, may persew slauchter, and vtheris crimes, albeit the parties keipe silence, or vther waies, privatelie agree. Ia. 6. p. 11. c. 76. And swa quhen ony complaint is maid, be ony person to the justice Generall, or to the Schireffe, or to ony vther officiar of law within burgh, or without the samin. The Schireffe, or vther judge, fall summond baith the parties. And gif the deede be done be Chaudmelle, the partie fall persew, as effeiris of the law. Bot gif it be done be fore-thocht felonie, the committer thereof, sal be accused of the breaking of the Kings peace: He fall satisfie the partie, and be imprisoned in the Kings prison. Because his life and gudes ar in the Kings will. Ia. 1. p. 3. c. 51. And gif ony trespassor be fugitiue for ony crime, the Schireff suld persew & follow him: And ilk Gentle-man, not followand the schowte, or out-horne, sal pay xl. s. And ilk zeaman xx. s. to the king. Ia. 1. p. 6. c. 98.

The Schireffe, Crouner, or Provett within Burgh, suld cause burie Murther him quha is murdered. *Leg. Mal. Mak. c. 1.*

The Schireffe suld punish Witches, Sorcerers, Necromancers, and Witchcraft them quha seekis helpe, response, or consultation of them, vnto the death; alsweill the abuser, as the seeker of the response, or consultation. Mar. p. 8. c. 78.

The Schireffe, and vther ordinar judges, suld search, take, and apprehend, all them quha not being lauchfullie admitted, dois minister the Sacramentes, sayis Messe, or hearis the samin, to be brocht to the King, to be punished conforme to the Law. Ia. 6. p. 1. c. 5.

The Schireffe suld take strait inquisition, of them quha strikis false, or forbidden cuinzie, and suld cause them to be brocht to the King, to be punished to the death. Ia. 3. p. 3. c. 18.

The Schireff beand certified of slauchter, committed within his Schireffdome, and royaltie thereof, he fall incontinent raise and follow the slayer, with sounde of horne, and convocation of the Kings lieges. And gif he beis apprehended with reid hand, justice fall be done within that Sunne. And gif he be taken and apprehended without read hand, Hee sal be put in prison, & law sal be done vpon him, within 40. daies. And gif he escapis, or fleyes furth of the Schireffdome, the Schireffe fall certifie the next Schireffe thereof; quha fall persew and follow the slayer in manner foresaid. And consequentlie, ilk Schireffe fall certifie vther, vntil the trespassour be put furth of the Realme, or els brocht to justice: The like certification suld be maid be the Schireffe, to the Lord of regaltie, quha suld persew the malefactoures, as the Schireffe suld do. *Iam. 1. p. 6. ca. 89. Iam. 3. par. 5. c. 35. Iam. 4. par. 3. c. 28.* Quhen the committer of slauchter, cummis to the Girth: The Schireffe suld advertise the Maister of the Girth, and cause the slayer bee put to the knowledge of ane Assise, quhidder

De verborum significatione.

quhiddel the slauchter committed be him, was done vpon suddaintie, or be fore-thocht-fellonie. And gif it be found suddaintie, he salbe restored to the libertie of the Girth, and Sanctuarie. And gif it be founde fore-thought-fellonie, he salbe punished to the death. Ia. 3. p. 5. c. 35. Ia. 5. p. 4. c. 22.

Law-bor-
rowers.

The Schireffe suld not only punish committers of slauchter, as said is, bot also suld after his power, stay and stop the committing thereof: And therefore, quhen ony man hes doubt of his life, either be ony decde, menacing, or violent presumption, & verifies the samin be his aith, or vther probation. And for that cause, askis law-sovertie to be given to him be the Schireffe, that he salbe harmeles & skaithles of him, of quhom he dreads the bodiellie harme. The Schireffe suld grant his petitio, & gif he refusis the same, he sal pay 40. pund to the King, & assyth the partie. I. 1. p. 9. c. 129. Ia. 2. p. 6. c. 13. Ia. 2. p. 14. c. 83. And gif the law-borrowes happens to be broken, the paine thereof, suld be payed to the Schireffe, for the quhilk he salbe comptable in the Checker. Ia. 3. p. 1. c. 5.

Thieft

It is leasum to the Schireffe and his deputes, to persew ony persone for thieft; Albeir na partie concur and informe him there-anent. *Quoniam attach. c. ubi aliquis. 23.* As likewaies, he is judge competent to thieft and slauchter, quhen ony person compeiris and insiftis with him, in the persute. Bot gif the saids crimes be followed be way of dittay: the justice generall is judge thereto. *lib. 1. c. 2.* And quhen ony thiefe is condemned before the Schireffe, & excute for thieft: Al the moveable guds, quhilk perteine to him, suld justlie perteine to the Schireffe. *lib. 2. c. Forisfactum ss. de iudic. c. Preterea. 148.* Bot gif ony man findis in ony town, his awin silver stollen fra him; It is not leasum to him to intronethere-with: Bot he suld put and leaue the samin, in the keiping and custodie of honest men of the towne, and fall declare the samin to the Schireffe, quha fall compell the Provest or ruler of the town, & threemen with him, to mak faith, that he knawis na-thing of that thieft; And thereafter the compleiner proovand the silver to be his awin, suld receive the samin to be vsed be him, as his awin proper geare. *Lib. 4. c. Si quis. 21. stat. Alex. c. Assisa. 20.* All thieues suld be punished to the death. And it is not leasum to the Schireffe, to sell ony thiefe, or to fine with him for thieft done, or to be done vnder the paine of life and gudes. Ia. 1. p. 13. c. 135.

Sorners

Al Sorners, taken and apprehended, suld be delivered to the Schireff, that justice might be done vpon them, as thieues and rievrs. Ia. 2. p. 11. cap. 45. Ia. 3. p. 10. ca. 77. The Schireffe suld arreist and challenge, all sorners, quhalis is and sojouris vpon the Kings lieges, and compel them to assyth the King, and the partie compleinande. And gif na partie compleinis, he fall inquire at the head courte, anent sik trespassours. And as he ony findis, suld punish them. I. 1. p. 1. c. 7. And mair over, the Schireffe, and all vther officiares, alsweill to Burgh, as to lande, fall punish sorners, ouer-lyars, maisterfull Beggars, fuilles, bairdes, vagaboundes, put them in warde, and banish them the Cuntrie. Ia. 2. Parli. 6. Cap. 22.

And

De verborum significatione.

And all oppressours, strang vagaboundes, beggars wandring athort the realme, vpon pretence that they ar Schipbroken, or banished for slauchter, or vther odious crimes; And dissimulat thieues, and abusers, called Egyptians. Ia. 6. p. 12. c. 124.

Sick-like the Schireffe suld arreist all idle-men, and put them in sure firmance, vntill it be knawin, quhairon they liue, and take caution of them; that the inhabitantes of the cuntrie, salbe harmelesse and skaithlesse of them: And that they fall get maisters, or passe to craftes within fourtie daies; quhairin gif they failzie, the Schireffe suld inprison them, vntill they be punished at the Kingis will. Ia. 1. p. 3. c. 66. Mair-over, the Schireffe suld compell idle-men, to passe and labour for wages within Schippes, maid and prepared for fishing, of great and small fish, vnder the paine of banishment furth of the Schireffedome; quhairin gif the Schireffe failzies, he fall pay twentie pound to the King, in the Checker zeirlic. Ia. 4. p. 4. c. 49.

All they quha ar suffered to begalandwart, suld haue ane certaine takin given to them be the Schireffe. Ia. 1. p. 1. c. 25. Vnder the paine of burning on the cheeke, and banishment off the cuntrie of the beggars; and of ane vnlaw of fiftie shillings to the King, to be payed be the Schireffe, in case he failzie in keiping of the premisses. Ia. 1. p. 2. c. 42. And mair-over, the Schireffe, Provest, and Baillies within Burrowes of royalte & regalitie, fall pay ane mark for ilk beggar that beis found beggand except he be cruiked, seek, or weake. Ia. 4. p. 6. c. 70.

And mair-over, the Schireffe suld suffer na beggar to beg within ony Parochin; bot onelie them quha ar borne within the samin. For ilk beggar suld be susteined within his awin Parochin, and suld haue the mark thereof. Ia. 5. parlia. 4. cap. 21. And for punishment of strange idle beggars, all Schireffes and vther judges suld make prisoners, stockes, and irons within Burghes, throw-faire-towries, and at all Paroch Kirkes. Ia. 6. p. 12. c. 147. And suld punish beggars, conforme to the act maid be King James the Sext. Ia. 6. p. 6. c. 74.

To the jurisdiction of the Schireffe, perteinis to cognosce and decide anent strife, spuilzies, strakes, wounds, and breaking of the Kings peace. *Lib. 1. c. 2.* And the Schireffe suld take inquisition anent the breaking of the Kings protection, and compel the breakers thereof to pay ten punds to the King, and assyth the partie. I. 1. p. 11. c. 134.

The Schireffe suld destroy veschelles, creilles, & vther ingines, quhilk stoppis Smoltis to pas to the sea. Ia. 2. p. 14. c. 87. Ia. 3. p. 5. c. 37. He suld cause the measure and quantitie of the cruves & zaires to be keiped in waters, quhair the sea flowis and ebbis: To the effect the trie of the fish, may ascend and descend, and suld likewaies giue vp dittay to the justice, in his aire, vpon slayers of Salmond in forbidden time. *stat. Alex. cap. hac est Assisa. 27. Leg. Burg. c. hoc est Assisa. 113. Stat. Rob. 2. Br. cap. Item ordinatum. 12.* The Schireff suld destroy, cast downe, and hald down, all cruves within his bounds, vnder the paine of xx. pund to be payed to the King.

R 3

Ia. 4.

De verborum significatione.

Ia. 4. p. 2. c. 15. Mar. p. 8. c. 68. For the quhilk cause, speciall commission is granted to him. Ia. 6. p. 6. c. 89. Ia. 6. p. 7. c. 111. He suld execute the actis maid anent herring and quhite fish, and vp-take the escheir of the contraveeners thereof, and make compt in the Checker, Ia. 6. p. 6. c. 86.

Hunting of
the Wolfe

The Schireffes suld hunte and slay the Woolfe, and her Quhelses, three times in the zeir, and all the indwellers of the Schire, suld rise with him, vnder the paine of ane Wedder. Ia. 2. p. 14. c. 88.

Archerie

The Schireffe suld cause bow-markes to be maid for Archerie, in ilk paroch, vnder the paine of fourtie shillings, to be vp-taken be him to the Kingis vse. Ia. 4. p. 3. c. 32.

Schutting
with fire-
warke.

The Schireffe suld punish all them quha schuttis at Deare, Rae, or, vther wilde beastes, or wilde fowles, with Culveringes, Pistolerres, or Gunnes. Ma. p. 4. c. 9. Nocht onely the Schireffe, bot all judges Ordinar, suld accuse at particular diettes, all them quha schuttis with Culvering, Croce-bow, at Da, Rae, Hart, Hinde, Cunning, Dowe, Herron, or fowle of riefte. Ia. 6. p. 1. c. 16. p. 7. c. 123.

Forestall-
lers

The Schireffe, and all vther officiares, baith to burgh and to land, at ilk Courte, fall inquire quhat persones byis victuall, and haldis it to ane dearth, And declare their names to the King, that they may be punished as ockerers, and the victuall escheit. Ia. 2. p. 6. c. 23.

Mair-over, the Schireffe suld escheit all gudes quhilkis ar forestalled, coft, or arled be forestallers, and in-bring the twa parte thereof to the Kingis vse. And the thrid part to him selfe. Ia. 5. p. 4. c. 20.

Cartell.

And sik-like the Schireffe suld punish, bee confiscation of all their moveable gudes, all them quha transportis Nolt, Scheipe, or vther Cat- tel furth of the realme. Ia. 6. p. 7. c. 124. Ia. 6. p. 12. c. 149.

Policie.

The Schireffe suld punish destroyers of planting of wooddes, For- restes, orchardes, broome, breakers of Dow-cattes, cunningaires, parkes, stankes, zairdes, slayers of Haires, makers of Mure-burne in for-bidden time, and vther destroyers of haining and policie. Ia. 6. p. 6. c. 84. And like waies, suld in-bring to the Kingis vse, the paines of them quha plantis nocht wooddes, makis not hedges and haining. Ia. 5. p. 4. c. 9.

Fute-ball

The vn-law of fourtie shilling, suld be taken vp be the Schireffe, fra players at the fute-ball. In case the Lord of the land, pretermitt to do the lamin. Ia. 1. p. 1. c. 17.

Caution
found be
the ward-
ar, and
vtheris.

Quhen ony landes fallis, be reason of ward in the Kingis handes, or of ony vther superior, Or quhen to Burgh or to land, lands ar given in con-jundfee, or life-rent: The Schireffe or the Baillies, sal cause the war- datar, find caution, not to destroy the bigginges, or vther policie: And that he fall leaue the famin, als gud as hee fand them; And that he fall susteine the aire, not havand sufficient blench, or few-ferme landes. Ia. 4. p. 1. c. 25. And gif the Schireffe, or vther judge be negligent, in requiring caution, being required thereto, be the heretoure, or his friendes: Hee fall refund and pay to the heretour of the landes, at his perfit age, all damage and skaith sustained throw his negligehce. Ia. 5. p. 4. c. 14.

The

De verborum significatione.

The Schireffe suld take inquisition of them quha wearis Claith of ^{Claithing} gold, silvery, velvet, or silkes, contrair the actis of parliament, and send them to the King, to be punished. Ia. 3. p. 6. c. 45. Ia. 6. p. 7. c. 113.

All they quha vis excesses or superfluitie in banquettes, contrair ^{Banquets} the tenour of the acte of Parliament, suld be punished be the Schireffe, and vther judges, within the Royaltie and regalitie. Ia. 6. p. 7. c. 118. And siklike, the Schireffe suld send to the Thesaurar, the names of all persons quha breakis and contraveenis the act of Parliament, maid anent the or- dering of ilk mannis house, and quantitie of meat and dishes, prescribed to ilk man of all estaites, that they may be accused and punished there- fore. Mar. par. 5. c. 26. The Prouest and Baillies within Burgh, suld cause Hostellares take reasonable price for ane mannis dinner and supper, ef- feirand to the prices of victualles. And suld also set downe reasonable prices vpon ilk mannis wark, and suld deliver the samin to the Schireffe, ^{Craftes-} that he may cause the samin price be kept to Landwart. Mar. p. 5. c. 22. Mair-over, the Schireffe suld punish the Barronne, quha examinis, nor prices nocht the wark-man-ship of ilk craft, within his Barronnie, with the paine and vn-law of ten poundes. Ia. 1. p. 7. c. 102.

The Schireffe suld send or bring all Notars, quha ar Temporall men, within the boundes of his office, and present them to the Lordes of Councell, to be examined be them, quhiddor or nocht they be worthie or qualified for the office of the Notarie. Mar. p. 5. c. 24. And the Schi- reffe with sik persones, as the King pleasis to adjoyne to him, suld call all Notars before him and examine them. Ia. 5. p. 6. c. 76.

The Schireffe suld vp-take and inbring al taxationes, and mak compt ^{Taxation} and payment thereof. Ia. 4. p. 2. c. 9.

The Schireffe, with the Barronne, or Lord of the lande, suld see and ^{Weapon-} provide, that ilk man be armed according to his estait and rente: And ^{schawing} fall cause weapon-schawinges to be maid zeirlic, after the Octaves of *Pasche*. Stat. Ro. 2. Br. c. Ordinarum. 27. Or at the least four times in the zeir. Ia. 1. p. 2. c. 44. Ia. 4. p. 3. c. 31. Or vpon Thursday in the Whitsunday oulk. Ia. 4. p. 6. c. 75. Or twise in the zeir throw all the Realme, in the Moneths of Iunij and October, or ony vther day, as fall please the Schireffe, stew- ard, or Baillie. Ia. 5. p. 6. c. 85.

The Schireff suld execut the act of Parliament, anent the keeping or ^{victuall} thrashing out of victualles, and cause the famin to be kept & obeyed, vnder the paine of tinsell of his office, in-during the Kingis will. Ia. 2. par. 9. cap. 37.

The Schireffe and Chalmerlaine, fall cause all mettes and measures ^{Mettes and} to be kept vsed & observed, conforme to the tenour of the actis of Par- ^{measures} liament, as they will answer to our Sovereine Lord. Ia. 3. p. 4. c. 22.

The Schireffe and his deputies suld escheitte and intromet with all ^{Horse} horse pertainig to Earles, Lordes, Barronnes, and vthers, halden at harde meate, langer nor the time prescribed in the act of Parliament. Of the quhilk escheit, the ane halfe pertainis to the King, and the vther halfe

De verborum significatione.

to the Schireffe. Ia. 6. p. 11. c. 56.

Escheitres

The Schireffe at command and direction of the Thesaurar, suld take vp, and intromet with the elcheit guds and gearre pertaining to rebelles. Ia. 6. p. 6. c. 75.

Excommunicate persones.

Divers and findrie persons ar disobedient to the Kingis Lawes, baith civil and criminal, and also refusis to obey and fullfill lauchful decreites given and pronounced against them, be judges Ecclesiasticall, civil and criminal: For the quhilk cause, some ar excommunicat and cursed, vthers ar denurced rebelles, & put to the horne. And therefore the Schireffe (to quhome pertainis the execution of the Kingis Lawes and decreites) suld tak and apprehendall cursed & excommunicate persones, at the desire of the Bishoppe, or his Official, and put them in prison, vntill they satisfie God, and the Kirk. Stat. 2. Rob. Br. cap. Rex tali. 31. Speciallie them quha hes remained vnder the censure of Excommunication, be the space of fourtie daies. Quoniam attach. c. Rex tali. 76. Stat. Rob. 3. c. Item 7. To the quhilk effect, letters of caption being direct to the Schireffe, he suld execute the samin against all cursed persones. And gif they be fugitive, their gudes and landes (gif they ony haue) salbe comprised, for satisfaction of the partie. And gif they haue nane, they salbe denurced rebelles. Ia. 2. p. 5. c. 12.

Rebelles.

All Schireffes, Stewards, Baillies, and vther officiares, baith to burgh and to Lande, suld search, seeke, and apprehendall rebelles beand at the horne, and bring them to our Sovereine Lordis justice, to be justified, conforme to their demerites; Vnder the paine of tinsell of their office, for three zeires, gif it be heretable; And in all time cumming, gif it be Temporall. And mair over, to be accused for their negligence in the justice aires, or at particular diettes, as it fall please the King. Ia. 5. p. 7. c. 97. Mair over, the Schireffe, and all the saidis judges, alsweill within regallitie, as royaltie, suld search, seeke, follow, persew, apprehend, and commit to warde, and present to justice, all declared traitoures and rebelles, continandlie remainand at the horne vnrelaxed; and suld do justice vpon them, gif they haue commission to that effect. And gif the saidis rebelles be fugitive, the Schireffe and vther judges, foresaidis, suld make denuntiation thereof to the Schireffes, and judges Ordinar, of the four halves about; and require them to vse the like diligence, vnder the paine to the quhilk the traitoures and rebelles ar subject, or hes incurred. Ia. 6. p. 12. c. 124. And furder, the Schireffe suld incurre and fortifie vther officiares, to take vp the escheit of rebelles, and suld make convocation of the Kingis lieges to that effect. Ia. 6. p. 6. c. 74.

Ratification of letters of horning.

Mair over, all letters of horning, with the indorsation thereof, suld be registrat be the Schireffis Clerke, within fifteene daies, after the denuntiation; And being marked and subscribed be him, suld be delivered to the partie. And ilk-like, all relaxations suld be registrat in the Schireffis buikes, within fifteene daies after the publication thereof. Ia. 6. p. 6. cap. 75. Ia. 6. par. 8. cap. 142. And ilk Schireffe suld cause proclaim the

De verborum significatione.

the names of the rebelles, at the mercat croce of the head burgh, vpon mercat daies, preceeding the three head courtes, & affix ane Catalogue containand their names vpon the mercat croce, and in the Tolbuith; And send ane vther rol thereof to the Thesaurar, containand the names and causes, for the quhilk they were denurced. Ia. 6. p. 6. c. 74.

Last of all, to the effect, that they quha ar in *Bona fide*, be nocht deceived in bying of landes or gudes, fra them quha ar interdicted or inhibited; For eschewing of ilk fraud, the Schireff, *Tanquam bonus Praetor*, suld cause all inhibitiones and interdictiones, with the executiones thereof, to be registrat in his buikes, be his Clerke, within fourtie daies, after the publication of the samin. Ia. 6. p. 7. c. 118.

QVHAT is the jurisdiction & office of ane Schireff, may be caselie knawin be the lawes and constitutions abone written, quha of findrie contents certaine speciall paines to be enjoyned to him, for his malice or negligence. And now, I thought gud to declare, certaine generall penalties, prescribed be the lawes of this realme. And first, the Chancellor, Iustice, Chalmerlaine, Schireffe, nor nane of their deputes or substitutes, fall susteine or mainteine pleyes, quarrelles, or actiones, nor fall not take landes, or vther budde, or rewarde, from the partie, for hinderance or delay of justice. And gif ony fall happen to be convicted thereof, he fall be punished at the Kingis will, and fall tene and foresalt his office, induring his life-time. Stat. 2. Rob. Br. c. Dominus Rex. 22.

Secondlie, in the time of King David the Second: Because the haill communie and inhabitantes of the Realme, compleined heavelie vpon Schireffes, Maires, Serjantes, and vtheris the Kingis ministers of the Law: It is statute and ordained, that incontinent before the ende of the Parliament: The justice Generall, with the Chalmerlaine, suld call, and conveene before them, and the inhabitantes of ilk Schireffedome, all and findrie the Schireffes, and vther Officiares, alsweill heretable, as Temporall, and deputes: And taxe and modifie the damage and skaith done be them to the King and his lieges, to ane certaine summe: Quhilk taxation being maid, the Schireffe and vther Officiares, suld be put to the knowledge of ane gude and sufficient assise; And being found culpable, and convicted, they suld incontinent be put in the Kingis prison, vntill he, with advise of his Councell, declare his will. And mair over, all the saidis Schireffes and vther Officiares, either heretable, or Temporal, being filed & convicted, suld foresalt, & tene their office, induring their life-time. Da. 2. In his Parliament halden at Perth, 18. Feb. 1369. And of his reigne. 40. zeire.

Thridlie, the justice Generall, in his justice aire, fall challenge and accuse, the Schireffes, and vther the Kingis Officiares, and take cognition how they haue vsed and exerceed their offices. And gif ony of them be founde culpable or faultie: The justice fall remouue him fra his office, vntill the next Parliament; And fall put ane vther in his place, to vse the office in the meane time. And mair over, the justice fall take sufficiente

Of inhibitiones and interdictiones.

Of the paines and punishment of Schireffs.

Schireffes may be punished at the Kingis will, and deprived.

The Schireffe may be removed be the justice, and punished be the three estates.

sover-

De verborum significatione.

sovertie of him, vnder certaine paines, that he sall compeir in the nixt Parliament to vnderly the determination and punishment to be injoynd to him be the Parliament, for his fault, And he sall na waies be restored to his office, bot gif the three Estaites think the samin expedient. *Stat. Rob. Br. 3. Ex libro Sconensi.*

Schireffes
heretabie
and Tem-
porall.

Fourthlie, gif the Schireffe, or ony vther officiar of law, be lauchfully proven, or notourlie knawin faultie, or negligent in the execution of his office pertaining to him in fee and heretage: He sall tyme the samin, and all the profites thereof, for ane zeir and daye, and salbe punished in his persone and gudes at the Kingis will, after the qualite of the trespas. And gif his office is Temporall, he sall tyme the samin, for all the times he hes it: And vther waies salbe punished, as said is. *la. 2. p. 14. c. 77.*

Fiftlie, gif the Schireffe, or ony judge Ordinar, will not execute his office, and minister justice, he salbe punished, and put fra his office, for ane certaine time, after the discretion of the King, and the Councell, and punished at the Kingis will, and pay the expenses to the partie compleinand. And gif he be found partiall or culpable, in the administrati- on of justice, And is Schireffe in fee and heretage, he sall tyme his office for three zeires. And gif he be Temporall, havand his office for ane cer- taine time, he sall be put fra the samin perpetuallie: Pay the expenses to the partie offended, and punished in his person, at the Kingis will. *Iam. 3. p. 5. c. 26.*

Tinsell of
honour &
fame.

Sextlie, all Schireffes, and vther judges, als well Spirituall as Tempo- rall, within regalitie and royaltie, sall do trew and equall justice to al the Kingis lieges, without ony partiall counsell, or taking of buddes, vnder the paine of tinsell of their honour, fame, and dignitie. *Iam. 5. par. 7. cap. 104.*

Extract of
processe

Gif ony partie compleinis vpon the Schireffe, that he hes done to him wrang, in giving or pronouncing ony sentence or decreete against him; And desiris the samin to be extracted and delivered to him, vpon his expenses: The Schireffe suld giue and deliver the processe, led and deduced before him, to the partie, vpon his expenses: And suld take foure pennies for ilk acte allanerlie. *la. 4. p. 6. c. 67. At the least, he suld ex- tract processe, decreetes, giue saifinges and retoures, at reasonable pri- ces. la. 6. p. 12. c. 124.*

De verborum significatione.

ΠΑΡΑΙΝΕΣΙΣ ΑΔ ΙΥΔΙΚΕΣ.



*M*nis qui iudicare debet, Stateram in manu teneat: Nam equalia & sine per- sonarum exceptione esse debent iudicia. Nihil iniquius quam munera capere in iudiciis: Quia munera excacant corda prudentium, & subvertunt verba iustorum. Qua enim Bilance iudicabitur, eadem iudicabimini. Quapropter, tu iudex, timeas Deum iudicem, ne forte eo iudicante, damneris. *Stat. Wilb. Cap. 27.* Proinde sis Deum honorans & timens: Sapiens & in scientia potens: Veritatem sequens & amans: Avaritias odiens & detes- tans. *de Maritag. c. 2.* Caue justitiam subvertas odio, per quod inuenta aliqua malitiosa cautela, contra par- tem tibi exosam, reddis iudicium indirectum: Vel cupi- ditate, dum corruptus muneribus, malitiose iudicabis: Vel timore, dum metu potentioris, verè iudicare non audes: Vel amore, dum causa amicitiae defendis ami- cum, & suppressis inimicum. *de Maritag. c. 4.* Fa- cias igitur justitiam equaliter, tam pauperibus, quam diuitibus. *Stat. 2. Rob. Br. Cap. 2.* Quia omnes iudices & magnates, qui plus fauent his, quam illis in iudicio, aut malefactores vlllo modo manu tenent, sunt falsi, & perjurati contra Deum, Regem & populum regni. *leg. Mal. Mak. c. ult. in fine.*

SCOTIA,

De verborum significatione.

SCOTIA, Sum-time signifies that part of Scotland, quhilk is on the North part of the water of *Forth*. *Ass. reg. David. c. statuit. 21.* And is opposed to *Lodoneium*, quhilk now we call *Londiane*. For King *David* the First, in the thrid zeir of his reigne, *Anno Domini 1126*. Be his Charter maid, *Omnibus Scottis & Anglis, tam in Scotia, quam in Lodoneio constitutis*, gaue & disponed to *S. Cuthbert* and his Monkes in *Durham* (*Dunelmensi Ecclesie*) The landes of *Coldinghame*, *Lummesdell*, *Renington*, *Eiton*, *Fisfevik*, *Auld-Cambus*, *Swintoun*, *Prendre-geist*, and vtheris, lyand in *Lodoneio*, quhilk nowe lyis in the Mers, and Schireffedome of *Berwick*. And in the actes of Parliament, justices generall ar ordained to be, ane, or twa, on the South side of the water of *Forth*. And ane or twa, on the North side thereof. *Ia. 3. p. 14. ca. 97.* Quhilk agrees with the act maid be King *James* the Second. *par. 3. c. 5.* Quhair it is statute, that the justice on the South side of the Scottish sea, set their justice aires, and halde them twise in the zeir. And also on the North side of the Scottish sea, as auld vse and custome is. And in the laws of *Malcolme Mak-Kenneth. ca. 4.* *Mare Scotia*, is taken for the water of *Forth*.

SECTATOR, Ane soytor in court, quhair qualities and office. *vid. verb. Sok.*

SEK Of wool, and furing of gudes be the sek, serplath, and tunne. *vid. Serplath.*

SERIANTERIA, *Sergenteria. Lib. 2. c. Dicitur autem. 72.* In the quhilk place, *pro Serianteris, mendose legitur. Suggestoribus. Serianteria, a seriendo, as ministerium, a ministro, or servitium a seruo.* Signifies an maner of halding of landes, speciallie in the Lawes of England, quhair *Grande seriantye*, is quhen ane man halds his lands of the King: For the quhilk he suld passe with him in his hoist, or to beare his banner with him in his warres; Or to lead his hoist or armie. And hereto belangis warde, marriage, and relieue, quhilk is ane maist speciall Knichts service. *Petit seriantye*, is quhen ane halds his landes of the King, yeelding to him ane knife or buckler, ane scheife of arrowes, ane bow, or vther sik service, conforme to his infesment: Quhair ynto na waies belangis warde, marriage, or relieue, quhilk we may call, *blench-serme*, or *alba firma*. Read the statute, maid be King *Edward* the First, King of England. 18. zeire of his reigne, anent wardes and relieues.

SERIAN T, *Sergeant*, ane French worde. For like as messengers, cummis fra the French worde. *Messiers*: Swa Sergeant likewaies cummis fra *Sergent*, *Qua est vox composita, de Serre, quod est includere. & gent, quod pro gente, plebe, vel populo usurpatur. Itaque Serianus dicitur, qui iussu magistratus, quemlibet de populo reum criminis, in carcerem conficit, seu includit.* That is, he quhair at command of the Magistrate, inclusis, or lockis in prison, guiltie persones delated, or suspect of ony crime. *Serianus curie*, or *seruiens curie*, the Seriante of the courte, officiar, executor of letters, or summondes, quhair be the interpretoures of the civill law, is called, *Nuntius. vid. Recordum.*

SERP.

De verborum significatione.

SERPLATH. *Iam. 1. p. 21. c. 38. Iam. 2. p. 14. c. 68.* Conteinis foure score stanes. For the Lordes of Council, in *Anno. 1527.* decerned four serplathes of packed wooll, to conteine sextene score stanes of wooll. Be the trafficque of merchandes now vsed, The merchandes vis to pay fraucht for their gudes to Flanders, be the Sek. To France, Spayne, and England, be the Tunne: And to Danskene, and the Easter Seas, be the serplath.

As I vnderstande, ane Serplath of gudes, is onelie counted betuixt merchand and skippers, for furing of gudes to the Easter Seas, and fra thine hame to this realme. Swa that for everie Serplath of gudes, fured, or promised to be fured Easterward, the skipper is oblischid to fure hame to this realme, twa last of gudes: And this Serplath of gudes is of na greater quantitie, nor the sek of guds to Flanders.

And ilk Sek, be the act of Parliament, *Ia. 6. p. 7. cap. 108.* Suld conteine twentie foure stane of wol: And be the dailie calculation of merchands, fourtie Trois stane. Ilk Trois stane, conteinis sextene pound Trois. And ilk pound weicht thereof, conteinis sextene ounce Trois.

The sek of wooll, is commonlie fet be the Skippers, to ane Tun: Ilk Tun conteinis, sex hundreth pound Trois weicht. Ilk hundreth weicht, conteinis fine score pounde weicht, quhilk is sex stane, and ane quarter Trois.

The wooll, quhen it is bocht be merchandes, is bocht be the Trone stane, quhilk conteinis commonlie, xix. pound and ane halfe Trois: Alwaies concerning the sek of wooll, I finde na solide or constant weicht thereof: For some feckes will be mair, and some will be lesse nor fourtie Trois stane; Bot commonlie the sek of wooll, conteinis fourtie Trois stane, as said is.

Ane Last of guds fured hame, conteinis commonlie twelue Barrells. And the auld forme of furing of gudes, fra Danskene to this Realme, was for every serplath, as it is zit, twa Last. Bot for this Last, the skippers fure hame, foureene barrells. Ilk Barrell being of weicht, ane schip pound: And of licht gudes, sit as lint and hemp, there is fured for the serplath, twa Last.

Ilk Last is twa packs: And ilk pak is als great als halfe ane sek of wooll skinnis, and conteinis in weicht threttie sex Sprusse stanes.

Ilk Sprusse stane, conteinis twentie aucht pound Trois weicht. Swa the last exactlie weyed, will conteine of our Trois weicht, sex score for stanes.

And for ane last of walx, that is fured hame be strangers, fourtene schip pounde. And be Scottish skippers, twelue schip pound.

Also, of Bar, pick, and siklike wares, twelue great barrells for the last, and fourtene small Barrells. Thir great barrells, are called *Hamburgli* trees, and ar in great esse, nocht vnlike to our *Salmond* trees, and sulde conteine fourtene Gallones, and the small barrells, at some what greater, nor our herring trees.

8

Like-

De verborum significatione.

- Ry meill.** Likewaies of Rye meill, some times twentie foure barrells are fured for the Last, speciallie be strangers: and be our awin skippers, auchteene barrells for the Last thereof. And ane Last of Rye, is some-time auchtene Bolles, and sometimes nine- teene bolles in measure.
- Daiker.** Item, ten seckes of wooll, makis ane Last of wooll.
- Grosse.** Likewaies, ten hides makis ane daiker, and twentie daiker, makis ane last: Twelue dowzane of glooues, or Ledder poyntes, makis ane grosse: And ane great grosse, containis twelue single grosse.
- Barrell of Brasse.** Ten stane of brasse, makis ane Barrell.
- Last of Salmon.** Sex Barrells of English drinking Beare, makis ane Tun.
- Flanders Barrell.** Twelue Barrells of Salmonde, or bocht be the merchandes, for the Last: Bot in furing of them over the Sea, the skippers countis onely nine barrells for the Last.
- Fidder of leade Schippe ponde.** And likewaies the Sek, albeit it be counted in Flanders to twelue Barrells; zit twelue of their barrells, containis sextene commoun Barrells.
- The Fidder of lead, containis neere by, sexscore and aucht stane.
- Ane schip pound, containis sextene stanes and ane halfe, of Scottish Trois weicht.
- Sexscore of skinnis, is reckoned to the hundreth.
- As likewaies, sex-score elnes of woollen claith is counted for ane hundreth. Ia. 6. p. 7. c. 108. Quhilk is conforme to the auld vse, observed in the daies of King David the Seconde, as is manifest be the custome compt, maid be the Customer of the Burgh of Striviling, the zeire of God, ane thousand, three hundreth, sextie aucht zeires.

VVeichtes and measures in Orknay.

THe malt, meill, and beare, are delivered in Orknay, be wecht in this maner. *In primis* 24. marks makis an setting. Item 6. settings makis an meill. Item 24. meales makis ane Last. Item of meill and malt called *Coff* ane last makis ane Scottish chaldre. Item ane Last and ane halfe of beare containis 36. meales: 36. meales makis ane chaldre. Item the butter is delivered in barrells, quhair the quantitie is great, bot quhair the quantity is small, it is delivered in markes, and less poudes. That is to say, xxiiij. marks, makis ane setting, as saide is; and 6. settings makes ane less pound. Item, ane stane and twa pund Scottish, makis ane less pund. Item 15. less poudes makis ane barrel. Item, 12. barrells makis ane Last. Item the flesh is delivered be apprising, viz. 10. meales makis ane sufficient Cow, and an sufficient Oxe. Also ane gild Oxe is apprised to 15. meales, & ane Wedder is four meales. Item ane Goufe is twa meales. Item ane Capon, is half ane Goufe, viz. ane meale.

S E R V I C I V M. *Militare.* Knights service, and speciallie concernis warde and relieue. *Vide Seriantaria. Vide Hæbert. Kide Warde.*

SERVI-

De verborum significatione.

S E R V I E N S *Curia, seriandus curia. Leg. Mal. Mak. cap. 3.* Ane ser- iand, or officiar of Courte, the executour of summondies, quha sum- mondis and attachis ony persone to compear in ane court, to answer to ane vther, conforme to law and reason. *Molins in stilo supr. cur. par. 1. c. 20.* Quha is called *serviens*, because he suld sweare to serue leallie and trewlie the King, in execution of his office. *Quon. attach. c. Nullus 57.*

S E T T E R D A Y I S *slop. stat. Alex. cap. hæc est Assisa. 27. Leg. Burg. cap. hæc est Assisa. 113. Iam. 1. Parlia. 1. 26. Maij. cap. 11. Iam. 4. Parlia. 2. cap. 15.* quhilk statute maid, as is alleaged be King Alexander, is ascri- ved to King David, be King James the Fourth, in the place foresaide: The Setterdayis slop, is ane space of time, within the quhilk it is nocht leasum to take Salmonde fish; that is, fra the time of Even-sang after noone on Setterday, vntill the rising of the Sunne on Mononday. *stat. 2. Rob. Br. cap. Item. ordinatum. 12. stat. 1. Rob. Br. cap. 8. Leg. Forest. cap. Omnes aquæ. 85. Iter. Camer. c. calumniabuntur. 16.*

S I M I N E L L V S, *Leg. Burg. c. 122.* From the Latine worde, *Similia*, quhilk signifies the beste and smallest parte of the Quheate, or flowre, quhite bread, or maine bread: In the quhilk signification, in the Dutche tolinge, it is commounlie called *Semmel*.

S O K, *Lib. 1. c. 3.* Ane auld worde vsed in Chartoures and infest- mentes, quhilk in findrie auld buikes containand the municipall lawes of this realme, is alled *secta de hominibus suis, in curia, secundum consuetudi- nem Regni.* Swa after my opinion, he quha is infest with Sok (quhilk now we call Soyte, from the French worde *Suite. hie sequela*) hes power and libertie to hald courtes within his awin Barroinie or landes: In the quhilks courtes, *homines sui*, or his vassalles suld giue soyte, and send for them, ane quha is called Soytor, or *Seftator, a sequendo*. Because he suld follow the courte, in the quhilk he suld compear. This office was verie profitable, for furthering of justice. And first, hee quha is oblised to giue Soyte in the Court of his Over-lorde, suld do the samin, conforme to the tenour of his infestment, and na vtherwaies. *Leg. Forest. c. nullus. 68. ca. Si hereditas. 69.* And gif hee aucht three Soytes be his infestment: he sall compear bot at three head Courtes in the zeire, without Sum- mondes or warning. *Mod. ten. cur. c. 1. c. 31.* Na judge aucht of law, or of reason, to accept ony man in court as Soytour. Bot gif hee can make suf- ficient and lauchfull reporte, of proceffe, doomes, judgemente, and in- lauchfull forme, giue and pronunce doome of Mutes, and pleyes in Court, followed and defended before him in court. *Mod. ten. cur. cap. 38.* *Quon. attach. c. Nullus seftator. 20.* And ilk Soytour before he be admitted be the Baillie, or judge, suld be examined in three courtes, gif hee can make recordes of the courtes, & giue sufficientlie ane warde, or ane dome of wardes or doomes, asked in the court or not. And then quhen he is be his fellowes admitted, he may not afterward for weaknesse of knowlege be rejected. *Quoniam attach. nullus. 20.*

De verborum significatione.

The aith
of ane
SoytoureThe Soy-
tour vnlaw
is the ab-
sentisFalsing of
doomesSoccaman-
nis

Ane Soytour, is oblished to make faith, that hee shall leallie, and trewlie make recorde of Courte (that is of the claime, libell and proces) and shall pronounce lauchful & trew sentence, according to the knowledge given to him be God; And shall after his vnderstanding, leallie & trewlie serue, induring the time of his office. *Stat. Gild. c. 30.* The court beand fensed, the Serjand thereof shall call the foytes, and default the absentes, that ar nocht lauchfullie effoinzied. And gar ane Soytour of the courte, deeme them in ane vnlaw, with the consent of his fellowes & Colliages. *Mod. ten. cur. c. 1.* Be the auld law of this Realme, and actes of Parliament. *Iam. 4. p. 6. c. 95.* Doomes and decreetes given and pronounced be Soytoours, in ane inferiour court, was falsified and reduced in ane superiour court, as the proesse of brieues wrangeouslie deduced in barron courte, was falsified in ane Schireffe courte, and doomes given in the Schireffe court, was falsified in the justice Court. *Lib. 2. c. Dos duobus. 19.* And last of all, doomes pronounced in the justice Court, was falsified in Parliament, before the Lordes, called *Auditores querelarum*, in this manner contained in the register. 7. October. 1476. *Datum fuit iudicium infra scriptum, per os Alexandri Dempster iudicarij Parliamenti, in presentia Serenissimi Principis Jacobi tertij. S. D. N. Regis, cum corona in capite suo & sceptro in manu, seden in Cathedra Iustitie Parliamenti, sub hac forma:* The Lords chosen be the three Estaites of this present Parliament, vpon discussing of the doomes, deliveris and declaris, that the doome given in the justice aire of Edinburgh, the xij. of Iulij last by-past, be the mouth of *Andrew Blackfurd* soytour, for the Lands of N. for *John N.* and *Jonet N.* his spouse, and againe called be *David Balfoure* of *Caraldston*, fore-speaker for *Archebald N.* was evill given; and weill againe said: For diverse reasones schawen and vnderstand to the saidis Lordes: And therefore ilk foytour of the saide doome, and their lordes, ilk man be him-selfe, is in ane amerciament of the courte of Parliamente, sik as effeiris to be taken in the justice aire; and in ane vnlaw of the said justice aire for them; And in ane vnlaw of Parliament among them, all sik as effeiris of Lawe: and this I giue for doome. Swa it is manifest, that in all courtes inferiour to the Parliament, the soytoours pronounced the doome. And gif the doome given be them in ane Barronne courte, was falsified in the Schireffe courte: All the soytoours payed bot ane vnlaw. Bot gif the doome given be them in the Schireffe courte, was falsified in the justice courte, ilk foytour payed ane vnlaw of ten poundes, of the quhilk diversitie, the reason is contained in. *Quoniam attach. c. quilibet. 7.*

SOCAMANNIA, Or Socage, Is ane kinde of halding of Landes, quhen ony man is in feft frellie, without ony service, warde, relieue, or mariage, and payis to his Maister sik dewtie, as is called *petit servantie*: Or quhen ane haldis his Landes in name of Burgage, or in *Libena Eleemosina de Maring. Cap. 1. Soccamannus*, is called ane vassall, or Frechhalder, quha haldis his Landes in maner fore-saide.

or

De verborum significatione.

or in blench-ferme, *sive nomine alba firma: Et opponitur militi, qui tenet per servitium militare*: That is, be service of warde and relieue. *Lib. 2. Cap. 82. quis plures 30. Cap. Et heredes. 41.* And in *Magna Carta* of England, *Anno. 51. Henr. 3. cap. 27.* Mention is maid of sundrie formes of halding. *Socage* *Viz.* Free-ferme, burgage, socage, and Knicht-service: Read the statute maid be *Edward* the First, King of England, the xvij. zeire of his reigne: Vtheris alleagis that *Socagium*, cum mis fra *Socco*, *sive Aratro*, affirming, that Socage is properlie, quhen the tennent is bounde and oblished, to come with his pleuch to teill and labour, ane part of the Lordis lands. Concerning tenures, and divers halding of lands, reade the treatise written be *Littleton*.

STALLANGIATORES, *A stallo*, Creamers, or Foraine merchandes, quha within Burgh, in the time of Faire or mercat, payis certained dewtie for their stall or stande, in the quhilk place they sell their merchandice: For it is ordained, that ilk stallanger shall either agree with the Provost of the Burgh, in the beste form as he may: or else ilk mercat daye, shall paye to him ane halfe-pennie. *Leg. Burg. cap. Quilibet. 39.* And in the aulde forme of customes, It is called the stallange of the mercatte. And *Leg. Burg. Mercenarius. 40.* It is called *Stallum*, or *Botha in Foro*.

STINGISDINT, *Leg. Burg. c. Sciendum. 9.* Ane dint or straike with ane sting or Batton; In Latine, *Fustigatio*.

STERLINGVS, *Est genus ponderis*, ane kinde of weicht, containing threttie twa cornes, or graines of Quheate. *Vim Asila Reg. Da. de ponderibus & mensuris.* And in the Cannon law, mention is maid of siue shillinges sterling, and of ane marke sterling. *c. 3. de Arbitris. c. Constituit. 12. de procuratoribus.* And the sterling pennie is swa called, because it weyis sa many graines, as I haue sundrie times proven be experience. And be the Law of England, the pennie, quhilk is called the sterling, round, and without clipping, weyis threttie twa graines of Quheat, without failles, quhair of twentie makis ane ounce, and twelue ounces makis ane pund; and ane hepounde, makis ane galloun of wine; and aucht gallounes, makis ane buschell of London, quhilk is the aucht parte of ane quarter.

Anno. 17. Edward. 2. c. 10. The quhilk cuinzie, was meikle vfed within this realme, as is manifest be auld Charters and evidentes. For the sixteenth daye of *August*, the zeire of God, 1395. *Walterus Senescalli, Dominus de Ralston, Vicecomes de Perth, impignoravit, Necnon nomine pignoris dedit, & concessit Nobili & potenti Dn. Dom. Roberto, Comiti de Fife & Menreith, totam et integram Baroniam suam de N. pro ducentis marcis sterlingorum monete Scotie, ipsi per eundem Comitem mutuatas, & pro manibus plenarie persolutis. Tenen & habent ipsi Comiti, & heredibus suis, de Domino Rege & c. Quousque dictus Walterus Senescalli, aut heredes sui, prefato Domino Comiti, vel suis heredibus, ducentas marcas sterlingorum monete Scotie vno die, inter solis ortum & occasum, in Ecclesia Parochiali de N. persolverit, vel persolverint.*

Ane charter
containing
ane
reversion,
& sterling
money.

S 3

De verborum significatione.

Et preterea dictus Valterus omnes firmas, redditus, commoditates, & proficua, de dicta Baronia, medio tempore provenient, dedit & concessit, pro se & heredibus suis, predicto domino Comiti, & heredibus suis, pro suo consilio bono, ipsi impenso, & impendendo. Faciendo inde annuatim, predictum Comes & heredes sui, Domino Regi servitia debita & consueta.

The quhilk Charter containis the reversion, and also ane donation of the profitis of the lands, quhilkis were wad-set, conforme to the practique used and observed vnto the time of King James the Thrid, of gude memorie. *vid. Reges.*

SUBVASSORES, *Subualuassores*, base halders, or inferioure halders, speciallie, they quha haldis their Landes of Knichtes. *leg. Male. Mak. 4. Quoniam attachiamenta cap. Si aliquis 49. As. Reg. David. c. Statut. 8.* Quhair it is ordained, that ilk person, quha is accused criminallie, fall bee judged be his Peere, or Superioure in estate and dignitie.

T.

TAYNT, *vide Attaynt.*

TENEMENTVM, Is commounlie taken for the proprietie of onie landes, Or immoveable gudes within Burgh, or without the samin. *Lib. 2. cap. Dos duobus. 19. capit. Fieri autem. 67. Liberum tenementum.* And the superiour sulde not haue the Warde of the tenement pertaining to his vassall being *Minor*: Nor can craue na service nor relieue fra him, being *Minor* or *Maior*, except he first receiue his homage. *Lib. 2. cap. Predictus. 60.* In the quhilk signification, it is commounlie used in the Lawes of England.

*Domani-
nium*

TERRÆ Dominicales, Ane worde commounlie used in Charters and instrumentes, quhilkis ar called ane Maines, or demaine lands laboured and occupied be the Lord, and proprietar of the samin: from the French worde, *Domaine*, *Domaniū*, or *Demaniū*. Quhilk worde properlie signifies the Kingis Landes pertaining to him in proprietie. *Quia domanium definitur illud quod nominatim consecratum est, unitum & incorporatum Regie Corona, ut scribit Chopinus de dominio Francia. Tit. 2. per. 1. Si quando 3. C. de ben. vacant. Lib. 10. Et Matthens de afflictis in Constitut. Sicilia. Lib. 1. Tit. de locatione demany 82.* quhilk may be called, *Bona incorporata, & in corpus fisci redacta.*

THANVS, Is ane name of dignitie, and appearis to be equall with the Sonne of ane Earle. For the *Cro* of theane, and the vther is alike. *Lib. 4. c. Si quis calumniatur. 28. statuit. 64.* And *Thannus* was ane Freeholder halding his landes of the King. *Quoniam attach. c. Recordatio. 63. As. reg. Da. c. Recordatio. 17. stat. Alex. c. Recordatio. 26.* And gif ane man not taken with the fange, is accused of theft, and na sufficient probation is deduced

De verborum significatione.

ced against him, he suld purge him be the aith of twentie seven men, or of three Thanes. *Lib. 4. c. Si quis calumniatur. 28. Thanagium Regis*, signifies ane certaine part of the Kingis landes or proprietie, quhair of the rule and government pertenis to him: quhairfore is called *Thannus*. For *Domania Regis*, & *Thanagia Regis* idem significant. *As. reg. Da. c. Statuit Dominus. 38.* It is ane Dutche worde, for *tenen* signifies ane servand, and *teinen* to serue: And *Thane* is likewise ane servant, and *vnter thane* ane inferiour servand or subject. *vid. Leg. Britonum verbo Thannus.*

THEME *lib. 1. c. 3.* is power to haue servandes and slaves, quhilk ar called *nativi*, *bondi*, *villani*, and all Barronnes infect with *Theme*, hes the same power: For unto them all their bond-men, their bairnes, gudes, and geare properlie pertenis, swa that they may dispoise there-upon at their pleasure. *lib. 2. c. Consequenter 13. cum seqq.* And in sume auld authentic buikes it is written, *Theme est potestas habendi nativos, ita quod generationes Villanorum vestrorum, cum eorum catallis, ubicunque inventantur, ad vos pertineant.* *Theme* cummis fra *than*, id est, *servus*, and therefore sum-times signifies the bond-men and slaves, conforme to ane auld statute, and law. *De curia de Theme.* *Quod si quis teneat curiam de Theme, & illa querela in illa curia movetur, ad quam theme vocatur, non debet illa curia elongari, sed ibidem determinari, & omnes Theme ibi compareant.* Quhilk is understand of the questioun of libertie, quhen it is in doubt, quhiddir onie person is ane bond-man, or free-man: Quhilk kinde of proces suld not be delayed, bot summarlie decided. Quhair of their is twa kindes: for either ane free-man is alleaged to be ane servand and slave, or ane quha is in servitude, desirs to be maid free, and put to libertie. *Dist. Cap. 13. Cap. 14.*

THIEF-BOTE, *vide Bote.*

TIMBRELLVM, *Tumbrellum*, ane kinde of torment as stocks, or jogges, quhair-with craft-men, sik as browsters ar punished. *Leg. Burg. cap. Si aliquis 21.* Quhair it is called, *Castigatorium*.

TOLL *Lib. 1. Cap. 3.* Custome, from the Greeke worde of the samin signification. *vid. 2.* He quha is infect with Toll, is custome free, and payis na custome; Quhilk is manifest bee sindrie auld Buikes, quhair in it is written. *Tol. h. e. Quod vos & homines vestri, de toto homagio vestro sint quieti de omnibus mercantiis, & de tolno de omnibus rebus emptis & venditis.*

Mair-over, all Earles, Barronnes, Knights, vassalles, life-renters, Freeholders, and all quha hes landes *Nomine elemosyna*, suld be quite and free, fra paymente of Toll and custome within Burgh, in bying meate and Claith, and vther necessair thinges to their awin proper use. Bot gif ony of them, bee commoun merchandes, they suld paye tholl and custome; Albeit they haue als greate libertie as Barronnes. *De iudic. cap. 3. Leg. Forest. cap. Comites. 13.* And in the auld Britton Lawes of King **EDWARD**. It is written. *Tholl, quod nos dicimus Theloneum, est*

*Curia de
Them,
id est, de
nativis, seu
servis*

De verborum significatione.

est quod ita in feodatus habeat libertatem emendi & vendendi in terra sua.

TORRALIVM, Thorallium, a torrendo, is called ane Kill, quhair cornes ar dried. *Leg. Burg. c. Si quis. 53. De combustione domus aut torralij.* Of the burning of the house or Kill. Gif ane servand butne takleffie thy house, Kill, or neichtboulres houses adjacent: He suld not bee punished, bot tuis his service: Bot gif ony man hiris ane Kill, and it burne, he sall paye bot the hire. Bot gif he borrowis it, and it burne, he sall paye the value of it to the partie skaithed. *vide Iam. 1. Parli. 4. Cap. 71. Cum segg.*

TORT, Et non reason, vn reason, wrang, and vnlaw. *Stat. 2. Rob. Br. c. Item quod nulla. 17. Tort* in the French tongue, is wrang or injurie: Vnlaw cum mis fra on. *Privata particula apud nos & Germanos, eodem modo quo in apud Latinos, and law, or lauch, idest lex: Quasi sine lege, vel contra legem, vel quod non iure sit. Ius Normand. Lib. 12. cap. 1.* Actiones of wrang and vnlaw, appearis to be civill actiones, and ar opposed to Actiones criminali, touching life and lim. *Stat. Alex. cap. Si quis 9. Cum segg. Leg. Mal. Mak. c. 4.*

TOSCHEDERACHE, ane office or jurisdiction, nor vnlike to ane Baillerie, speciallie in the Isles and Hielandes. For o. Mart. 1554. Neill Mack neill disposed and annallied to James Mack Oneil, the Lands of Gya, and vtheris with the Toschodairach of Kintyre. Some alleagis to be ane office pertainig to execution of sumonds. *Lib. 1. cum autem 8. Quon. attach. c. Si aliquis 49.* Sikas ane quha summondis, attachis, or arreistis ane yther, to compeir before ony judge. *Stat. Dav. c. 6. Vtheris vnderstandis the same to be ane Crouner. Lib. 4. c. Raptus 9.* Last summe vnderstandis it to be ane searchoir, and taker of thieues, and limmers: For King Ewenus did statute, that in suprie Schireffedomes, there suld be sinder searchoires of thieues, rievres, and of them that lye in waite in hie streetes, and commoun passages. *Heitor Boetius. Lib. 2. Lib. 10. Vaberrans. (inquit) Pecus, aut, Domino furum indagatori. Tochederach, vulgus appellat: aut Sacerdoti reddito: quod sitridum apud te retinueris, furti reus esto.* In the Civill Lawe, they are called, *Larruncinators. Leg. Solemus. 6. r. ff. de larruncin. dic.*

TIMBRIA Pellium, *leg. Burg. cap. Capitulum. 138.* Ane Timmer of skinnis: That is, swamony as is included within twa broddes of Timmer, quhilk commounlie conteinis fourtie skinnis: In the quhilk manner, merchandes visis to bring hame Martik, Sable, and vther coastelie skinnis and furringes.

TIMBRELLVS, *Dicitur parvus Cetus, and litle Quhaill. De Forest. c. Si quis cetum. 17. de Iudic. c. 27.*

TINNELLVS, *De iudic. c. 27. Leg. Forest. c. Si quis Cetum. 17.* The sea marke, vther waies in English *Tyde monib.* That is, the farrest parte, quhair the sea tyde flowis. *Littus quo scilicet status cybernus maris maximus excurrit, hoc est, quantumcumque mare aliquo tempore plus extenditur in*

De verborum significatione.

in hyeme vel estate, tantum est litus eius. *8. Flumina. Et ibi Gl. Instit. de ver. divif.*

TRAISTIS, *Iam. 3. par. 14. c. 99.* Signifies ane roll, or Catalogue, cotenand the particular dittay, taken vp vpon malefactoures, quhilk with the portuous is delivered be the justice Clerke, to the Crouner, to the effect the perfonis, quhais names ar contained in the portuous, may be attached, conforme to the dittay, contained in the traistis. For like as the portuous comprehendis the names of the perfonis indited, swa the traistis conteinis the kindes of dittay, given vp vpon them, quhilk is swa called, because it is committed to the traist, faith, and credite of the Clerkes and Crouner, quha gif they be trustie, and faithfull, suld nocht reveale, delecte, change, or alter the samin. *Iam. 2. p. 6. c. 28.*

TRIBVLA, *Leg. Burg. cap. Si homo 16.* Ane Flaile quhair with cornie is threschen, *Aterendo, quod frumentum terat.* Like as Tribulus is called ane thrissill, and Tribulum ane Pestell, quhair with spices, or ony vther thing is brayed in ane mortar: *Barbare magis quam Latine, secundum visitatum versum a pueris in scholis decantatum: Tribulus thressill, la flail, lum quoque pestell.*

TVERNAY, *Quid sit, valde ambigo, & hic aliorum anide expecto indicium.* In the Burrow lawes. *Cap. Quilibet. 34. Si uxor alicuius fuerit calumniata de aliquo in placitis Burgorum viitur Tvernay.* That is, as in the auld English buik, the husband may do richt for his wife, in courtes of Burgh. *Et de iudic. cap. cum quando. 28. Si quis fuerit implicatus coram iustitario domini regis, vel alio ballivo, si dominus eius, vel eius Ballivus venerit & allegaverit pro ipso in debita hora, potest recuperare curiam domini sui. Et si per negligentiam suam responderit & dixerit tuentynay de omnibus sibi oppositis plane respondebit, & sic amittit curiam Domini sui. In quibusdam libris legitur Twentynay. Itaque coniecto esse antiquum verbum forense, quo reus utens, intelligitur approbasse iudicem, adeo ut eum postea declinare non possit.*

V.

VADIVM, *Vadimonium*, from ane auld worde *veddum*, vfed in the Britton Lawes: In Latine, *Pignus*, in French, *Gage*, quhilk we call ane wedde. *Immobile vadium*, signifies immoveable gudes, sik as landes annallied and wadset vnder reversion: The profits quhair of, *computantur in sortem*, That is, ar compted and reckoned within the stok. Swa that the samin being payed in sik quantitie as extendis, & is equivalent to the quantitie of the stocke, and principall summe: Thereby the principall summe, is esteemed, as compted and payed, quhilk is called *Morinum vadium*. Bot nowe the contrair is maist commounlie vfed in practique of

De verborum significatione.

of wadsettes and alienation of landes vnder reversion. And be the aulde law of this Realme, is called ocker and vsurie, and zit be the samin, was permitted and tolerated. *Lib. 3. c. 6.* Quiddam the common forme of wad-setting of landes now vsed vnder reversion, is leasum or vnleasum. *vid. Ias. in L. cunctos populos. C. de summa Trinitate. Et Ches. in Consuetud. Burgund. Rub. 5. §. 1. 2.* In auld times, I finde that quhen landes war wadset, *nomine pignoris*, or *ad immobile vadium*; The profitis and rentes thereof were given and disposed be the annalier, to the byer, for some certain reasonable causes; sik as, *pro consilio, vel auxilio impenso, vel impendendo*; to the effect, that as the byer bruike the landes, *ex dispositione legis*, Swa he nicht haue richt to the profitis thereof, *Ex pacto & conuentione hominis. vid. Reversion. vid. Sterlings. vid. Mort-gage.*

VADIARE *duellum. lib. 4. c. 2.* A vadiatione, to enact battell, as in the English lawes, be giving of pleges, baith be the perswer and defendar, before the justice and his deputes. The perswer is said, *vadiare duellum*: Quhen after leaue asked and obtined from the King, hee offeris to proove in plaine field, al to be trew, quhilk he affirmis, & to that effect, offeris ane wad or pledge: And the defendar is vnderstand to *vadiare duellum*, quhen he denyis all quhik is spoken be the perswer, and affirmis the samin to be false and vntrew; and thereto offeris his bodie to fight with him; and ane wadde or pledge to that effect. *De iudic. c. 61. c. 86. Molin. stil. cur. Par. part. 1. c. 10. Et auctor tractatus de Corona, Appellatus (inquit) defendet latrocinium, feloniam, & totum factum per patriam, vel per corpus suum, secundum electionem suam, prout curia consideraverit, aut vadauerit. Si autem elegerit se defendere per corpus suum: vadietur inter eos duellum. Et appellatus det Vadium defendendi, et appellans det vadium distracionandi.* Bot *Philippus Pulcher*, King of France, discharged all singular combattles, and all finding of pledges thereanent. *Molin. stil. D. part. 1. c. 10. De duello*, in this realm, the appealer & defender castis their glooves till yther, quhilk representis the finding of the pledge.

VAGABUND, is called properlie, ane quaha hes na certaine dwelling place. *Guido Papa quest. 202. Per Gl. 1. & Bart. l. §. 1. Prætor. ff. de damno infecto.* Quhilk is verie speciallie declared in the act of Parliament. *1a. 6. p. 6. 20. Octob. c. 74.*

VARDA, ane French word *Garde*, custodie or keiping. For we vse the letter W quhair the French men vsis the letter G. As Wardaine, for Gardiane, Warderobe, for Garderobe: Warrenne for Garenne. And the warde custodie, and keiping of the aire, haldand his landes be service of ward and relieue, perteinis to his immediate superiour, quhilk is conforme to the Lawes of *Normandie. lib. 5. c. 10.* Quhair anent thir rules after following, suld be observed, and worthie to be noted. The warde and custodie of lands, halden be service of warde and relieue, pertaining to ane aire, being *Minor*, and of lesse age, aucht, and suld perteine to the Over-lord and superiour of the saidis landes, quha within the time of

The ward
perteinis
to the su-
perior

De verborum significatione.

of the warde, may present Ecclesiastical persones to Kirkes vaikand: suld susteine honestlie the aire: and suld nocht onelie pay the debtes, aucht, and be the defunct: Bot also aske and craue all debtes auchtand to the defunct, or to the aire, and persew and defend all actiones competent to him. Bot he may nocht destroy, nor annalie ony parte of the landes. *Lib. 2. cap. Plenam 42. c. Restituerit. 44. vid. Relevium. vid. Hawbert.*

Touching the custodie and keiping of the person of the aire of ward landes, or of ony vther landes, or quhatsumeuer maill or femaill, gotten or borne in lauchfull marriage; the samin perteinis to the mother, after the decease of the father, vntill the bairne be of the age of seven zeires compleit, conforme to the common practique of this realme, and the civil law. *L. 1. & Tot. Tit. ff. ubi Pupil. educar. debeat.*

For be the Law of this realme, grounded vpon the *Climacterick zeires* of *Septenarius & Ternarius*: That is, of seven and three zeires; there is three kindes of age. The first is of seven zeires, during the quhilk time, the bairnes ar in custodie of their parentes. The second is, of fourteene zeires, within the quhilk it is not leasum to marie. The thrid is, of twentie ane zeires, after the quhilk time, ane aire may enter to his landes, annalie and dispoone the samin, as he pleas. And before the quhilk time na person may be indited to the justice aire, or accused of life and lim. *Leg. Forest. cap. Nota quod. 15.*

The keiping of the aire, being *Minor*, haldand Landes of the King, perteinis to him allanerlie, albeit the said aire haue vther superiours of vther warde landes, elder and prior in time to the King: *Quia rex nullum potest habere parem, multo minus superiorem in suo regno.* Bot gif ane aire haldi landes, *nomine Burgagij* of the King: And vther lands *nomine wardæ & relevij*, of ane vther superiour, prior, or posterior to the King, the custodie and keiping of the said aire, perteinis not to the King, bot to the said superiour: *Quia ratione Burgagij Dominus Rex non præfertur alijs Dominis capitalibus in custodia. lib. 2. c. Notandum. 45.*

After the outrunning of the seven zeires, and the aire beand of that age, haldand landes of warde of ane superiour, and haueing na landes bereason of warde of the King: The superiour suld be preferred, anent the keiping of the person of the aire, to the mother, gud-schir, tutour, zca, to the King himselte, and all vther persones. The sixteenth of Iulij. Ane thousand, five hundredth, threttie twa. *Penult. Iulij.* Ane thousand five hundredth, threttie twa zeirs. The Abbot of *Abirbroihok*, contrair, *Marioun Forbes*. Twentie aucht of Iulij. Ane thousand, five hundredth, twentie nine zeirs. *James Sandielandes of Calder*, contrair, *Edward Sinclair*.

The custodie and keiping of the person of ane aire, haueand landes halden of diverse superiours, be warde and relieue, perteinis to the eldest superiour, to quhome the first homage was made: Or of quhome hee hes the eldest and first infeftment, or forme of halding. For al-be-it ilke ane of the superiours hes the warde of the landes

The kei-
ping of the
bairnes,
perteinis
to the mo-
ther.

ijj. kindes
of age

The kei-
ping of the
aire, per-
teinis to the
King

The kei-
ping of the
aire, per-
teinis to
his superi-
our

The eldest
superiour
is preferred
to al vther

De verborum significatione.

Landes halden of him selfe: Zit concerning the keeping of the person of the aire, the principall and eldest superiour, is preferred to all vtheris, *Lib. 2. c. Restituer. 44.*

The keeping of the aire havand lands blenche, or in few-ferme, and also wardlands, perteinis to the superiour, be reason of the ward, and not to the tutour, havand intromission with his blenche, or fewlands. *28. Jan. nar. Patrick Hepburne, contrair Elizabeth Ker.*

Gif the superiour, havand the richt and title to the warde and marriage of ane aire, disponis the warde to ane donatar, and the marriage to ane uther: The donatar, to the marriage allanerlie, suld be preferred in keeping of the person of the said Minor, to the vther donatar of the ward, and all vthers: *Quia ius maritaj est personale & sequitur personam.* The keeping of the aire, suld never be committed to him, quha may claime, or claimis ony richt to his landes and heretage: Or may immediatly succede after him thereto. *Lib. 2. c. heredes. 47. Hac enim ratione illi posset præberi occasio. captandæ mortis ipsius heredis, quod est periculosum & impium.* Be the Laws of this realm, the aire mail, & al his lands halden ward, ar within ward & keeping of his superiour, vntill he be of the age, of xxj. zeirs; And the aire femall, vntill sche be of the age of xiiij. zeirs. *M. p. 3. c. 3. lib. 2. c. 39. de iudic. d. 63. l. 1. r. 21.* Because the landes perteinig to the aire maill, ar subject to the King, or vther superiour be service; quhilk the Minor, be reason of his les age & zouthhead, cannot do. And therefore the King or superiour, wantand the service, hes recours to the land: that he may be served be the profits thereof, takin vp. to his awin vse, or be ony person to quhome he pleasis to dispone the samin, vntill his vassall be of perfite age, and able to serve. And the aire femall is in the warde and keeping of hir superiour, vntill sche be fourteene zeirs of age, as said is. For suppose ane woman of twelue zeirs of age, be the civill Lawe may marie ane husband; zit be the Law of this realme, sche may nocht marie, vntill sche be fourteene zeirs compleit. At the quhilk time, sche may lauchfullie marie, with consent of her superiour. *Lib. 2. cap. Mulier. 28. cap. in Custodiis. 90.* And therefore sche being subject to her husband, It is not reason sche suld be also subject to the warde of her superiour, and consequentlie vnder twa wardes, and twa sindrie severall powers. Mair over, sche being maried, with consent of her Overlord, her husband may doe sik service, as suld be done to him be the possessour of the landes: quhilk is conforme to that quhilk is writtten be Doct. Thomas Smith, of the common weill of England. *Lib. 3. d. 5. l. 8.*

VARD A Curia quoniam attach. c. ubi aliqua. 10. c. in omni. 18. c. nullus. 20. The interloquitor or deorret of the court. *Curia dicitur wardare, considerare, pronuntiare, in his forme. The Court counsellid, and advised.* And *J. N.* Soytour of it, be their informations sayeth, that this Court counsellid & I, award, that M. is in ane default for his absence this day. The like form is used in the daily practice, quhen the judge or clerk be the

The superiour is preferred to the tutour.

The keeping of the aire, follows the richt of the marriage.

The keeping of the aire, suld not be given to his appearand aire.

The end of the warde.

De verborum significatione.

mouth of the officiar or dempster decernis and adjudgis onie person to be in ane vnlaw, for absence or ony vther cause. & *lib. 2. c. ult.* that quhilk is called *verdictum assise*, in the latin place, in *libro Carbreith*, is called the waired, veredite, or deliverance of the assise.

VARENNA, ane French word, ane *Garene*; That is ane place quhilk is dyked & inclosed for beastes, cūnings or vthers, *quo. attach. Cap. 29. Mod. Ten. cur. Cap. 21.* In latine *Paradisus*. And the keeper of ane cūningair or cūnings, is called an *Garenter*. *Infeodatus in liberam varennam*, is nocht meikle different from infestment, in *liberam forestam*. The quhilk kinde of infestment of auld is given to the Laird of Rosling his predicefours, of the barronic of Pechiland.

W A R E, waier of the sea, ane word used in sindrie infestmentes, in latine *alga maris*. As in the latine proverb, *abiecta vilior alga*. He quha is infest therewith, may stop and make impediment to all vther persones, als weil within the foud marke, as without the samin, to gather wair, for mucking and guding of their landes. Or to gather wilkes, Cokles, Lempers, Mussels, sand-eiles, small fish, or baite, vpon the sand or craiges, for canent his landes. *24. Maij. 1549.* The town of Carrail, contrair *Griffell Meldrum*. Vtherwaies gif onie person be nocht infest with sik priviledge, he may na waies forbid, trouble or molest the King, or onie of his lieges to doe the premisses: Or to win staines, quarrell, or to exerce onie vther industrie to their awin proffite and commoditie, within the foud marke of the sea, *quia usus maris est communis omnium. 29. Julij. 1500.* The King, contrair the laird of *Seafeld*. Ware cumis fra an auld French word *Varech*, used in the lawes of Normandie. *lib. c. ult.* Quhilk signifies onie gudes or geare, casten out be the seato the land, quhilk properlie we call the wrak of the sea.

VASSALLVS *quasi bassallus inferior socius*. From the French *Bas*, as *plus Bas*, in latine *inferior*. And the Dutch word *Gesel*, in latine *socius*. For the vassall is inferiour to his maister, because he suld serve and reverence him. And zit he is in ane maner companion to him, because ilk ane of them is mutuallie oblissid til vthers. *Vid. affidatij; & Cui. lib. 1. de feud. writis that leodes, leodes, fideles, homines nostri, feudatarij, ministeriales, beneficiarij, beneficiati, vassalli*, almost signifies ane thing: And *vassallus*, in Latin is *cliens*. Because sik relation is betuixt *dominus & vassallus*, as is betuixt *patronus* and *cliens*. *Molinaus in stil. cur. parl. c. 16. pag. 48.* Albeit *Cuiacius* af firmis the samin to be monie wayis different. And ane bas in fustment is quhen the vassall annalies his landes, halden of him selfe and his aires, quhilk is ane inferiour, private or subalterne infestment. In the lawes of the fewes *vassallus* is called *fidelis*, *quia fidelitatem iurat*, he suld swear to be faithfull and trew to his maister. Amanges vassalles, the first place of dignitie is given to them quha are *Duces, Marchiones, Comites*, and are called *Capitanei regni*. The second is granted to barrons & vthers of like rank and estate. And are called *Valuafores maiores*. The thrid is of them, quha are called gentilmen, or Nobles, haldand of barrons, quha likewise

Verdictum.

Paradisus.

Varech.

De verborum significatione.

infestment, or onie vther disposition, to intromet and vptake sik gudes & geare, as ar schipbroken, or fallis to him be escheit of the sea. Quhilk libertie is als competent & profitabill to him quha is infest with wreck, as it micht be to the King himselfe gevar thereof, *quia vracta pertinet ad dominum regem et vracta competens vassallo, ex donatione regis pariter estimatur. leg. forest. c. inter antiquas. 30.* And in the lawes of England, anno. 3. Edwa. 1. c. 4. concerning wreck of the sea: it is statute that quhair an man, andog, or an cat, escapes quick out of the schip, that sik ship or barg, nor na thing within her, salbe adjudged wreck, bot the gudes salbe saved, & keiped be the sight of the schireffe, coroner, or the Kinges baillie, & delivered into the hands of sik pas are of the towne, quhair the gudes were fund, swa that gif onie craue the gudes within ane zeire and ane day, after pruiße, that they warð his awin, they salbe restored to him without delaie. And vtherwaies they sal remaine to the King. And the schireffes coroners, and baillies of the towne, intromettours theirwith, salbe answerable therefore, to the Kinges officiares, & quhair wreck belanges to an vther then to the King, he sal haue it in maner abone exprened. And quhafoever dois vtherwaies, and is attaynt, or convict thereof, he salbe imprisoned, and pay ane fine arbitrall to the King, and the damage to the partie. Siklike be the lawes of England, the King suld haue the wreck or escheit of the sea, throwout the Realme, Whailes, & greite sturgeons taken in the sea, or els quhair within the Realme. Except in certaine places priuiledged be the King. anno. 17. Edward. 2. c. 11.

VTLAGIUM, *vel vslagatium*, outlawrie, rebellion, disobedience to the lawes, banishment, or foresaltour. Ia. 2. p. 6. c. 30. For gif the King restore *ex gratis*, an man that is outlawed, or foresalted, he thereby recovers nocht his landes, bot be the gud will of his overlord, *quia forisfactus et vslagationem: D. Rex damnatus solet remittere: nec tamen aliena iura querit nec potest infringere. lib. 2. c. forisfactum. 15. de iudicib. c. si per legem. 149.*

YBVRPANANSECA, it appears to be like, that, quhilk is called the law of Birdingsek, for in su auld authentick buiks it is writte. *lib. 4. c. 14. yburpanansecas. h. c. De furto vituli. vel lariiis. vel quantum cibi, quis portare potest super dorsum suum curia non est tenenda.* Sum affirmis in the Galcoine language. *Pana*, to signifie *furari*, to steill, and *panadour*, to be ane thief, & it appears weill, *Seca*, signifies an seck. In latine *saccus*, quhilk word is commonlie vsed in all tungen and languages amangs all people & nationes.

ZARDE. Ia. 1. p. 7. c. 99. Is an kind of measure commonlie vsed in England nocht meikle different from our elne, an zarde of land *virgata terre*, in the Britton lawes, is ane measure of land quhilk in diuers places

De verborum significatione

is diuers, sumtimes of 20 aikers, sumtimes of 24, & sumtimes of 30 aikers.

ZELDE, ane gift or donation. *vid Herreselde.*

ZEMSEL, of ane Castell, the custodie, and keeping of ane Castell. *leg. bur. c. 3.* For zeme, in our auld language, is to obserue and keepe, as quhen in time of singular battell, they quha standes by, and behaldes, ar commanded to keepe, & zeme the time of the derenzie, their weapons fra the handes of the appealer and defendour. In *lib. feud.* it is called *feodum Guardie*, for *Guardia*, in latine *custodia*, & *Guardiani custodes* to quhome Castelles and territories of landes ar committed in keeping, quhome we call wairdanis, as writes, the interpretores of the fewes, & speciallie, *Zastus defendis. par. 12. Num. 7.* And in this Realme landes annuall-réts, or dewties, giuen for keeping of Castelles, are called *castelwardis*.

FINIS.



ANE ADMONITION TO THE

reader touching the buikes contenand the

lawes of this Realme, and abbreviaciones vsed

in the treatise preceeding.

I Haue alleadged in this little treatise, the first word with the number of the Chaptour of ilk buike of the auld lawes of this Realme, written before King James the First, of gud memorie. Because there is greite diuersitie anent the number of the chaptoures. Swa that thereby, there can be na sure or certaine allegation. Bot gif the number failzie, the 1. & capitall word, wil be an sure guide & convoy to the richt place alleadged. *Leg. Mal. Mack. leges Malcolmi Mackenneth.* The lawes made be King Malcolme the second of that name, verie gud and profitabill, bot few in number.

Lib. 1. Lib. 2. Lib. 3. Lib. 4. The first, second, thrid, and fourth buikes of *Regiam maiestatem*, maid be King David the first. Swa called and intituled, from the first worde of the beginning thereof, to the imitation of the foure buikes of the Institutiones of the civill lawes, quhilk begins *Imperatoriam maiestatem.*

Quo. attach. quoniam attachamenta. swa called, fra the first word thereof. Containes the Barron lawes, and forme of the Barron courte, written in the time of the said King David the first.

Mod. ten. cur. bar. modus tenendi curias baronum. an buik writte in Scottis language, quhilk is not of great antiquitie as may be knowe be the styll, & language thereof, & is not contained in the auld buikes maist worthie of faith & credite, alwales it is an interpretation of the buike *quoniam attachamenta*, maid be sum mā quha hes eiked & augmētēd sindrie things profitable

Maria Sew Dege
Eug. de Lina

Maria Sew Dege
Sofy de Lina

John

21.12.11

188

In my dear god. no. no. pad

Br
my
Sofy