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HABAKKUK BISSET'S
ROLMENT OF COURTIS



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Habakkuk Bisset's Rolment of Courtis

EDITED BY

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VOL III.



Printed for the Society by
WILLIAM BLACKWOOD & SONS LTD.
EDINBURGH AND LONDON
1926



PREFATORY NOTE.

IN writing the Introduction, Notes, and Glossary it has been the editor's aim to supply all the information necessary to a complete understanding of Bisset's work. He has not, however, thought it needful to comment upon Bisset's version of the story of the early Scottish kings, which he has reproduced from Bellenden's translation of Hector Boece; and he refers those readers who are interested in the subject to W. F. Skene's *Chronicles of the Picts and Scots* and his edition of Fordun's *Scotichronicon*. The special debt which the editor owes to Pollock and Maitland's great work is made sufficiently obvious by his numerous references to it.

In passing this volume through the press the editor has received invaluable assistance from Mr William Angus, Curator of the Historical Department, H.M. Register House, Edinburgh, for which he offers his grateful thanks. Mr Angus not only read and corrected the proofs along with the editor, but made many suggestions and criticisms which have received effect in the Introduction and Notes.

The Society is greatly indebted to their Hon. Secretary, Mr W. B. Menzies, Advocate, for the compilation of the Index.

The editor cherishes the hope that what he has written, however many may be its shortcomings, may be of some service to any future writer who takes for his subject the early law of Scotland.

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ADDENDA ET CORRIGENDA.

VOLUME I.

P. v, l. 2. After "MS.(" add "Laing Coll. XII. Law."

P. vii, l. 13. Delete "Before . . . year," and substitute "Bisset was a member of the Society of Writers to the Signet before 7th July 1581, when he was designated as such in a contract to which he was a party ('Reg. of Deeds,' vol. xix. fol. 403). In the year 1587."

P. xiii, l. 4. Delete "This . . . Bisset," and substitute "The last reference which we have concerning Bisset is his mention (vol. ii. 157, l. 2) of 'this present 3eir of god, 1627.'"

P. 131, l. 30. For "Janurarii" read "Januarii."

P. 179, l. 20. After "diclinatoria" insert "3", and add a footnote "3 'dilatoria' in University Library copy."

VOLUME II.

P. 8, note 2. For "Bolton" read "Belton."

P. 18, note 1. Delete "Innerkip" and read "Innertig was the former name of the parish now known as Ballantrae."

P. 137, l. 21. For "seasing is" read "seasingis."

P. 315, l. 1. After "ffercurius" insert "1", and add footnote "1 Ferrolus and Ferrutio."

VOLUME III.

P. 12, l. 29. After "65 ff." add "See the Acts, 1424, c. 2 ; 1425-26, c. 7 ; and 1449-50, c. 4 ('A. P.,' ii. 3, 9, 34)."

P. 13, l. 18. For "a single MS." read "two MSS."

P. 19, l. 9. For "vicine" read "vicinie."

P. 25, l. 32. For "l. 13" read "l. 20."

P. 36, l. 31. For "p. xxix." read "pp. xxxvi., xliii."

P. 43, l. 31. After "*part*" add "*i.e.*, no part of the office of sheriff was committed to him other than to carry out that execution" (Hope, 'Minor Practicks,' ed. J. Spotiswood, Edinburgh, 1734, § 6, note; Kames), omitting "(*ib.*" after "*part.*"

P. 70, l. 18. For "ii." read "iii."

P. 70, l. 19. After "293 ff.)" delete the remainder of the note.

P. 71, l. 21. After "prove" delete the remainder of the note and substitute what follows: "In Stair's time it had become the practice in civil cases, where the averments of the parties were contrary, to reserve the point of relevancy and to allow to both parties proof of their averments (Stair, iv. 39, 4 and 5). Previously the practice had been for the judge to decide the point of relevancy, and, in accordance with the maxim 'frustra probatur quod probatum non relevat,' to allow a proof to the party whose averments he held to be relevant. This judicial act—the act of *litiscontestatio* (see note to vol. i. 183, l. 30 below)—thus determined not only what was to be the subject of proof, but also the incidence of the 'onus probandi.' After *litiscontestatio* it was, as a general rule, incompetent to state additional defences (see Bisset, vol. i. 184-5). A distinction was drawn between defences which did, and which did not, contradict the libel (see Stair, i. 9, 19, and 20; iv. 40, 12 (thirdly-sixthly)). The former were regarded both in civil and criminal cases as irrelevant, and therefore as inadmissible (Balfour, 'Practicks,' pp. 349, 358; Hope, 'Major Practicks,' Adv. Libr. MSS. 24.3.10, fol. 212; Mackenzie, 'The Law and Custom of Scotland in Matters Criminal,' Part ii., Title 22; Hume, 'Comm.,' ii. 297 ff.). Exceptions were admitted to this rule in certain cases—*e.g.*, in proceedings before the council in regard to riots (Mackenzie, *loc. sup. cit.*), and in *spuilzies* (Stair, i. 19 and 20). See also Ersk., 'Inst.' iv. 4, 90; Glassford, p. 150. As to the burden of proof where the defender adduced oath-helpers to support his oath, see Pollock and Maitland, ii. 47, 603; Brunner, ii. 370; 'Essays in Anglo-Saxon Law,' pp. 185 ff."

P. 74, l. 29. After "1 ff." add "The 'Formulare' of St Andrews contains instances of the ecclesiastical procedure known as the 'Purgatio Canonica,' in which oath-helpers had a part. These instances belong to the early sixteenth century (see J. Herkless and R. K. Hannay, 'The Archbishops of St Andrews,' Edinburgh, 1910, iii. 211 f.)."

P. 80, l. 1. Delete the words "Nor . . . proof.²"

P. 80, l. 19. Delete note 2.

P. 90, l. 23. After "forsacan" insert "Liebermann, however, both in his vocabulary and in his comments on 1 Eadgar 3, 1 and 11 Cnut, 15, 2, regards the phrase as inapplicable to this form of process."

P. 92, l. 26. For "Registrum" read "Liber Cartarum."

P. 93, l. 7. "Active . . . passive." An heir is said to be heir *activè* or to have an active title in so far as he represents the deceased in his rights. He is said to be heir *passivè* or to have a passive title in so far as he represents the deceased in his debts and burdens (Erskine, 'Inst.,' iii. 8, 50).

P. 93, l. 14. For "a single MS." read "two MSS."

P. 95, l. 11. Insert the following new paragraph: "It is to be noted that when a doom had been falsed, and the falser, who had found security to proceed with falsing, summoned those in whose favour the doom had been pronounced to appear before the Lords of Council, the Lords held that the summons should not be answered until the falsing had been decided.^{1a}"

P. 95. Add note "^{1a} 14th Oct. 1493, 'Acta Dom. Conc.,' i. 299."

P. 109, l. 6. After "163 ff." add "Liber Insule Missarum" (Bannatyne Club), Edinburgh, 1847, pp. xii., xiii., and notes, and Appendix to Preface, No. 34; 'Hist. MSS. Comm.,' 3rd Report, Appendix, p. 417; 'Analecta Scotica,' 2nd Ser., Edinburgh, 1837, pp. 30 f.

P. 109, l. 10. After "Galloway" add "See Bisset, vol. ii. 414, l. 12."

P. 127, l. 2. Delete "note to p. 127, l. 8" and read "p. 43, note 6."

P. 131, l. 19. After "64 f.)" add "It is of interest to note that it was a recognised practice in the sixteenth century for law students, before their admission to the Bar, to give public lectures in the Tolbooth ('A. S.,' 24th January 1580-81, 'Pitmeddan's Abridgement,' Adv. Libr. MSS., 25.2.5)."

P. 151, l. 2. After "Replegiation" add "Hope, 'Major Practicks,' Adv. Libr. MSS. 24.3.10, fol. 150."

P. 152, l. 23. After the word "criminal" add "Mr W. C. Dickinson has pointed out an instance of the practice in 1349 ('Registrum Episcopatus Aberdonensis' (Spalding Club), Edinburgh, 1845, i. 80). It was in use in the courts of Shetland in 1588 and 1595 ('Orkney and Shetland Records' (Viking Society), London, 1907-13, i. 80, 220), and in the Isle of Man, in the Tynwald Assembly in 1421, and the Sheading Court in 1736 (J. Johnson, 'A View of the Jurisprudence of the Isle of Man,' Edinburgh, 1811, pp. 14, 154; 'The Acts of Sir John Stanley,' A.D. 1414-32 (the Manx Society), Douglas, 1860, iii. pp. 71 ff.). The usages in Shetland and the Isle of Man may probably be attributable to Norse influences."

P. 163, l. 3. After "assessed" add "see Pollock and Maitland, ii. 537 f., and notes."

P. 187. After line 8 add "118. 3. As to Eata, whom Bisset calls Catta, see Higden, 'Polychronicon,' i. c. 56; Forbes, pp. 329 f.; Mackinlay, p. 240."

P. 207, l. 27. Insert after line 27 "228. 9. reporte . . . seill. See note to l. 4 above."

P. 208, l. 39. After l. 38 insert "231. 8. wald . . . fysche." Art. 49 of the Edict has 'Et là où ladite trafue ne se pourroit d'une part & d'autre conduire ou accorder, voulons et entendons que ledit admiral puisse bailler aux subjects de noz ennemis sauf-conduit pour la pesche.'



INTRODUCTION.

IN his preface,¹ addressed to the godly and Christian reader, Bisset informs us that in the years 1609-1613 Sir John Skene² caused him to write, "be his directioun, the formes of deductioun of all processis in civile actionis, presentlie used and observed befor the lordis of his maiesties counsall and sessioun, and utheris iudges within his hienes Kingdome of Scotland," together with certain old forms and processes no longer in use. To these he added a second part, composed of his own collections; and, in another place,³ he describes the whole work as "laitlie wreittin collected and set furth be A. B. Edinburgensis, nevir imprentted nor published of befor." He claims, in short, to be the author of a new work.

Now the volume containing Sir John Skene's translation of the 'Regiam Majestatem,' 'Quoniam Attachiamenta,' &c., published in 1609, includes a tract entitled, "Ane

¹ Vol. i. 74 ff.

² As to Sir John Skene, see the 'Dictionary of National Biography,' lii. 336, and Dr Neilson's Skene's 'Memorabilia Scotica, 1475-1612, and Revisals of Regiam Majestatem,' Glasgow, 1923.

³ Vol. i. 2.

Short forme of Proces, presentlie used and observed before the Lords of Counsell and Session." This tract was reprinted in 1809 by Thomas Thomson, in a volume entitled, 'A Compilation of the Forms of Process in the Court of Session during the earlier periods after its establishment,' and is introduced by a note which states that its author is supposed to have been Habbakuk Bisset, Sir John Skene's clerk.

It must be obvious to all who compare Skene's 'Forme' with that of Bisset that the latter is little more than a revised and amplified edition of the former. At the same time, we are unable to accept the view that Bisset was the author of the earlier work. He does not claim it as his. He does not even mention it. And, besides, his mistranscriptions and mistranslations make us hesitate to credit him with scholarship sufficient to enable him to compose a treatise which shows an intimate acquaintance with the texts of the Roman and Canon laws relating to procedure.¹

But while Bisset adhered to the arrangement of Skene's 'Forme,' reproducing its substance and referring to the authorities to which it refers, he made many important additions to it. He treated of topics which it had left unnoticed, and he incorporated in it various public documents, and many sections of statutes and acts of sederunt.

¹ Bisset cites three passages from the Civil law and one from the Canon law which are not referred to in Skene's 'Forme.' These are, C. v. 17, 8 § 6 (vol. ii. 260, l. 19); D. xxii. 3, 2 (vol. i. 185, l. 22); C. iv. 20, 9 "et ibi Baldus" (vol. i. 200, l. 11), and c. 15, X. de test. et attest., ii. 20 (vol. i. 207, l. 22). It is possible that the first mentioned citation is borrowed from Welwod's 'Abridgment of all Sea Laws' (see note to vol. ii. 201, l. 5 below), and that the others were suggested by Skene.

We owe to Dr Neilson the discovery of a volume containing Skene's 'Forme,' annotated by Skene himself; and these corrections and alterations of the original text, and the addition of rubrics to the chapters into which it is divided, have a special interest for us owing to the fact that Bisset adopted them with few exceptions.¹

The treatises of Skene and Bisset mark a stage in the history of civil procedure in Scotland, and it seems to be a not inappropriate introduction to our author's 'Schort Forme,' to examine the sources from which he drew his materials.

We propose, in the first place, to consider the sources themselves, and then to proceed to a consideration of their contents.

I.

§ I.

These sources belong to different periods and to different systems. Skene and Bisset refer not only to the "assise" and "statuta" ascribed to the early kings,² to treatises,³ acts of parliament, and acts of

¹ See Dr Neilson's work, cited p. 1, note 2 above, in which Skene's revisals are given *in extenso*. Bisset adopted all Skene's new sections and clauses with one trifling exception, and five-sixths of his rubrics.

² Bisset, in his preface to the godly and Christian reader, gives an account of the early kings of Scotland and their laws, which is derived from Bellenden's translation of Hector Boece's 'Historia Gentis Scotorum'; but in his 'Schort Forme,' he does not, except in one or two instances, cite any authority earlier than laws assigned to the reign of David I.

³ Skene and Bisset attribute the 'Regiam Majestatem' and the 'Leges Quatuor Burgorum' to the reign of David I., and appeal to them in support of their statements regarding the practice current in their own day.

ederunt,¹ but to the Roman and Canon laws relating to procedure.

§ 2.

In the first volume of 'The Acts of the Parliaments of Scotland,' edited by Thomas Thomson and Cosmo Innes, we find, *inter alia*, four collections of early laws—the "assise" and Laws of the Four Burghs attributed to David I., the "assise" attributed to William the Lion, and the "statuta" attributed to Alexander II. These, "speaking generally, all are lawyers' collections, and their statements as to the authority and date of their contents must be received with caution."² With regard to the "assise" ascribed to King David, it is plain that

¹ The Acts of Sederunt which Bisset cites are in many cases printed in 'The Acts of Sederunt of the Lords of Council and Session, from 15th January 1553 to 11th July 1790,' Edinburgh, 1790, and in 'The Acts of Sederunt of the Lords of Council and Session, from the Institution of the College of Justice in May 1532 to January 1553 . . . to which are added some of the Acts made at after periods, the records of which are lost. Taken from old Manuscripts,' with a preface by Sir Ilay Campbell, Edinburgh, 1811. Some, however, are to be found only in the MS. 'Books of Sederunt' (Register House, Edinburgh), and in MS. collections in the Advocates' Library (MSS. 31.2.2 (hereafter cited as Grant MS.) and 25.2.2), and in the Harleian Collection (No. 4642, MS. collection of Sir John Lauder of Fountainhall. See 'The Acts of Sederunt,' 1811, cited above, p. 64 note). The Grant MS. appears to have been the source to which Bisset most frequently resorted. His dates are not always those of the MS., and, in some instances, it is obvious that he follows it in its errors by assigning to one date Acts which belong to different periods. Thus, where in the MS. an Act dated 13th June 1532 is followed by numerous undated Acts, he assumes that they are all of that date; and yet one of these undated Acts contains a reference to Queen Mary. The undated Acts are followed by an Act dated 1564. References to the sources of Bisset's citations will be found in the notes to the chapters of the titles into which his 'Schort Forme' is divided.

² J. Maitland Thomson, 'The Public Records of Scotland,' Glasgow, 1922, p. 28.

while in some cases the ascription is supported by the extrinsic evidence of charters of his own time or of the time of his successors, it is in other cases proved to be without justification.¹ The earliest MS.—the Berne²—contains twenty-two laws which are introduced by the words “*Incipiunt leges Scotie*,” and which are not attributed to any particular reign or reigns. It also contains fifty of the Laws of the Four Burghs.³ Of the twenty-two laws nineteen have been assigned by the editors to King William’s reign,⁴ and one to that of Alexander II.⁵; one is included in the ‘*Fragmenta Collecta*,’⁶ and one in the

¹ See ‘*A. P.*,’ i. 38, 53, 90, 91, and pp. 86, 89 where ‘*L. Q. B.*,’ c. 20, is assigned to King David. The learned editors of the ‘*A. P.*’ attribute to David’s reign an assize (c. 35), dealing with novel disseisin, which seems to be of English origin, and which did not become a subject of legislation there until a date subsequent to his death. See F. Pollock and F. W. Maitland, ‘*The History of English Law before the time of Edward I.*,’ 2nd ed., Cambridge, 1911, i. 146, note.

² It is said to have been written late in the reign of Henry III., or early in that of Edward I. (‘*A. P.*,’ i. 178).

³ The order in which the MS. places them has been retained by the editors. They represent, not a code of laws of one date and authorship, but a body of custom, partly of native, partly of foreign origin, which probably attained the form in which it has come to us not later than the time of the Alexanders (Maitland Thomson, p. 147). It is not to be assumed that these laws were regarded as binding only on the four burghs. It is probable that they were received as authoritative by all the burghs of Scotland (‘*Ancient Laws and Customs of the Burghs of Scotland*,’ ed. by C. Innes (Scottish Burgh Records Society), Edinburgh, 1868, i. p. xxxix).

⁴ A. C. Lawrie (‘*Annals of the Reigns of Malcolm and William, Kings of Scotland, A.D. 1153-1214*,’ Glasgow, 1910, p. xiii. See also p. 205) observes that “the *assisæ Willelmi*, prepared by Mr Thomson, is a collection of disconnected scraps, some of which are of the reign of King William; some are older, some more recent.” As to the order in which they are placed by the editors, see ‘*A. P.*,’ i. 220.

⁵ This is c. 3 in the ‘*A. P.*’

⁶ C. I. (‘*A. P.*,’ 737).

"Leges inter Brettos et Scottos."¹ The editors state that the laws placed by them under King William's name have been "so placed rather upon intrinsic evidence and the allusions to historical events occasionally introduced, than on the authority of the manuscripts."² It would have increased our debt to these learned persons if they had been a little more explicit as to the "intrinsic evidence" upon which they relied. As to the "allusions to historical events," it is to be observed that a notice of a public event is not always to be taken as fixing conclusively the date of the law in which it occurs. We find, for example, in the Cromartie MS. a reference to the first coronation of King Philip of France, which took place in 1179, serving as the commencement of a law attributed in that MS. to King David I.³ In the MSS. later than the Berne, the ascription of the laws is by no means uniform. Thus the Cromartie MS. assigns to King David many laws which other MSS. assign to King William. Nor are the MSS. always to be trusted when they give the dates of laws contained in them. Thus the first statute ascribed to Alexander II., who succeeded to the throne in 1214, bears to have been enacted according to some MSS. in 1212.⁴

Undoubtedly there is great uncertainty as to the dates and origin of many of these early laws. At the same time, it seems possible to indicate some of the sources from which they were derived.

There is ample evidence to show that the reign of

¹ 'A. P.,' i. 663.

² 'A. P.,' i. 43.

³ Ass. David, c. 1.

⁴ See Hailes, 'Annals of Scotland,' 3rd ed., Edinburgh, 1819, i 193.

David I. marks an important advance in the administration of law and justice. The characteristics of this advance are intelligible only if we keep in view the circumstances of the king's life prior to his accession to the throne. He had been brought up at the English court, he was the possessor of extensive territories in England, where he often resided, and he had ruled as a feudal baron over a province subject to the same laws which were in force in Saxon Northumbria before the days of Cnut.¹ As king he made it his deliberate policy to extend the application of the principles in accordance with which he had governed in the past to every part of his dominions; and undoubtedly his success in carrying out this policy was largely due to the measures taken by his predecessor for the establishment of public security through the length and breadth of the old kingdom of Scotia.²

The population with which King David had to deal was composed of elements differing in blood, in language, and in social structure. North of the Forth, in Strathclyde, and in the tributary dependency of Galloway, the inhabitants were Celtic,³ while Lothian had been largely settled by Anglo-Norman and English immigrants, and in many of the coast towns

¹ E. W. Robertson, 'Scotland under her Early Kings,' Edinburgh, 1862, i. 235. A. C. Lawrie ('Early Scottish Charters prior to A.D. 1153,' Glasgow, 1905, pp. 262, 265 ff.) discusses the question "whether Alexander was king of all Scotland, or whether his brother David ruled over part of the country south of the Forth and Clyde."

² During the reign of Alexander I. "in Scocia tota . . . pax firma vigebat" ("Chronicon Elegiacum," in 'Chronicles of the Picts and Scots . . .,' ed. W. F. Skene, Edinburgh, 1867, p. 181).

³ Robertson, i. 235.

to the north and south of the Forth other foreigners had established themselves. The charters of David addressed "Francis et Anglicis et Scottis et Galwensibus,"¹ and his grant of land and office to Maynard the Flambard, "proprius burgensis in Berrewyk,"² bear testimony to the mixed character of the population.³

Regarding the laws and customs of the Celtic population, so far as they related to procedure, our information is meagre in the extreme. Robertson⁴ observes that "compurgation and ordeal seem to have been as familiar to the Celts as to the Teutons." How far this observation holds true of the Scottish Celts there is little evidence to show. Robertson refers to the record of a dispute between the monks of St Serf and Sir Robert Burgonensis in 1128, which informs us that at an assembly of the inhabitants of Fife and Fothri, summoned by the king's messengers, judgment was given by one of three arbiters in favour of the monks. It states, "ita fuit decisum istud negotium sententionaliter et per juramentum," and concludes by giving the names

¹ 'Liber Sancte Marie de Melros' (Bannatyne Club), Edinburgh, 1837, No. 1.

² From the Black Book of St Andrews (Lawrie, pp. 132, 394 f.; 'A. P.', i. 35). Malcolm IV. granted a charter of the lands of Innes in Moray to Beroaldus Flandrensis ('Registrum Episcopatus Moraviensis' (Bannatyne Club), Edinburgh, 1837, p. 453). We read of a "lex Fleminga que dicitur Fleming lauch" in the time of David II. ('Reg. Magn. Sig.', i. App. 1, No. 128), in connection with a grant of land in Aberdeenshire.

³ The names of the witnesses to David's charters point to the Anglo-Norman birth of many of the great officers, counsellors, and courtiers who attended his person (Lawrie, *passim*). See P. Hume Brown, 'History of Scotland,' Cambridge, 1900-09, i. 73, 88 f., as to the dominating influence of the Norman element in this reign.

⁴ i. 272.

of the five monks who made oath with the abbot.¹ With this instance of the employment of oath-helpers² may be compared the terms of the exemption granted to the men of Galloway by Robert I.,—"quod non teneantur ad purgacionem seu acquietanciam faciendam secundum antiquas leges Galwidie . . ."³ At a much later date we find compurgation in use in the highlands of Perthshire,⁴ and it may be that it was practised generally among the Celts of Scotland. The institution of the Wergild was undoubtedly common to the Celts and Germanic peoples.⁵ It is referred to in an assize attributed to King William,⁶ and regulations regarding it are to be found in the "*Leges inter Brettos et Scotos*."⁷

We find traces of Scandinavian influences in the use of the words "*kyrset*"⁸ and "*hirdman*"⁹; and the word "*twertnay*"¹⁰ may have been derived from Norse sources directly or through the medium of England.¹¹

We hear of the existence of a "*lex Fleminga*" in the reign of David II.¹²

¹ '*Liber Cartarum Prioratus S. Andree*' (Bannatyne Club), Edinburgh, 1841, p. 117.

² Lawrie (p. 330) doubts whether this instance is truly one of compurgation.

³ '*A. P.*,' i. 482.

⁴ See p. 74, note 9.

⁵ Robertson, ii. 286.

⁶ *Ass. Will.*, c. 14.

⁷ '*A. P.*,' i. 307, 663 ff.; Robertson, ii. 305, 351.

⁸ O.N. "*kyrrseta*" or "*-sæti*," sitting in peace or quiet from disturbance. "Exemption from payment of taxes, granted for one year to a new burgess" (*New English Dict.*, s.v. "*kirset*," citing '*L. Q. B.*,' c. 27).

⁹ See below, p. 75, note 7.

¹⁰ See '*L. Q. B.*,' c. 31; '*Fragm. Coll.*,' c. 5 ('*A. P.*,' i. 735). Cp. O.N. "*setja þvert nei*," to deny flatly (*New Engl. Dict.*, s.v. "*Thwert-nay*"). See below, p. 68, note 1.

¹¹ The form "*thwertutnay*" is found in the '*Records of the Borough of Leicester*,' ed. Bateson, pp. 156-8, cited in Pollock and Maitland, ii. 609, note 1. "*Thwertnay*" under the influence of "*Thwert-ut*" became "*Thwert-ut-nay*" (*New English Dict.*, s.v. "*Thwertnay*").

¹² See above, p. 8, note 2.

Of the legal system which prevailed in Lothian we have fuller accounts. From what we know of the history of that province it would seem that its inhabitants had long been familiar with Anglo-Saxon law and custom.¹ That law and custom and the legislation attributed to David I., William the Lion, and Alexander II. present remarkable similarities in conception no less than in method. To both alike the stranger was the object of mistrust: by both secrecy in action was regarded with suspicion; in short, publicity was demanded in every department of conduct.² Thus the entertainment of the stranger was limited to a single night, unless his host was willing to become security for him:³ and the accuser was bound to inform the community of the commission of the crime, which was the subject of his charge, without delay, otherwise he incurred the penalty of a fine, and the charge failed.⁴ The man whose goods had been stolen must raise hue and cry in order to obtain the assistance of his neighbours in pursuing the thief,⁵ and secure their evidence to the fact of the theft.⁶ The provision that no

¹ Robertson, i. 96 note; ii. 305.

² *Id.*, i. 268, 269. See Ass. Will., c. 11, "de modo eundi per noctem."

³ Cp. Ass. David, c. 3, and 'L. Q. B.,' c. 85, with Hlothære and Eadric, 15; II. Cnut, 28; E. Cf. 23; and Leis Wl., 48. The references are to F. Liebermann, "Die Gesetze der Angelsachsen," Halle, a. S., 1903, vol. i.

⁴ Ass. Will., c. 32; III. Æthelred, 15.

⁵ Ass. Will., c. 7; cp. c. 32. See 'Fragm. Coll.,' c. 4 ('A. P.,' i. 734) and c. 2 ('A. P.,' i. 737), where the expression "sequela clamoris vicinie" is replaced by "secta et hutesium" and "secta hutesii." See Leis Wl., 4: 'Essays in Anglo-Saxon Law,' Boston and London, 1876, p. 285.

⁶ The neighbours formed the "secta calumniatoris" ('Fragm. Coll.,' c. 14 ('A. P.,' i. 739)). "The neighbours should turn out with the bows, arrows, knives that they are bound to keep, and besides much shouting, there will be horn-blowing; the 'hue' will be 'horned' from vill to vill" (Pollock and Maitland, ii. 579,

purchase shall be made unless the purchaser have "lauchful borch of hamehald"¹ ("legalem plegium"²), and the regulations relating to the finding and calling of warrants,³ correspond to the requirements of Anglo-Saxon law. A like observation may be made regarding the oath and the oath-helper,⁴ the ordeals of iron and water,⁵ the various forms of the peace,⁶ the employment of the

where a reference is given to 'Select Pleas of the Crown,' 1200-1225 (Selden Society), i. No. 115: "et tunc cornaverunt hutes").

¹ Ass. Will., c. 5; cp. c. 18 *sub fin.*; 'L. Q. B.,' c. 26, and 'Fragm. Coll.,' c. 4 ('A. P.,' i. 719). See Robertson, i. 261 and note. At a Baron Court held at Killin in 1634 purchase from a stranger was prohibited unless he found caution of "burgh and hamer" that the goods were "weill come." According to Lord Auchinleck this caution was called "borch hamel" in the Highlands of his day ('The Black Book of Taymouth,' Edinburgh, 1855, pp. xxix. and note 2, 389). See Skene, 'De verborum significatione,' s.v. "Borch," "Haimhaldare."

² Hlothære and Eadric, 16; Ine, 25; I. Eadweard, 1; II. Æthelstan, 8, 12; IV. Eadgar, 6; I. Æthelred, 3; II. Cnut, 24; Leis Wl., c. 45.

³ Cp. Ass. Will., c. 3, with Hlothære and Eadric, c. 7, and Leis Wl., 14. See H. Brunner, 'Deutsche Rechtsgeschichte,' Leipzig, 1887-92, ii. 498 ff., and below, p. 69, note 3.

⁴ Cp. Ass. David, c. 2, with Leis Wl., 14 (1).

⁵ See below, p. 72. As to the procedure, see II. Æthelstan, 23; E. Cf. c. 9.

⁶ In early Scottish documents special peaces are mentioned which co-existed with the king's peace. We read of the peace of the church (Stat. Alexander II., c. 9), the peace of the lord of the tenement (Ass. David, c. 14), the peaces of the king's son, of the earl, of the earl's son, of the thane, and of the thane's son and "nevo" ("Leges inter Brettos et Scotos" ('A. P.,' i. 664); see 'R. M.,' iv. 56), the peace of the bailies of a royal burgh ('L. Q. B.,' c. 77), and the peace of the fair ('L. Q. B.,' cc. 86-88; see Robertson, i. 304). According to Lawrie (pp. 17, 256), the earliest notice of the King's peace in Scotland is supplied by a charter, *circa* 1100, granted by King Edgar to the monks of St Cuthbert. It was particular rather than general, but the king extended it to certain persons and certain places during certain times. Thus Alexander I. granted "pacem meam et Dei eundo et redeundo pacemque tenendo" to foreign merchants bringing their goods on shipboard to Scone ('Liber Ecclesie de Scon' (Maitland Club), Edinburgh, 1843, No. 3), and King David gave

extra-judicial witness,¹ and the repeated citation of the defender;² and the provisions attributed to David³ pro-

the like protection to the poor, the weak, and the defenceless (Ass. David, c. 30), to the pilgrim during his pilgrimage (Ass. David, c. 29; 'L. Q. B.,' c. 77), and to those who sought refuge in a sanctuary ('Liber S. Marie de Calchou' (Bannatyne Club), Edinburgh, 1846, i. No. 8). As to sanctuaries in Scotland, see 'Concilia Scotiæ' (Bannatyne Club), 1866, ii. 261, and to certain religious houses, their inmates, servants, and belongings (3 Dugdale 'Mon.,' 313, in Lawrie, p. 91; 'Registrum de Dunfermelyn' (Bannatyne Club), Edinburgh, 1842, No. 22). King William ('A. P.,' i. 89) and Alexander II. ('A. P.,' i. 87) conferred the privilege upon the frequenters of certain markets, and the former monarch took under his protection those who brought "ligna vel materiem" to Perth ('A. P.,' i. 86). The breaker of the peace of the king or of the lord of the tenement was not only liable to a fine payable to the king, but also, if he had slain a man, to compensate the dead man's kindred (Ass. David, cc. 14, 15. See 1425-26, c. 7; 1449, c. 4 ('A. P.,' ii. 9, 34)). On settling the royal demand he was readmitted to the peace; but his admission, if granted without the consent of his victim's kinsmen, did not deprive them of their right to avenge him (Berne MS., c. 10; Ass. Will., c. 15). As to the amount of the wergild of persons of different ranks, see "Leges inter Brettos et Scotos" ('A. P.,' i. 663 f.). The king was guardian of the national security, and, in course of time, his special peace became merged in his general protection (see W. Stubbs, 'The Constitutional History of England,' 2nd ed., Oxford, i. 180 ff.; Pollock and Maitland, i. 44 f.; F. Pollock, 'Oxford Lectures,' 1890, pp. 65 ff.). But long before this fusion took place, the sovereign had assumed an exclusive jurisdiction—exclusive, that is to say, where it had not been made the subject of a special grant—in regard to certain of the more serious crimes. In the assizes attributed to David I. reference is made to "de placitis spectantibus ad coronam" (Ass. David, cc. 12, 24; 'L. Q. B.,' c. 6). And in a law assigned to William's reign (Ass. Will., c. 12) they are enumerated—"placita . . . de femina efforciata, de rapina, de arsione, et de murdre." Cp. II. Cnut, 12, 15. The 'Regiam' (i. 1) makes additions to the list, of which one is the "placitum de pace domini regis infracta." As to the English analogies, see the works of Stubbs, and Pollock and Maitland, *ut supra cit.*

¹ See pp. 65 ff. below.

² Leis Wl., 47. Cp. II. Æthelstan, 20; III. Eadgar, 7; Pollock and Maitland, ii. 592, note; Brunner, ii. 337; and see p. 55 and note 1 below.

³ Ass. David, c. 24.

hibiting appeal except where justice had been denied in the lower courts find their counterpart in the laws of Edgar and Cnut.¹ The excuses ("essonzies"²) for non-appearance in answer to citation, which formed a part of Scottish procedure,³ were derived from the *essoines* ("essonnia") of Anglo-Norman law, which in their turn had their origin in the "sonia" of the Germans.⁴

Two methods of procedure are repeatedly referred to in the early Scottish laws—namely, proof by battle and proof by assize. Of these the former seems to have formed no part of the Anglo-Saxon system, and it is more than probable that it was introduced into Scotland by Anglo-Normans, and had become an established practice in Lothian before David's accession to the throne.⁵ The latter was of Frankish origin. It was long employed exclusively for royal purposes, and its use by the subject was a concession before it became a right.⁶

Skene, on the authority of a single MS., assigns to the reign of William a fragment relating to the falsing of dooms—a process which was known to Germanic law, and which is referred to in the laws of Edgar and Cnut.⁷

¹ III. Eadgar, 2; II. Cnut, 17; Pollock and Maitland, i. 40.

² See pp. 61 f. below.

³ See 'L. Q. B.,' c. 92; Ass. Will., c. 25; and 'R. M.' and 'Quoniam Att.' (see references in Index to 'A. P.,' s.v. "Essoign").

⁴ Brunner, ii. 335, 336, note 21. In Sullivan's Introduction to O'Curry's 'Lectures on the Manners and Customs of the Ancient Irish,' London, 1873, i. p. ccxciii, a Celtic origin is suggested.

⁵ See Pollock and Maitland, i. 39.

⁶ Pollock and Maitland, i. 140 ff., 144, note 3. We find an instance of its employment by David before he came to the throne ('Registrum Episcopatus Glasguensis' (Bannatyne Club), Edinburgh, 1843, i. No. 1).

⁷ See p. 93 below.

The facts to which we have adverted favour the conclusion that the early Scottish laws were in the main declaratory of Lothian usage; and we may hazard the conjecture that the aim of those who enacted them was to make applicable to the whole kingdom a system which had previously been operative only in the southern province. It is not to be supposed, however, that these laws form a complete code. They leave untouched many departments of social conduct which must have been the subject of customary regulation; and nowhere is this characteristic more apparent than in the domain of procedure.¹

§ 3.

The 'Regiam Majestatem' is an authority to which both Skene and Bisset frequently refer, and which presents a problem of the greatest difficulty. We are uncertain as to the date of its compilation and as to the aim of its compiler. It is now generally admitted that it is for the most part a reproduction of portions of the 'Tractatus de Legibus et Consuetudinibus Angliæ'—a work completed before the death of Henry II. in 1189, and attributed to Ranulf Glanvill, the chief justiciar.² Dr Neilson³ observes that "either the 'Regiam' was compiled in the first half of the 13th century, say between 1200 and 1230 . . . or it was compiled from materials of the law of that period." It is to be noted that the compiler reproduces a passage from Glanvill⁴ and a statute ascribed to King

¹ See Pollock and Maitland, i. 26.

² See Pollock and Maitland, i. 163 ff.

³ 'Trial by Combat,' Glasgow, 1890, p. 104.

⁴ 'R. M.,' iv. 2; Glanvill, xiv. 1.

William,¹ which refer to the ordeals of iron and water. If, as some writers hold,² these ordeals were abolished in 1230,³ it might be argued that the compilation is of an earlier date. We shall deal with this contention below.⁴ Lord Hailes⁵ founds an argument for a later date on the Cromartie MS.,⁶ which contains citations⁷ of the Decretals of Gregory IX. and Boniface VIII., published in 1230 and 1296 respectively. It is to be observed that the second and third citations are to be found in five MSS.⁸ other than the Cromartie MS. In

¹ Ass. Will., c. 15; 'R. M.,' iv. 12. It is to be observed that the 'R. M.' (iv. 11), in reproducing Ass. Will., c. 12, omits the portion referring to the ordeal.

² See Neilson, pp. 113, 116, 140. According to C. Innes ('Scotland in the Middle Ages,' Edinburgh, 1860, pp. 188 f.) the enactment provided not for the abolition of the ordeals, but for freeing the man who had been acquitted by an assize from being required to undergo them for the same offence.

³ Stat. Alexander II. c. 6 provides that, if an accused be not cleared, just judgment shall be made concerning him, "et de cetero de eo non fiat iudicium per fossam vel ferrum." In the Ayr MS., and some other MSS., this law is entitled "Deletio legis fosse et ferri et institutio visneti." In the Ayr MS. the last two lines form a separate chapter, which is given as a general statute—"De cetero non fiet iudicium per fossam et ferrum" ('A. P.,' i. 285). In England the ordeal was abolished in 1219 (Pollock and Maitland, ii. 599).

⁴ See p. 20 below.

⁵ 'Annals of Scotland,' 3rd ed., Edinburgh, 1819, iii. 283 ff. See G. Chalmers 'Caledonia,' new ed., Paisley, 1887, ii. 730.

⁶ MSS. Adv. Library, 25.5.10.

⁷ The passages in which the citations occur are 'R. M.,' ii. 15, 50; iii. 7. The citations are c. 2 X. de testamentis, iii. 26; c. 8 VI. de rescriptis, i. 3; and c. 1 X. de commodo, iii. 15. These citations are not to be found in the version of the 'A. P.,' or in the corresponding passages of Glanvill.

⁸ MS. Adv. Libr., 25.4.10 and 25.5.6; Edinburgh University MSS., D. b. vi. 12; Drummond MS. (Register House, Edinburgh); and Colvil MS. (Edinburgh University MSS., Laing Collection, 380). The third citation is in Edinburgh University MSS., D. b. vi. 11.

all of these the citations form part and parcel of the text; and, accordingly, it is obvious that, if they accurately represent the original text of the 'Regiam,' the date of its compilation cannot be placed earlier than the latter half of the thirteenth or commencement of the fourteenth century.¹ Hailes² has also pointed out certain correspondences between the 'Regiam' and Gregory's Decretals upon which he bases an argument to the like effect. They occur in the chapter of the 'Regiam,'³ "de servis non ordinandis," and in a passage of the Decretals in which the same matter is discussed,⁴ and show themselves not only in the treatment of the subject, but in the terms employed.⁵

It has been argued⁶ that the 'Regiam' must be later in date than the early XIII. century, because the second half of c. 40 of the second book is expressed in terms almost identical with those of a provision which once

¹ The late Professor Dove Wilson was of opinion that the 'Regiam' dates from the beginning of the fourteenth century ("The Reception of the Roman Law in Scotland," 'The Juridical Review,' 1897, ix. 365).

² iii. 320 f.

³ 'R. M.,' ii. 10.

⁴ Cc. 1, 2 X. de servis non ordinandis, i. 18.

⁵ The chapter in the 'Regiam' ends with the words—"Cedit enim ad ignominiam et vituperium ecclesie cum clericus reuocatur ad statum servilem. Et si iudicio reddi debeat deponendus est vel degradandus antequam reddatur." The decretal has (c. 1)—"Forte dicit aliquis; clericus fieri non permittitur, nisi ante clericatum ingenuitatis dignitate potiatur. Reuera verum dicit. Et ideo quod infirmari vel vituperari potest præcaveri debet"; and again (c. 2)—"decretum est ut deponatur et eius dominus eum accipiat." The Rev. Thomas Miller, Bonnybridge, has pointed out to the editor that the words of the decretal founded on are to be found in the 'Decretum' of Ivo, Bishop of Chartres, which was composed before 1096 (see Migne, 'Patrologiæ Cursus Completus' (Latin Series), Vol. clxi).

⁶ G. Chalmers, 'Caledonia,' Paisley, 1883-93, i. 731.

appeared in the English statutes of the realm as 17 Edward II. c. 9. Dr Neilson,¹ in discussing this argument, admits that if this enactment be authentic, and if the passage in the 'Regiam' be truly part and parcel of it, the date of the 'Regiam' cannot be earlier than the beginning of the thirteenth century. He points out, however, that doubt exists in regard to both points. The authenticity of the provision as a statute has been denied. "Some think its true date much earlier than the 17th of Edward II., and are even disposed to assign its compilation to the reign of Edward I. The difference between Edward II. and Edward I. is not material here. Either date is fatal to the hypothesis contended for" — *i.e.*, the hypothesis "of an early 13th century 'Regiam.'" As regards the second point, Dr Neilson informs us that of fourteen MSS. of the 'Regiam' collated by him twelve contain and two² do not contain the passage in question.

It is thought that an argument against the latest date suggested may be founded on the fact that the provisions in the 'Regiam' relating to the complaint of false judgment differ widely from the procedure in falsing dooms practised in Scotland in the early years of the fourteenth century. In the 'Regiam' the court was bound to defend its judgment when impugned. In the case of the Keledei, in 1309, the judgment "falsed" in a baron court was submitted to the court of the next feudal superior, and, in 1321, it was ordered that a doom

¹ 'Trial by Combat,' Glasgow, 1890, pp. 101 f.

² "Two good and quite independent manuscripts, the oldest known Scotch versions" (*Ib.*, p. 102).

"falsed" in a justiciar's court should be brought before the king and council.¹

In addition to a reproduction of portions of the work attributed to Glanvill, the contents of the 'Regiam' consist partly of passages borrowed from the Roman law, partly of statutes attributed by the editors of the Scots Acts to David I., William the Lion, and Alexander II.,² and partly of legal matter of which the source has not been traced.³ We have seen above⁴ that one chapter of the 'Regiam' seems to be founded upon the Canon law.

These materials the compiler does not attempt to fit into a consistent system. What he lays down as law in one chapter does not always accord with the provisions introduced into another. Thus in one place he repro-

¹ See pp. 92 f. below.

² The references in the 'Regiam' to these statutes are:—

'Regiam Majestatem.'	Ass. David I.	Ass. Will.	Alex. II.
i. c. 15		c. 3	
c. 16		c. 5	
c. 17		c. 17	
c. 18		c. 18	
c. 19		c. 4	
iv. c. 9		cc. 6, 7	
c. 10		c. 11	
c. 11		c. 12	
c. 12	cc. 1, 8, 20	cc. 13, 14, 15, 16	
c. 13		c. 19	
c. 14		c. 20	
c. 15		c. 1	
c. 24	cc. 21, 22, 23		
c. 31		c. 22	
c. 38	c. 35		
c. 46	c. 32		
c. 53			c. 9

³ See Neilson, p. 104 f.

⁴ P. 16 above.

duces from Glanvill an elaborate list of pleas of the crown,¹ and in another incorporates an assize attributed to King William² which enumerates only four such pleas—viz., rape, robbery, arson, and murder. A similar contrast is presented by his treatment of hue and cry. He finds a place for a law assigned to King William's reign,³ which enacts that a man who has stolen cattle shall be summarily dealt with as a "provit theyff" if, on being pursued by the "sequela clamoris vicine," he is found in possession of the stolen animals; while elsewhere he sets forth a very different mode of procedure.⁴

In view of the method employed by the compiler, it is hard to say what was the purpose which he had in view. The fact that it contains inconsistencies and contradictions gives his work the appearance of being something less than a systematic treatise while it is something more than a mere collection. The explanation may be that

¹ 'R. M.,' i. 1; Glanvill, i. 2. The list in the 'Regiam' includes treason ("ut de morte vel sedicione domini regis vel regni vel exercitus") and the intent to commit that crime, fraudulent concealment of treasure, breach of the king's peace, homicide, arson, robbery, rape, the use of false weights, forgery of charters, coining, and all other crimes punishable with death or dismemberment. See Pollock and Maitland, ii. 453 ff., 573.

² Ass. Will., c. 12, incorporated in 'R. M.,' iv. 11.

³ Ass. Will., c. 7, incorporated in 'R. M.,' iv. 9.

⁴ 'R. M.,' iv. 26 provides—the provision is not reproduced from Glanvill—that if any man find a thief with the stolen property, "doand him skaith," he shall raise hue and cry, shall show the matter to the bailies, and do his utmost to catch the thief. If caught, the thief shall be kept in custody until the bailies and barons meet. He shall then be tried by assize and judged by the law of the land. If he try to escape he may be slain with impunity. If the owner of the goods neither raise hue and cry, nor gather a following together ("sectam facere"), nor inform the bailie, and slay the thief secretly, he may be charged "quasi de homine injuste interfecto," either by the dead man's kinsmen, or, if he be kinless, by the king's bailies.

at the date of its compilation different laws prevailed in different parts of the country. What was obsolete here may have been in observance there; and we shall find that this view gains some support from the character of later legislation. If this explanation be well-founded, it deprives of its cogency the argument as to the date of the 'Regiam' derived from the reference which it contains to the ordeal as in actual use.¹

The 'Quoniam Attachiamenta,' sometimes called 'Leges Baronum,' may "be safely attributed to the latter half of the fourteenth century."² We find indications at different periods that it was regarded no less than the 'Regiam' as a repertory of Scots law. The statutes of the reign of James I. show that the mischiefs in the sphere of law which he sought to remedy consisted not only in the inability of parliament and council to cope with the volume of business, and in the maladministration of justice by local magnates, who were mostly ignorant³ and often partial or oppressive, but also in the uncertainty of what the law was. A statute enacted by the parliament of 11th March 1425-26,⁴ provided that "all and sindry the kingis lieges of the realme leif and be gouernyt vndir the kingis lawis and statutis of this realme alanerly and vndir na particulare lawis na speciale priualegis na be na lawis of utheris cuntreis nor realmis." The terms of this enactment clearly indicate that the necessity for establishing a uniform system in place of the fragmentary and conflicting regulations which prevailed had come to be recognised; and by the same

¹ See p. 15 above.

² 'A. P.,' i. 49, where it is said that "some of the materials are of an older period."

³ See the Act 1496, c. 3 (quoted in note 1 to p. 26 below).

⁴ C. 3 ('A. P.,' ii. 9).

parliament a commission was appointed to "se and examyn the bukis of law of this realme, that is to say 'Regiam Majestatem' and 'Quoniam Attachiamenta,' and mend the lawis that nedis mendment."¹ It is true that so far as we know neither that nor the subsequent commission of 1469,² appointed for the same purpose, issued reports; but that the 'Regiam' was treated as authoritative is shown by the fact that, in several instances, the penalties provided by it are referred to and applied by the legislators of the fourteenth and fifteenth centuries.³

The treatise entitled 'The Forme and Maner of Baron Courts,' often cited as 'Modus tenendi curias Baronum,' closely adheres to the provisions of the 'Quoniam Attachiamenta.' Skene, in his Address to the Reader prefixed to it, attributes it to "some learned lawer not lang time bygane,"⁴ and regards it as interpretative of the 'Quoniam,' and as containing "many profitable principals and rewles of the lawes of this Realme, worthie to be remembred."

§ 4.

The treatises of Skene and Bisset bear ample testimony to the indebtedness of the Scottish civil procedure of

¹ C. 10 ('A. P.,' ii. 10).

² C. 20 ('A. P.,' ii. 97). Similar commissions were appointed in 1566 (vol. i. 79 ff.); in 1633, c. 32 ('A. P.,' v. 46); and in 1649, c. 271 ('A. P.,' vi. pt. 2, p. 299); see 'A. P.,' i., 29 and note.

³ Council at Perth, 22nd April 1398 ('A. P.,' i. 572); 1471, c. 9, and 1475, c. 4 ('A. P.,' ii. 100, 111); 1487, c. 3 ('A. P.,' ii. 176). Other references to the 'Regiam' will be found in 1578, c. 33 ('A. P.,' iii. 112), and in 1594 ('A. P.,' iv. 58). An account of the Court of Session, written by a careful observer in 1629, informs us that "most of their law is Acts of Parliament and 'Regiam Majestatem'" ('Our Journall into Scotland' . . . by C. Lowther . . ., ed. by W. Douglas, Edinburgh, 1894, p. 31).

⁴ Treatises in very similar terms are to be found in MSS. of the fourteenth and fifteenth centuries (Adv. Libr. MSS., 25.4.15, fols. 206-224; 25.4.14, pt. ii., fols. 28-38; 25.5.9, No. 23).

the seventeenth century to the Roman practice; and the question presents itself—when and how did that practice first obtain a footing in Scotland?

Early traces of Roman law in Scotland are to be found in the Laws of the Four Burghs, and in the records of ecclesiastical establishments. In the former the decisory oath¹ and dilatory pleas² are mentioned;³ and the latter contain documents in which the writers employ Roman phraseology, and embody exceptions and maxims bearing the stamp of Rome. It has been well observed⁴ that "it is not safe to infer any extensive knowledge of Roman jurisprudence from references to Roman law which are to be found in many of the chartularies of religious houses." At the same time, a distinction must be drawn between references which may be regarded as purely ornamental and references made in support of an argument or plea.⁵ It has been

¹ 'L. Q. B.,' c. 28. See Pollock and Maitland, ii. 636.

² 'L. Q. B.,' c. 43.

³ Similarities have been detected between 'L. Q. B.,' c. 50, and D. xlvi. 9, 11, between 'L. Q. B.,' 99, and D. xli. 2, 30 § 5 (see C. viii. 4, and c. 7 X. de restitut. spol. ii. 13), and between 'Fragmenta Collecta,' c. 1 ('A. P.,' i. 734), and D. xlii. 1, 15 § 2. The fragment is attributed in the Cromartie MS. to the reign of David I., in other MSS. to that of Alexander, without further specification. Skene includes it in the "statuta secunda" of Robert I., of which it forms c. 9. As to these "statuta," see note to vol. i. 68, l. 7 below.

⁴ D. Baird Smith, "A Note on Roman Law in Scotland," 'Scottish Historical Review,' 1921, xviii., 67, note 1. See also J. Dove Wilson, "The Reception of the Roman Law in Scotland," 'Juridical Review,' 1897, ix. 365.

⁵ Dr Baird Smith (*loc. supr. cit.*) supplies two instances of ornamental references belonging to the thirteenth century ('Liber S. Marie de Melros' (Bannatyne Club), Edinburgh, 1837, i., No. 327; 'Liber S. Marie de Calchou' (Bannatyne Club), Edinburgh, 1846, i., No. 223). See the case of Agnes de Morthingtoun, heard in 1321 ('A. P.,' i. 478).

said¹ that the Canonist adopted the greater part of his procedure from Rome; and the truth of this statement is illustrated by the particulars of the case of Patrick, Earl of Dunbar,² which was heard before papal delegates, and finally settled³ in the king's court in 1208. In it we find such familiar items of Romano-canonical practice as the peremptory diet, the treatment of the "contumax," the "missio in possessionem," the exception, the employment of procurators, and the examination of court-witnesses; and it is the close correspondences between the procedure of the Canon law with that of the Roman law which give rise to the difficulty, at times insuperable, of apportioning between them the indebtedness of the Scottish practice. There are, however, certain considerations which favour the view that it was mainly through the *jus canonicum*⁴ that the law

¹ Pollock and Maitland, i. 116. From Germanic law he took its probative processes, the oath with oath-helpers, and the ordeal or judgment of God (*Id.* i. 18).

² 'A. P.' i. 391 f.

³ Kames ('Historical Law Tracts,' Edinburgh, 1758, i. 100) conjectures that "in difficult or intricate cases, it was an early practice for judges to interpose by pressing a transaction betwixt the parties. . . . This practice brought about many agreements betwixt litigants which were always recorded in the court where the process depended. The record was complete evidence of the fact; and if either party broke the concord or agreement a decree went out against him without other proof." This conjecture is approved by W. Ross ('Lectures on . . . Conveyancing and Legal Diligence,' 2nd ed., Edinburgh, 1822, i. 98). See the record of the "curia" of William the Lion ('A. P.' i. 385 ff.).

⁴ We find that in the grant of the monastery of Lochleven by Robert, bishop of St Andrews, to the priory of St Andrews in 1152-53 ('Liber Cartarum Prioratus S. Andree in Scotia' (Bannatyne Club), Edinburgh, 1841, p. 43; Lawrie, pp. 210, 445, 446), certain books were included of which one was entitled 'Exceptiones Ecclesiasticarum Regularum.' This work Dr Patrick ('The Statutes of the Scottish Church,' 1225-1559 (Scottish History Society), Edinburgh, 1907, p. xxvi.) regards

of Rome influenced Scottish procedure.¹ It is matter of common knowledge that in early times the admini- as in all probability the 'Excerptiones Ecgberhti Eburacensis,' a compendium of Canon law. Mr Miller ('The Parochial Law of Tithes,' Edinburgh, 1924, p. 93) identifies it with the 'Decretum' of Ivo (1040-1116), bishop of Chartres, which contains not only Canon law but numerous citations from the Institute, Code, and Digest of Justinian.

¹ The question as to the time and manner of the reception of the Roman law in Scotland has frequently been made the subject of discussion. The late Professor Goudy held ('Inaugural Lecture on the Fate of the Roman Law North and South of the Tweed,' London, 1894, p. 18) that "it was mainly through the 'jus canonicum' that pre-Reformation Scotland received the Roman law." According to another view Roman law may have been imported to an inconsiderable extent at a comparatively early period by ecclesiastics who had received a foreign training, and may have affected the practice of the church courts, but its general reception must be assigned to a later date, when the administration of justice was passing into the hands of men of legal learning, and when the practice of the law was obtaining the status of a profession (J. Dove Wilson, "The Reception of the Roman Law in Scotland," 'Juridical Review,' 1897, ix. 364 f. See the same writer's articles in the 'Juridical Review,' 1892, iv. 1 ff.; 1896, viii. 217 ff.; and 1904, xvi. 54 ff.; and J. M. Irvine's article entitled "Roman Law," in 'Green's Encyclopædia of Scots Law,' 2nd ed., x. 417 ff.). Professor Dove Wilson goes on to say that "prior to the 'Regiam Majestatem,' dating from the beginning of the fourteenth century, we seek in vain for even a trace of Roman law. No doubt we find some of it in the 'Regiam,' but it is here as mere ornamental matter, and often in a much altered form" ('The Reception of the Roman Law in Scotland,' *ut. supr. cit.*). We fail to see in what sense the term "ornamental" is applicable to such portions of the 'Regiam' as, for example, the early chapters of the second book, which are derived from Roman law. The suggestion has been made by Dr Neilson ('Acta Dominorum Concilii,' Edinburgh, 1918, ii. p. lxxvi.) that in the fourteenth and fifteenth centuries the Roman law came into Scotland by way of France. Walter Ross observes (i. 414; cp. pp. 180, 450; ii. 12) that from the time of James III. "the language and the forms of the French law began to mix with and corrupt our ancient native jurisprudence," and he mentions many words and terms of expression (i. 180, 192, 235-6, 290, 294, 302; ii. 124), words of style (i. 211, 281-2), and forms of practice (i. 196, 205, 300, 395, 420-22, 445, 455), which, French in origin, have found a place in Scots law. To this

stration of justice was to a large extent in the hands of churchmen. In the church courts their jurisdiction extended not only to "all matters respecting ecclesiastical persons and property, such as tithes and advowsons, but also [to] the whole law of marriage (with its effects upon the property of the spouses), legitimacy, testaments, the distribution of personal property on intestacy, and contracts confirmed by oath."¹ In the "curia regis," the king's council, and the parliament they exercised judicial functions, and in 1532 a churchman filled the office of president of the court of session, and churchmen formed the half of its members.² It seems to be extremely improbable that the secular judges ordinary had a hand in the importation of Roman procedure. They were not lawyers, and the quality of their acquirements may be inferred from the provisions of the so-called Education Act

list Dr Neilson has made considerable additions, and has adduced numerous instances of French procedure which he regards as supporting the view suggested. These correspondences, while they show that Scotland borrowed from France, do not seem to us to establish that what was borrowed was largely Roman in origin. It has to be kept in view that what may appear at first sight to have been taken by Scotland from France may, on inquiry, prove to have passed from its Roman or Germanic source directly into the laws of the two countries. Thus the practice of trying the dead was adopted by France and Scotland from the Roman law independently of one another, and the process of Falsing the Doom, and the old form of appeal in France appear to have been derived directly from Germanic sources.

¹ Goudy, p. 18; W. Ross, i. 248 f.; Ersk., 'Inst.,' i. 5, 25. As to the insertion of an oath in a contract for the purpose of bringing it within ecclesiastical jurisdiction, see note to vol. ii. 63, l. 13 below.

² It may be noted that in the thirteenth century the Church found it necessary to prohibit ecclesiastics from acting as sheriffs or justices ('Concilia Scotiæ' (Bannatyne Club), Edinburgh, 1866, ii. 52.).

of King James IV.¹ Further, until the later decades of the fifteenth century a legal profession did not exist. Walter Ross² refers to the terms of an act of 1427³ as establishing beyond the possibility of doubt "that the forms of the common law have been originally copied from those of the church courts"; and in another passage⁴ he expresses the opinion that Letters of Four Forms⁵ were "originally derived from the writ of excommunication which, anterior

¹ 1496, c. 3 ('A. P.,' ii. 238). The Act provided that "all barronis and frehaldaris that ar of substance put thair eldest sonniss and airis to the sculis fra thai be aucht or nyne 3eriris of age, and till remane at the grammer sculis quhill thai be competentlie foundit and haue perfite latyne; and thereftir to remane thre 3eris at the sculis of art and Jure, sua that thai may haue knowlege and vnderstanding of the lawis. Throw the quhillis Justice may reigne uniuersalie throw all the realme, Sua that thai that ar Schireffis or Jugeis Ordinaris vnder the Kingis hienes may haue knowlege to do Justice, that the pure pepill suld haue na neid to seik ower souerane lordis principale auditouris for ilk small Iniure."

² i. 257 f.

³ C. 5 ('A. P.,' ii. 14). Ross observes that "the sentences of the church courts both in civil and profane causes were enforced by excommunication. . . . The defenders were obliged to answer under the same pain, and to pay the money decreed within fifteen days after the date of the decree, or submit to be excommunicated. . . . In consequence of each of these sentences, a writ of caption went out against the debtor, which the sheriff of the county was obliged to execute. . . . The excommunication for non-appearance answers to the *capias ad respondendum*; and the excommunication for non-payment to the *capias ad satisfaciendum*." The aim of this statute was to shorten legal procedure, and later attempts to effect this reform were made in the Provincial Council held at Perth in 1549, and in that held at Edinburgh in 1559 ('Liber Officialis Sancti Andree' (Abbotsford Club), Edinburgh, 1845, pp. xliii.-v.).

⁴ i. 266.

⁵ See vol. i. 240 (Tit. 36, c. 16). The earliest act which mentions Letters of Four Forms is the Act 1535, c. 3 ('A. P.,' ii. 342; see also p. 297*a*), by which "it is statute and ordanit that becaus mony and diverss the kingis liegis of this Realme lvis vnder the horrible Sentence of cursing separate fra the suffrage and prayer of the kirk and merit of the blude of crist to the dampnatioune of thare saulis evill exampile perrell and danger of the utheris gude Subditis of the Realme Thairfore quhene ony of ower

to the final sentence, contained four requisitions. Each of these was executed and published, and returns made of the fact by priests commissioned for the purpose, so that from the church forms we had the direct practice of making of sheriffs in that part. This was the method when excommunication had been pronounced by the bishops of the diocese upon the spot. Rome was at a distance, and, therefore, when the Pope issued an excommunication, the whole was contained in one bull, which contained four different progressive requisitions, rising in importance above one another. Our Judges in Scotland, who upon every occasion copied the forms of the Court of Rome, modelled their letters of outlawry upon that of the Roman bull, and inserted the four forms in one letter."¹

In 1382 a case,² which is of special interest in this

soverane lordis liegis sustenis dampnable the said horrible sentence of cursing for the space of xl dais quhairupoune captioune aucht to be gevin be the law The partij at quhais Instance the personis ar curst sall haue ower soverane lordis lettres to poynde priss and distrenze thare gudis movable and immovable for payment of the sovmes for quhilkis thai lay vnder the saide Sentence And gif the saidis personis lvis vnder cursing be the said space for non doying or fulfilling of ony acte or deide In that caiss the personis thare creditouris sall haue lettres in the first second thrid and ferd formes according to the ordinaris lettres of cursing And this acte alwai to be na preiudice to thame that likis to tak captioune And albeit ane persoune may be vnder appellatioune that may stop the geving of sik lettres in maner aboune writtin It is declarit and ordanit that nane appellatioune fra sentence of dessertioune of appellatiounis befor Interponit sall Stop the geving of sick lettres."

¹ See 'Q. A.,' c. 61; 'Act of Rob. III.,' 1400-1 ('A. P.,' i. 576a § 3); 1449-50, c. 1 ('A. P.,' ii. 35); Balfour, 'Practicks,' p. 564 f. As to the position of the excommunicate, see Pollock and Maitland, i. 478; J. Dowden, 'The Medieval Church in Scotland,' Glasgow, 1910, p. 305. As to the later history of Letters of Four Forms, see W. Ross, i. 277 f.; 1647, c. 482 ('A. P.,' vi. pt. i. 823); and note to vol. i. 204, l. 13 below.

² 'Registrum Episcopatus Aberdonensis' (Spalding Club) Edinburgh, 1845, i. 143 ff.

connection, was heard in the sheriff court of Aberdeen. The bishop had held a court "super ostentione cartarum et euidentiarum tenentium clamantium se tenere sua tenementa de dicto domino episcopo et de sua ecclesia supradicta." Judgment had been pronounced against one of the claimants. He appealed by way of falsing of the doom ('falsificatio iudicii')¹ to the sheriff court. The arguments of the respondent in the appeal were supported by numerous citations, partly from the Canon law and the Books of the Feus, and partly from the Institutes and the Digest. It is true that the respondent was a churchman, but in this matter he was asserting his rights not as a churchman but as a feudal overlord. The case was a secular case, and the tribunal was a secular tribunal.²

In considering the question of the introduction of the Roman law into Scotland, it is to be remembered that it was a gradual process, due to the action of different factors, of which, in early times at all events, the ecclesiastical seems to have been much the most important. Still, it is true that one rule of practice may have been

¹ See pp. 90 ff. below.

² Similar citations are to be found in a legal opinion of the fourteenth century relating to a claim by the Earl of Douglas to the fealty of the Abbot and Convent of Lindores, to their exhibition of their charters in his courts, and to their recognition of him as their patron ('Chartulary of the Abbey of Lindores' (Scottish History Society), Edinburgh, 1903, pp. 200 ff.; 281, 314 ff.). See the Introduction to the second volume of 'Acta Dominorum Concilii,' p. lx. and note 6. In this connection we may note that, in the reign of James I., Roman law was taught in the University of St Andrews (Goudy, p. 18), and that in 1415 a pension was granted to John Davidson, Canon of Cambuskenneth, to support him in studying Canon law at the same seat of learning ('Transcripts from Vatican,' 1396-1575, vol. ii., No. 72, in H.M. Register House, Edinburgh).

taken directly from Rome, while another may have been borrowed indirectly through the medium of a foreign law or of the law of the church; and, if that be so, it is obvious that one explanation will not serve always and everywhere.

II.

We shall now proceed to consider the contents of the sources from which Skene and Bisset drew their materials.

§ I.

In his 'Shorte Forme of Proces,' Bisset treats only of civil as distinguished from criminal procedure. At the same time, in dealing with the earlier authorities, we must keep in view the fact that a clear conception of this distinction obtained recognition only in later times. In the older forms of Germanic procedure every action was an action of which the cause was a punishable offence;¹ and in mediæval England the same view prevailed.² It is true that the 'Regiam'³ reproduces the opening words of Glanvill's treatise⁴—"placitorum aliud criminale, aliud civile"; but it proceeds to explain in words which are not Glanvill's—"placitum civile est in quo vertitur pœna pecuniaria ut actus fundi. Criminale est in quo vertitur pœna sanguinis ut capitis vel membrorum truncatio." In other words, both civil and criminal actions are concerned

¹ Brunner, ii. 328.

² Pollock and Maitland, ii. 519, 572.

³ 'R. M.,' i. 1.

⁴ 'Tractatus de Legibus,' 1604, i. 1. "Even between civil and criminal causes it was by no means easy to draw the line, though Glanvill, under foreign influence, points to it in the first words of his treatise" (Pollock and Maitland, ii. 572; cp. i. 165).

with wrong-doing; in the former the penalty is a fine, in the latter it is a blood-penalty such as death or mutilation. The same conception underlies two enactments of the reign of Alexander II.,¹ which distinguish between complaints "de injuria et non racione" and complaints "de vita et membris." One of the spurious laws of Malcolm Makkenneth² explains "de injuriis et non racionibus" by the words "wrang et unlaw"; and, in an act of Robert I.,³ "wrang and unlaw" are identified with "torte et noun rayson." Skene⁴ cites the laws of Alexander and Malcolm referred to above, and observes that "actiones of wrang and unlaw appeiris to be civill actiones and are opponed to actiones criminall touching life and lim"; and, in another place,⁵ he explains "wrang" as equivalent to "injuria, Gallice Tort," and "unlaw" as meaning "sine lege et contra legem, ἀνομία." This conception of wrong-doing—of the commission of a punishable offence as the basis of a civil claim—seems to find expression in the imposition of a fine on the litigant who fails to appear,⁶ or who states a bad plea,⁷ or who has lost his case,⁸ and on the jurors who have pronounced an erroneous judgment,⁹ and in the forms of pleadings and terms of judgments in actions for recovery of debt,

¹ Cc. 11, 12.

² C. 9 ('A. P.,' i. 51, 711).

³ 1318, c. 17 ('A. P.,' i. 471).

⁴ 'De verborum significatione,' s.v. "Tort."

⁵ See Skene's note to 'Q. A.,' c. i.

⁶ See an appeal from a justiciar's court in 1369 ('A. P.,' i. 536 § 1) and 1449, c. 18 ('A. P.,' ii. 37).

⁷ Case of "David de Anandia," 1368 ('A. P.,' i. 504).

⁸ 1471, c. 11 ('A. P.,' ii. 100); 1491, c. 11 ('A. P.,' ii. 225).

⁹ 'Q. A.,' c. 9. See 'R. M.,' i. 13, and 1471, c. 9 ('A. P.,' ii. 100).

and in disputed questions regarding the possession of lands.¹

§ 2.

The enactments attributed to David I., William the Lion, and Alexander II., the royal charters and other documents contained for the most part in the chartularies of religious houses, and the records of courts and councils, acquaint us with some of the more important characteristics of the early administration of justice. We read of the king as judge, of the "curia regis," and of the courts of the justiciar² and sheriff,³ of churchmen,⁴ of barons and free-holders,⁵ of the magistrates of burghs,⁶ and of

¹ See 'Acta Dom. Conc.' *passim*. W. Ross (ii. 511) observes that "every Act which disturbed a man's possessions, or by which his payment happened to be withheld, became a kind of *civil wrong*, and was tried as a *deforcement*."

² It is to be observed that the justiciar exercised not only a criminal but also a civil jurisdiction, and that in civil cases he was not only an appellate judge (see p. 92 below), but a judge of first instance (see the cases of Joanna de Mora ('A. P.,' i. 479), and William de Borthwic ('A. P.,' i. 505), and Hume, 'Comm.,' ii. 10. As to the briefs addressed to the justiciar, see 'Q. A.,' cc. 35, 36, 39; Skene, 'De verborum significatione,' s.v. "Breve"). We find him acting in the latter capacity as late as the year 1523 (see Ersk., 'Inst.,' i. 3, 24, and the case of "Dalzell," 18th December 1523, Balfour, 'Practicks,' p. 19, there cited). His civil jurisdiction seems to have ceased with the introduction of the judicial arrangements of 1532.

³ Ass. David, c. 25; Berne. MS., c. 15; Ass. Will., c. 19.

⁴ See J. Dowden, 'The Medieval Church in Scotland,' Glasgow, 1910, pp. 285 ff.

⁵ See Ass. Will, c. 12; Ersk., 'Inst.,' i. 4, 27.

⁶ Every burgh resident in the burgh was required to attend the burgh courts under penalty of a fine, unless he could establish some plea in excuse for his absence. The burghess "ruremanens" was bound to attend three head courts only ('L. Q. B.,' c. 40). The burghess might not plead elsewhere than in the burgh court, "nisi ex defectu curie" ('L. Q. B.,' c. 7; cp. c. 6); and, if cited to the king's court, he might excuse himself by offering to do in the burgh court what law required ('L. Q. B.,' c. 56; cp. cc. 110, 117).

officers of fairs;¹ and other judges are mentioned, as, for example, Constantinus, Earl of Fife, a great judge in Scotland, and Maldoinneth, son of Machedath, a judge worthy and discreet.² Further, we have reports of proceedings before local synods³ and papal delegates.⁴

From the twelfth to the sixteenth century two opposing influences affected the administration of justice. The tribunals of the judges who held office either as incident to the tenure of their lands or by royal appointment—the judges ordinary—were unpopular and distrusted. The law was uncertain. It was “an ill-assorted conglomerate. Apart from the Celtic clan customs which prevailed in the Highlands, it was composed partly of English Law, partly of Roman Law, partly of Canon Law, and partly of statutes of the Scottish Kings and Parliaments”:⁵ and it seems highly probable that local and private usage supplied another ingredient.⁶ This unsettled law was administered by judges who were not lawyers, and whose even dealing was in many cases not above suspicion; and men looked to the king, or to the king and council, or to the king and parliament, for an intelligent and impartial justice, and claimed the right of submitting their disputes to the supreme court as a

¹ ‘L. Q. B.’ cc. 86, 87. See ‘Fragm. Coll.’ c. 29 (‘A. P.’ i. 725).

² ‘Liber Cartarum Prioratus S. Andree’ (Bannatyne Club), Edinburgh, 1841, p. 117; Lawrie, pp. 66, 329.

³ ‘Miscellany of the Spalding Club,’ Aberdeen, 1852, v. 209 ff.

⁴ See p. 23 above.

⁵ Goudy, p. 16.

⁶ The Act 1425-26, c. 3 (‘A. P.’ ii. 9), provides that “all and sindry the kingis liegis of the realme leif and be gouernyt vnder the kingis lawis and statutis of this realme alanerly and vnder na particulare lawis na speciale priualegis na be na lawis of uthir cuntreis nor realmis.”

court of first instance. It was obvious to successive kings and their councils that such a burden was too heavy an addition to their multifarious labours, and that the only possible course was to insist that litigants should bring their suits before the supreme tribunal only when justice had been denied them in the courts below. We see this conflict of influences in operation in the reign of David I.¹ His biographer informs us that he sat at his palace gate to hear the complaints of the poor and unprotected.² At the same time, an enactment³ ascribed to his reign provides that "nullus eum requirat de aliquo nec de aliquo placito sibi conqueratur antequam dominum suum inde requirat vel vicecomitem vel si dominus vel vicecomes seu ballivi ei defecerint in eodem comitatu, nisi sit de magno et principali placito ad coronam domini regis pertinente. Si vero quis aliter fecerit det regie justicie octo vaccas." The same policy was pursued by many of David's successors with apparently very indifferent success.⁴

In some of his grants to religious houses David reserved to himself the royal justice: "Si abbas in curia sua aliqua negligencia de justicia deciderit";⁵ while in

¹ Part of what follows, in so far as it relates to "curia regis," the king's council, and the parliament as a law court, has already appeared in a slightly different form in 'The Scottish Historical Review,' 1918, xv. 205 ff.

² Fordun, v. 39. King David conducted perambulations in person ('Registrum S. Marie de Neubotle' (Bannatyne Club), Edinburgh, 1849, No. 18; Lawrie, p. 112), and is said to have made regulations for the procedure in such cases ('Liber S. Thome de Aberbrothoc' (Bannatyne Club), Edinburgh, 1848, pt. i. No. 229).

³ Ass. David, c. 24.

⁴ See pp. 84 ff. below.

⁵ 'Registrum de Dunfermelyn' (Bannatyne Club), Edinburgh, 1842, No. 1.

others he directed that his judge should be present in the Churchman's court: "ut placita et justicie juste tractentur."¹ The "curia regis" is mentioned in enactments ascribed to David;² and while these notices tell us hardly anything of its constitution or of its activities, the later record of its proceedings in the reign of William the Lion, and the information which we possess of its English counterpart,³ justify the conclusion that it was the king's council discharging the functions of a court of law.

The king's tenants-in-chief, some of whom bore special titles, such as earl, bishop, or abbot, under which they are generally referred to, were bound to give suit and presence⁴ in the royal court;⁵ but, as Innes⁶ observes, "the attendance, *in fact* . . . seems to have consisted chiefly of a few churchmen, the great officers of state, and a portion of the nobility and great barons." It seems probable that officers of the household and other officials were also present.⁷

¹ 'Registrum de Dunfermelyn' (Bannatyne Club), Edinburgh, 1842, No. 15.

² See cc. 2, 9, 15, 27; 'L. Q. B.,' c. 56. In these laws the term "curia regis" seems to be applied to the supreme court. The expression "placita domini regis" is used for the sheriff court in Ass. David, c. 25. F. Pollock and F. W. Maitland ('The History of English Law before the time of Edward I.,' 2nd ed., Cambridge, 1911, i. 153) observe that "any court held in the king's name by the king's delegates is 'curia regis.'"

³ J. F. Baldwin, 'The King's Council in England during the Middle Ages,' Oxford, 1913, p. 4, quoted p. 36.

⁴ See pp. 44 ff. below.

⁵ See J. H. Round, 'Peerage and Pedigree,' London, 1910, i. 341. As to "Scottish Service," see E. W. Robertson, 'Scotland under her Early Kings,' Edinburgh, 1862, i. 208; 'Highland Papers,' ed. J. R. N. Macphail (Scott. Hist. Society), Edinburgh, 1916, ii. 227 ff. As to the assimilation of such tenures to feudal forms, see W. F. Skene, 'Celtic Scotland,' Edinburgh, 1876-80, iii. 236.

⁶ 'Scotland in the Middle Ages,' Edinburgh, 1860, pp. 208 ff.

⁷ See W. Stubbs, 'The Constitutional History of England,' 2nd ed., Oxford, 1874-78, i. 387.

The enactments ascribed to King William fixed the times of holding the courts of the justiciar and the sheriff, and specified the classes of persons who were bound to attend.¹ They provided that neither bishops abbots, earls, barons, nor other freeholders should hold courts unless the sheriff or his officers were present "ad videndum quod curia recte tractetur," or, having been summoned, had failed to attend; and forbade barons to hold "curiam belli, aque vel ferri" in the absence of these officials of the crown.² In the record of the proceedings of the "curia regis" during this reign are to be found entries relating to cases decided in presence of the king, the bishop, and the king's "probi homines,"³ and to inquests conducted by the king, certain bishops, and the king's good men;⁴ and numerous notices of quit-claims, concords, and settlements "in presentia mea et episcoporum et proborum hominum meorum in curia mea," "in presentia et plena curia mea," and "in presencia domini regis Scocie et optimatum suorum in plenaria curia sua."⁵

The record of the "curia" of Alexander II. resembles

¹ Ass. Will., cc. 19, 25. Chapter 19 requires the attendance of barons, knights, freeholders, and the stewards of bishops, abbots, and earls at the sheriff courts, and that of bishops, abbots, earls, barons, knights, and freeholders at the justiciar's court. Chapter 25 requires the attendance of the king's tenants-in-chief at the justiciar's head-courts, held twice in the year at Edinburgh or Peebles. Cp. Ass. David, c. 25, which provides that "episcopus et comes de eodem comitatu et vicecomes et dominus cuiuslibet ville et quicumque calumniati sunt de latrocinio aut de quocunque alio malefacto" shall attend "placita domini regis,"—the king's "mutis of ilk bothyn [that is to say of ilk schirefdome]," which were to be held "infra quadraginta dies."

² Ass. Will., c. 12.

³ 'A. P.,' i. 386.

⁴ 'A. P.,' i. 386 f.

⁵ 'A. P.,' i. 386-90.

that of the "curia" of the preceding reign. But, in the "acta" of Alexander III., the expression "curia regis" is displaced by "consilium" or "concilium" or "colloquium,"¹ and the nature of the business transacted suggests a council rather than a court. It is not, however, to be inferred from this change of name that the institution itself had changed; for it is always to be kept in view that it had always done double duty, now as a court now as a council, as occasion required. It has been observed that "an essential characteristic of the king's court during the feudal age is found in its lack of differentiation or specialization. . . . The same body, whether large or small, was a royal court, a court of justice, or a general assembly, according to the needs of the moment; it exercised executive, judicial or legislative functions alternately without clear discrimination;"² and this observation is as applicable to the Scottish institution as to its English counterpart.

It is not until the reign of David II. that the record enables us to trace the main characteristics of the adminis-

¹ A "colloquium" was held in the preceding reign ('A. P.,' i. 408). In England the term was frequently used of the national council (Stubbs, i. 570). In France, in the time of the early kings of the Capetian dynasty, the "curia regis" was also called "consilium," "conventus," "colloquium," "placitum," and "audientia" (E. Glasson, 'Histoire du Droit et des Institutions de France,' Paris, 1895, vi. 153).

² J. F. Baldwin, 'The King's Council in England during the Middle Ages,' p. 4. See the Introduction to the 'Acta Dominorum Concilii,' ed. by George Neilson, LL.D., and Henry Paton, M.A., Edinburgh, 1918, p. xxix.; J. H. Round, 'Peerage and Pedigree,' London, 1910, i. 347; E. Jenks, 'Law and Politics in the Middle Ages,' London, 1913, pp. 134 ff.; C. H. McIlwain, 'The High Court of Parliament and its Supremacy,' New Haven, U.S., London, and Oxford, 1910, pp. 29 f.; A. F. Pollard, 'The Evolution of Parliament,' London, 1920, pp. 24 ff.

tration of justice in the supreme court. By the parliament held at Perth on 18th February 1369-70, a parliamentary committee¹ was appointed "ad ea que concernunt comunem justiciam, videlicet judicia contradicta questiones et querelas alias que per parliamentum debuerant terminari, discucienda et determinanda."² "Judicia contradicta" were appeals by way of falsing the doom,³ and "questiones et querelæ" included not only complaints regarding irregularities of procedure, negligence, and denial of justice in the inferior courts,⁴ but cases brought before the committee as a court of first instance. A similar jurisdiction, except as regarded "judicia contradicta," was exercised by the king's council.⁵ Neither the committee nor the council dealt with questions relating to heritable title which were reserved to the judge ordinary.⁶ It is to be observed that "with rare exceptions neither Auditors nor Council sat when Parlia-

¹ As to the judicial committees of parliament, see the Introduction to the second volume of the 'Acta Dominorum Concilii'; R. S. Rait, 'The Parliaments of Scotland,' Glasgow, 1924, pp. 458 ff.; P. J. Hamilton-Grierson, "The Judicial Committees of the Scottish Parliament, 1369-70 to 1544," in 'The Scottish Historical Review,' 1924, xxii., 1 ff.

² 'A. P.,' i. 507. The previous parliament had appointed a committee to deal with "judicia contradicta" ('A. P.,' i. 506-7).

³ See pp. 90 ff. below.

⁴ See pp. 84 ff. below.

⁵ In 1321 an appeal by way of falsing the doom was heard before the king and council ('A. P.,' i. 479). Professor R. K. Hannay suggests that the council may have been "in pleno parlamento." See Rait, p. 131, note 4 s.f. Cp. 'R. M. S.,' i. No. 293.

⁶ Numerous instances will be found in the 'Acta Dominorum Auditorum,' and the 'Acta Dominorum Concilii.' See the case of William of Fenton, in 1385 ('A. P.,' i. 552), and the observations of J. Glassford ('Remarks on the Constitution and Procedure of the Scottish Courts of Law,' Edinburgh, 1812, pp. 207-8) upon it.

ment was sitting."¹ In some of the later parliaments there were two judicial committees, of which one dealt with "judicia contradicta" and the other with "questiones et querelæ." After 1544 these committees disappear from the record.²

The regulations of David's reign proved unsatisfactory, and the first step to a new order was the institution of the session of James I.³ The act of 1425-26⁴ provided that the chancellor and certain discreet persons of the three estates to be chosen by the king should sit thrice in the year to hear and finally determine "all and sindry complayntis causis and querellis that may be determynit befor the kingis consal." In 1438-39⁵ the sittings were reduced to two; in 1457-58⁶ the original number was revived; and in 1468⁷ they were again reduced to two. By an act of 1457-58 the session was invested with concurrent jurisdiction with the judge ordinary in spuilzies of moveable goods and in actions relating to obligations, contracts, debts, and other civil matters, not concerning fee and heritage.⁸ Summonses were to be procured from the king's chapel; proof was to be led before the session itself; its judgment was to be final.⁹ On the conclusion of the last session the king and council were to name other lords

¹ 'Acta Dominorum Concilii,' ii. p. xx.

² In the record of parliament for the years 1542-43, 1543 and 1544 ('A. P.,' ii. 411, 428, 446), we find entered a committee for discussing dooms, and a committee for discussing causes. The latter committee was composed of lords of the Session and College of Justice.

³ See Professor R. K. Hannay's article "On the Antecedents of the College of Justice," in 'The Book of the Old Edinburgh Club,' 1922, xi. 87 ff., where the evidence as to the session, the lords of counsel, and the daily council is fully discussed. See Rait, pp. 460 ff.

⁴ C. 19 ('A. P.,' ii. 11).

⁵ C. 1 ('A. P.,' ii. 32).

⁶ C. 1 ('A. P.,' ii. 47).

⁷ C. 4 ('A. P.,' ii. 92).

⁸ C. 2 ('A. P.,' ii. 47).

⁹ C. 3 ('A. P.,' ii. 48).

to sit until the next parliament.¹ It seems, however, that the aim of these provisions, which appear to have been of a temporary character, was not to supersede but to supplement the parliamentary committees and the king's council in the performance of functions to which they had been found unequal.

The session of 1468 was the last which followed the model of the session of James I.² In 1469,³ and again in 1475,⁴ the legislature enacted that all actions should come in the first instance before the judges ordinary, and that, if they failed to do justice, the party aggrieved might apply to the king and council, who should finally determine the matter. Thus it appears that sessions of council took the place of the original session.⁵ By an act of October 1487⁶ recourse to the council was limited to certain classes of cases; but a few months later the limitation was removed, and the provisions previously operative were restored.⁷ An act of 1491⁸ provided that the chancellor "with certane lordis of consale or ellis the lordis of sessioun" ⁹ should sit thrice in the year; and in March, 1503-04,¹⁰ it was enacted that "thair be ane consale chosin be the kingis hienes quhilk sall sitt

¹ C. 5 ('A. P.,' ii. 48).

² See Professor Hannay's article "On the Antecedents of the College of Justice," *supr. cit.*, p. 94.

³ C. 2 ('A. P.,' ii. 94). See the Act 1474, c. 11 ('A. P.,' ii. 107).

⁴ C. 3 ('A. P.,' ii. 111).

⁵ See Professor Hannay's article, *supr. cit.*, p. 97. Cp. Stair, iv. 1, 11, 15; Ersk., 'Inst.,' i. 3, 11.

⁶ C. 10 ('A. P.,' ii. 177).

⁷ 11th January, 1487-88, c. 17 ('A. P.,' ii. 183).

⁸ C. 16 ('A. P.,' ii. 226).

⁹ "The language apparently means that the lords of council selected for the work are otherwise (*alias*) and specifically lords of session" (Professor Hannay, *supr. cit.*, p. 100). See Rait, p. 466.

¹⁰ C. 2 ('A. P.,' ii. 249).

continually in Edinburgh or quhare the king makis residence or quhare it plesis him to decide all maner of summondis in ciuile materis complantis and causis dayly as thai sall happin to occure, and sall haue the samin power as the lordis of sessioun . . ." It seems clear that this daily council was intended to act not as a substitutionary but as an auxiliary court.¹ We hear little of its activities.

The subsequent history of the session during the reign of James IV. is that of an ineffectual struggle with arrears. After Flodden the council was so preoccupied with other affairs of state that the administration of justice suffered. In 1517 and 1522 attempts were made to remedy the delays of the law by regulating the order of hearing civil cases; and in 1525-26, 1526-27, and 1530-31 the personnel of the session, the calling of actions, the duties of the macers, and the behaviour of those frequenting the council-house were made the matter of special provision. The final stage was reached in the arrangements of 1532 relating to the foundation and endowment of the College of Justice.²

§ 3.

As the fountain of jurisdiction the king had the prerogative of delegating to what judge he thought proper the conduct of any particular cause.³ This was effected

¹ See Professor Hannay's article (cited p. 38, note 3 above), p. 105, and MS. 'Acta Dom. Conc.' (1504-05), xvi. 104 ff., 122 ff., there cited.

² *Ib.*, *supr. cit.*, pp. 108 ff., where the authorities are marshalled. See also the same author's article, "On the Foundation of the College of Justice," in the 'Scottish Historical Review,' 1917, xv. 30 ff.; Rait, pp. 468 ff., and note to vol. i. 88, l. 18 below.

³ Provided that the party to be made defender was subject to the jurisdiction of the judge named in the brief. See Kames, 'Historical Law Tracts,' Edinburgh, 1758, ii. 9.

by means of a brieve—a royal writ addressed to a judge, directing him to try the cause to which it related.¹ The brieve was purchased by the raiser of the action by payment of the prescribed fee.² An enactment attributed to David I., but which, as we have already seen,³ is of later date, provided that brieves of mortancestry and novel disseisin “nunquam erunt placitata per calumpniam,” but “per assisam bone patrie et non aliter, quia illi duodecim qui electi sunt de bona patria ad assisam faciendam dicent solummodo suum veredictum secundum punctos et articulos utriusque brevis et secundum hoc judicabitur partibus.”⁴ In a law ascribed to King William’s reign reference is made to the brieve of perambulation and the brieve of right;⁵ brieves belonging to the time of Alexander III. will be found in the first volume of the ‘Scots Acts’;⁶ and a statute of Robert I. is entitled “quod nullus dissaisiatur sine brevi placitabili.”⁷

¹ C. Innes, ‘Lectures on Scotch Legal Antiquities,’ Edinburgh, 1872, pp. 222 f.

² W. Ross, ‘Lectures on . . . Conveyancing and Legal Diligence,’ 2nd ed., Edinburgh, 1822, i. 235. See Pollock and Maitland, i. 150 f.

³ See p. 5, note 1 above.

⁴ David, c. 35.

⁵ William, c. 24. See also ‘L. Q. B.,’ c. 43.

⁶ ‘A. P.,’ i. 99 ff.

⁷ 1318, c. 25 (‘A. P.,’ i. 473). See also ‘Q. A.,’ cc. 33 *et seq.*; and the collection of brieves in the Ayr and Bute MSS., which belong to the reigns of Robert I. and Robert II. respectively. Copies of these brieves are in H.M. Register House, Edinburgh. Yet Stair (iv. 3, 4) observes that James I. “did also institute the forms of all summonses, which . . . were called brieves; and he erected a chapel or chancery, and gave them the *formula* of all these brieves, as the same were used in England, which every one took out in course, without any special warrant.” The “capella regis” was of much earlier date (see ‘A. P.,’ i. 426, 498, 557).

Briefes were retourable or non-retourable. The former were so called because the verdict of the inquest was returned to the chancery. The latter were not so returned. They formed the foundation of suits before the judges ordinary, and for that reason were called pleadable briefes.¹

That the use of briefes was not obligatory in every case may be inferred from the provision of the Burgh Laws, that a burghess challenged in respect of his land or tenement within burgh should not be held to answer the challenger without the king's letters,² and perhaps from the concluding words of a brieve of "wattir gangis" ("acqueductus ad molendinum"), ordained by parliament in 1434 to have course until the next parliament.³ Further, in actions for recovery of debt, the sheriff seems to have exercised an original as well as a delegated jurisdiction.⁴

No exception availed against the king's brieve so long as it was in the form "statute in the law of before," and

¹ The 'Q. A.,' c. 49 (Skene's edition in Scots) gives the following list of pleadable briefes: "the brieve of distres (or poynding) for debt, the Brieve of convention, the Brieve for reliving ane man of borrowgange quhilk he did vndertake for ane other, the Brieve of mortancestrie, the Brieve of Dissaisine, the Brieve of Protection and breaking of the King's peace, the Brieve of Bondage, the Brieve of Warandice, the Brieve of right." See Skene, 'De verborum significatione,' s.v. "Breve."

² 'L. Q. B.,' c. 43; cp. 1318, c. 25 ('A. P.,' i. 473), and the case of the Mags. of Ayr, 29th January 1505-6 (MS. 'Act. Dom. Conc.,' xviii. pt. i., fol. 14).

³ C. 2 ('A. P.,' ii. 22); "Et si dictus N.,"—the defender in a case of disputed possession of a "wattir gang,"—"credit se aliquod jus habere in hac parte prosequatur illud in forma juris communis uel per breuia capelle nostre uel alias secundum quod per leges regni est faciendum." As to the older practice see Ass. David, c. 35.

⁴ See 1503, c. 11 ('A. P.,' ii. 250); Kames, 'Historical Law Tracts,' ii. 14; Ross, i. 395.

neither "rasit na blobit in suspect places"—that is to say, in the pursuer's or defender's name or surname, or in the name of the place or description of the cause, or in the date;¹ and, except in the case of the brieve and summons of error, its form was unalterable.²

According to Stair, most of the brieves of chancery fell into disuse with the institution of Clerks of the Signet as part of the College of Justice;³ and it is worthy of observation that those which survived were concerned with facts for the ascertainment of which personal knowledge was indispensable.⁴

There was another kind of brieve⁵ which was purchased from the chancery and addressed to sheriffs, or messengers in place of sheriffs,⁶ directing them to cite the parties complained of to answer to the complaint.⁷ A writ issued under the signet was also in use for the same

¹ 1429-30, c. 3 ('A. P.,' ii. 17).

² See 1491, c. 5 ('A. P.,' ii. 224). See 1585, c. 7 ('A. P.,' iii. 377).

³ Stair, iv. 3, 4. In the case of Patrick Weems *v.* Forbes of Reres, February 1542, cited by Skene, 'De verborum significatione,' *s.v.* "Breve," it was observed that the brieve of right had been disused for many years. See W. Ross, i. 421 f.-423.

⁴ See pp. 53 f. below. These were the brieves of Terce, Division, Lining, and Perambulation, which were non-retourable, and the brieves of Mortancestry, Tutory, and Idiотry, which were retourable.

⁵ Kames, 'Historical Law Tracts,' ii. 10, 18.

⁶ "During a vacancy in the office of sheriff, or even when the sheriff was otherwise employed, it appears to have been early the practice of the King's courts to name a substitute for executing any particular affair; and this substitute was called *The sheriff in that part*" (*Ib.*, ii. 64 f.; W. Ross, i. 285, 418 f.-423; Stair, iv. 3, 4; Mackenzie, 'Observations on the Ninth Parliament of King James I.,' c. 112 (1429, c. 2 ('A. P.,' ii. 17)); 'On the Fifth Parliament of King James III.,' c. 33 (1469, c. 8 ('A. P.,' ii. 95)); and 'On the Second Parliament of King Charles II.,' session 3, c. 6 (1672, c. 6. 'A. P.,' viii. 64)).

⁷ See 'Q. A.,' c. 54; 1457-58, c. 3 ('A. P.,' ii. 48).

purpose and seems gradually to have superseded the brieve from the chancery.¹

§ 4.²

In early times the suitors of court played an important part in the administration of justice. In the courts of barons and sheriffs and in the justice ayres they were of two classes,—those who were bound to give suit or suit and presence, and those who were entered by suitors of the first class to act on their behalf.³ The suitors of the first class in the baron court were the baron's vassals; in the sheriff court they were the freeholders resident within the sheriffdom.⁴ Presence does not seem to have been required of a freeholder who resided beyond the jurisdiction.⁵ The suitor who owed suit and presence was bound to appear at all courts except in so far as the obligation was restricted by the terms of his infeftment,⁶ or by

¹ Thus in 1427 there was issued a precept of recognition and citation before the king's council, "signeto domini nostri regis in cera rubea signatam" ('Highland Papers' ii. 152 f.). Cp. 'Registrum Monasterii de Passelet' (Maitland Club), Edinburgh, 1832, p. 404. As to the red wax, see W. Ross, i. 299; 'Acta Dominorum Concilii,' i. 423.

² Some part of what follows has already appeared in 'The Scottish Historical Review,' 1917, xiv. 1 ff.

³ See 1430, c. 21 ('A. P.,' ii. 19). Liability to give suit might be inferred from the act of entering a suitor without protest (Laird of Drumlanrik, 11th July 1503, MS. 'Act. Dom. Conc.,' xiv., fol. 175).

⁴ *Ib.*, Stat. Will., c. 19; 'R. M.,' iv. 13.

⁵ Lord Sempill *v.* Lord Drummond, 18th November 1500, 'Act. Dom. Conc.,' ii. 438; Brown of Colstoun, 20th July 1504, MS. 'Act. Dom. Conc.,' xv. fol. 195. As to the case of lands annexed to a sheriffdom, see Lord Sempill *v.* Hamilton, 31st August 1529, MS. 'Act. Dom. Conc.,' xl. fol. 113.

⁶ Acheson *v.* Sheriff of Lanark, 1555, Balfour's 'Practicks,' p. 279; Bishop of Aberdeen *v.* His Vassals, 1630, 'Mor. Dict.,' 15,005. 'R. M. S.,' iii. 2545, 2636; iv. 136, 2417; vi. 567. Bishops, abbots, and earls were permitted, by a statute attributed to William the Lion (c. 19), to send their stewards to the sheriff courts to attend on their behalf. See Craig, 'Jus Feudale,' i. x. 32.

royal proclamation.¹ He could enter a suitor, and, if he did, that suitor was bound to appear, but that appearance did not free him from his obligation to be present.²

In the baron court, the suitor was required, before being admitted by the baron bailie, to submit himself for examination in three courts. When approved by his co-suitors, he was free from all future liability to be fined for making a bad record of a plea or claim presented by the litigants in court, "quod talia recorda jacent in ore et consensu omnium, et non in ore vnus nisi omnes consenciant."³ In the sheriff court, every suitor of the second class represented the person of a baron,⁴ and could, by virtue of his office, repledge his lord's men to the baron court as if he were possessed of a royal letter of authority.⁵ In the general case, he was bound to produce a letter under the seal of the person who entered him authorising him to appear on his behalf.⁶ A suitor was not bound to attend without being cited except in the case of the three head courts; and unless he owed suit only in those courts, he could

¹ 14th April 1502, MS. 'Act. Dom. Conc.,' xi. fol. 138.

² That the attendance of both was required seems to be established by entries in an MS., 'Fife Sheriff Court Book,' 1514-22, fol. 33, and in an MS., 'Linlithgow Sheriff Court Book, 1541-61, fols. 9 ff., 17, 18. These entries have been fully discussed in "The Suitors of the Sheriff Court," in 'The Scottish Historical Review,' 1917, xiv. 9 ff. Cp. 'Acta Dominorum Concilii,' ii., 268; and see 'Records of the Sheriff Court of Aberdeenshire,' ed. by D. Littlejohn (New Spalding Club), Aberdeen, 1906, ii. 10 f.; Wallace v. Lady Yester, 23rd February 1501-2, MS. 'Act. Dom. Conc.,' xi. fol. 57.

³ 'Q. A.,' c. 22.

⁴ 'Q. A.,' c. 9.

⁵ 'Q. A.,' c. 11. As to replegiation, see note to vol. i. 241, l. 12; Stair, iv. 37, l. 4.

⁶ 'Forme and Maner of Baron Courts,' c. 67; Balfour, 'Practicks,' p. 275; cp. 1429-30, c. 21 ('A. P.,' ii. 19).

excuse¹ himself thrice on finding a pledge. A pledge was also required from his excuser.² A single suitor might be entered for more persons than one;³ and sometimes a suitor was entered for one court only.⁴ On being entered he was sworn,⁵ and, in some cases at all events, received a fee for his services.⁶

We frequently find traces of an apprehension of "skantness of soytouris";⁷ and that such an apprehension was not groundless appears from many notices,⁸ of which one

¹ 'Q. A.,' c. 19.

² *Ib.*

³ Case of John Baxter (MS. 'Linlithgow Sheriff Court Book,' 18th January 1553-54, fol. 69); case of John Malgask (MS. 'Fife Sheriff Court Book,' 1514-22, fols. 40, 41). In the sheriffdom of Aberdeen, the number of persons who could thus be represented was limited to three ('Records of the Sheriff Court of Aberdeenshire,' ii. 3, 9). It seems that in Aberdeenshire the prevalence of the practice of appearing by proxy, and that of entering one suitor for several persons, had made it difficult to gather together a sufficient number of qualified persons to act on inquests; and, accordingly, at a head-court held on 1st October 1616, the rule was laid down that in all time coming "na member of court be ane sutor; and that na man compeir as sutor bot for thrie barronis at the maist; and that they be sufficient qualifeit personis abill to pass upone ane assiss" ('Records of the Sheriff Court of Aberdeenshire,' ii. 9. See C. S. Terry, 'The Scottish Parliament: Its Constitution and Procedure,' 1603-1707, Glasgow, 1905, p. 39).

⁴ Case of Patrick Paton (MS. 'Linlithgow Sheriff Court Book,' 1541-61, fol. 10).

⁵ The words of the oath were: "quod ipse veram et fidelem recordacionem in illa curia faciet; et quod legale et fidele iudicium dabit secundum scientiam sibi a Deo datam; et quod in omnibus aliis articulis ad officium sectatoris pertinentibus secundum intellectum suum legaliter et fideliter deseruiet durante tempore" ('A. P.,' i. 51, 683). See 'R. M.,' i. 11.

⁶ 'Rentale Sancti Andree,' ed. R. K. Hannay (Scott. Hist. Soc.), Edinburgh, 1913, pp. 92, 168, 176; 'Rentale Dunkeldense,' ed. R. K. Hannay (Scott. Hist. Soc.), Edinburgh, 1915, pp. 50, 57.

⁷ 'L. Q. B.,' c. 47.

⁸ "Debilitie of court" is frequently mentioned as necessitating a continuation (see MS. 'Fife Sheriff Court Book,' 1514-22, fols. 14, 15, 27; 26th April 1505, MS. 'Act. Dom. Conc.,' xvi. 304; case of Bishop of Brechin ('Registrum Episcopatus Brechinensis' (Bannatyne Club), Aberdeen, 1856, i. No. 23). See 'Fragm. Coll.,' c. 15 ('A. P.,' i. 743).

is the report of an appeal by the Bishop of Moray against a judgment pronounced in the sheriff court of Inverness in 1398.¹ One of the Bishop's grounds of appeal was the following:—"quia curia in qua datum fuit iudicium fuit nulla, quia in tali curia debent esse vicecomes vel locum suum tenens, tres vel quatuor sectatores, clericus de feodo et iudex de feodo. Modo in curia illa fuit unus sectator tantum, scilicet Johannes filius Michaelis, sectator de Avach; nec erat clericus de feodo neque iudex, sed ille Johannes Michaelis, qui fuit solus sectator in curia, assumptus fuit in iudicem, et dedit iudicium illud, et sic gessit officium curie et iudicis." John suffered also from the disqualification that he was not "integri status." This "skantness of soytouris" was due not only to the numerous objections statable on the ground of relationship, &c.,² but, also, and in great measure, to the fact that attendance at courts was universally regarded not as a privilege but as a burden, and exemption from it was esteemed a benefit, and was sometimes granted as a reward.³

Any free man ("libera persona") could give judgment in any sheriff court, unless he were "suspect," on condition of finding a pledge to make it good if it were "falsed."⁴ An enactment ascribed to David I.⁵ provided that, when the cause came to judgment, the justiciar, sheriff, alderman, or baron bailie should leave the court, and that, in his absence, "the fre tenandis, soytoris of the court" ("libere tenentes de curia") should make the judgment.

¹ 'Registrum Episcopatus Moraviensis,' No. 179.

² 'Q. A.,' c. 9.

³ See 'The Scottish Historical Review,' 1918, xv. 207 f.

⁴ 'Q. A.,' c. 9. See pp. 90 ff. below.

⁵ C. 4.

In the "Quoniam Attachiamenta,"¹ and in the "Forme and Maner of Baron Courts,"² a like provision is applied to the case of the "suspect" judge. When the suitors had settled the terms of the judgment, the judge was recalled and took his seat,³ and the judgment, which expressed the joint determination of the suitors, was pronounced by one of their number—the dempster,⁴ who, in some cases at all events, was paid a fee.⁵ When a judgment pronounced in a baron court was found on appeal⁶ to the sheriff court to have been "evil gevin," the suitors were fined in a single fine; but when the judgment had been pronounced in the sheriff court, and was successfully impugned in the justiciar's court, a fine was imposed on each suitor.⁷ In a case heard in 1476⁸ by the parliamentary committee appointed for the discussion of dooms, the judgment bore that "Ilk soytour of the said dome and thar lordis Ilk man be himself is in ane amerciamento of the court of parliament sic as efferis to be takin in the said Justis ayer And in ane unlav of the said ayer for thaim And in ane unlav of the parliament amange thaim al sic as efferis of lav."

It was not permissible for the judge to alter the judgment, or make himself a party, or state any reason except to inform the court in regard to the judgments craved⁹

¹ C. 12.

² C. 36.

³ 'Q. A.,' c. 12; 'Forme and Maner of Baron Courts,' c. 36. See note to vol. i. 220, l. 3.

⁴ See vol. i. 308, l. 24.

⁵ 'Rentale Sancti Andree,' pp. 92, 168, 176.

⁶ See pp. 95 below.

⁷ 'Q. A.,' c. 9.

⁸ 'A. P.,' ii. 114. See also 'A. P.,' ii. 94, 117; 'The Forme and Maner of Baron Courts,' c. 15 (9) (10); Glassford, p. 269, note 1.

⁹ "Wardis petitis," *i.e.*, "interloquitoris" (Skene's marginal note to 'Q. A.,' c. 16, of his Latin edition).

when the suitors knew but little of the law.¹ If either party asked judgment on an incidental point, and the court delayed judgment ("judicium in respectu posuerit"), once, twice, or thrice, as law allowed, no further proceedings were competent, until it had been decided; and if on the fourth day the suitors declared themselves unable to decide it, they made oath to that effect, and the point was referred for judgment to the court above.² It is to be observed that, until the close of the first half of the sixteenth century,³ the functions of the suitors in the sheriff court were not limited to those of assizers in criminal cases and on inquests, but extended to the decision of questions arising in the ordinary court, especially such as related to matters of procedure.⁴

The practice of submitting disputed questions to an inquest is frequently referred to in the laws ascribed to David I. and his successors. The king's brieve, addressed to the judge, directed him to choose as assizers "probi et fideles homines patrie."⁵ If he put

¹ 'Q. A.,' c. 12.

² 'Q. A.,' c. 10. If the point were raised in the Baron Court, the reference would be to the Sheriff Court; if it were raised in the Sheriff Court, it would be to the justiciar's court. Cp. 'R. M.,' iii. 19.

³ No entry later than 1561 (see MS. 'Linlithgow Sheriff Court Book,' 1541-61, fol. 207*b*) has been found in any Sheriff Court Book known to us in which suitors advised the judge on questions arising in the ordinary court. Thereafter they seem to have acted only as assizers in criminal cases and on inquests. See D. Littlejohn, 'Records of the Sheriff Court of Aberdeenshire,' i. pp. xxxvi.

⁴ MS. 'Linlithgow Sheriff Court Book,' 1541-61, fols. 15, 71, 74, 180, 186; 1551-54, fols. 3, 23, 33, 34, 73, 74.

⁵ The assizers are elsewhere described as "probi et fideles homines antiquiores patrie," and as "probi fideles, liberi et legales homines patrie" ('Q. A.,' c. 52; 'A. P.,' i. 100; 'R. M.,' i. 11). In inquests in perambulations and actions of molestation, it was required that the assizers should be honest and "substantious" men (1579, c. 17, and 1587, c. 23 ('A. P.,' iii. 144, 446). See note to vol. i. 290, l. 9).

upon the inquest persons who did not answer to this description, the whole proceedings were liable to be quashed.¹ They must be men "qua beste knawis the veritie,"² and they must have derived their knowledge of the matter in issue "per visum vel auditum . . . per se vel per verba patrum suorum."³ Thus the assizer partook of the character both of judge and witness.⁴ The number of the assizers was not uniform. In an enactment dealing with brieves of mortancestry and novel disseisin, erroneously attributed to David I.,⁵ the number is twelve, while in a retour of 1271 sixteen assizers are named,⁶ and in a great assize of right the number was twenty-five.⁷ The assizers were selected from the suitors,⁸ and sometimes from those of the second class. Thus an inquisition in the sheriff court of Roxburgh in 1272 was made "per antiquiores patrie qui melius veritatem super hoc noverint, scilicet per Ricardum Jambes secta-

¹ See the cases of William Sidserfe and John Fleming ('Act. Dom. Conc.,' i. 24, 34).

² Skene, 'De verborum significatione,' p. 25.

³ 'R. M.,' i. 11.

⁴ Craig (ii. 17, 29) describes the assizer as one "qui medius inter judicem et testem, et quasi neuter, utriusque tamen plerumque vice fungitur." See Stair, iii. 5, 31; Pollock and Maitland, ii. 622 ff.

⁵ C. 35. See p. 5, note 1 above.

⁶ Ersk, 'Inst.,' ii. App. No. VI. See Glassford, p. 273 f.

⁷ See the case of Joffrasone (20th March 1478-79, 'Act. Dom. Aud.' p. 83), and cp. the case reported under 20th March, 1457-58, in 'A. P.,' xii. 25.

⁸ See Glassford, p. 243. The suitors are frequently called "assessors" in the early MS. Sheriff Court Books in H.M. Register House, Edinburgh, *e.g.*, in the 'Ayr Sheriff Court Book,' 1556; in the 'Fife Sheriff Court Book,' 1514-22, fols. 37, 52; and in the 'Linlithgow Sheriff Court Book,' 1541-61, fols. 8, 15, 19, 74, 78, 145, 180, 186, 207. See 'A. P.' xii. 24*a*. In some instances they are called "assissors," *e.g.*, 'Linlithgow Sheriff Court Book,' 1551-54: 1556-59, fols. 3, 23, 33, 34, 72, 73. Cp. Vinogradoff, 'Villainage in England,' Oxford, 1892, p. 370.

torem baronie de Ecfurde et per quatuor de fidelioribus hominibus tocius baronie predicte, et per Hugonem sectatorem de superiori Cralyng et per quatuor de fidelioribus hominibus tocius dicte baronie, et per Ricardum sectatorem baronie de Hetoun et per quatuor [de] fidelioribus ejusdem baronie."¹ Any party might state the same objections to an assizer that he might state to a judge.²

In treating of the brieve of right the 'Regiam'³ sets forth the constitution of the assize and certain regulations regarding it. The assizers swore the great oath⁴ that they would find ("recognoscere")⁵ which of the parties had the better right. Suspects were removed, and the "recognicio" proceeded forthwith even in the absence of the parties. If none of the assizers knew the truth, or if only some knew it, those ignorant were removed and others were called in until at least twelve were found "concordes." Each swore that he would not conceal the truth or say what was false; and it was essential that those who took the oath had derived their knowledge of the matter in issue "per visum vel auditum . . . per se vel per verba patrum suorum." If the assizers were convicted of having sworn falsely by attain ("per taynt"),⁶ that is to say, by proof of twenty-four leal men, or if they confessed their guilt, they were liable to be imprisoned for at least a year and

¹ 'Registrum domus de Soltre . . .' (Bannatyne Club), Edinburgh, 1861, No. 44. See 1540, c. 6 ('A. P.,' ii. 358).

² See above, vol. i. 295, l. 28.

³ 'R. M.,' i. 11.

⁴ See note to vol. i., 303, l. 18. See the form prescribed by the Act 1436, c. 2 ('A. P.,' ii. 23).

⁵ Pollock and Maitland, ii. 622, note.

⁶ See Pollock and Maitland, ii. 542.

day, to be declared infamous, and to suffer escheat of their moveable property.¹ Occasionally, this mode of inquiry was employed in incidental proceedings. Thus, where in a charge of theft or robbery the defender alleged that the accuser was making claim to a sum of money larger than that stolen from him, he could demand that the question of amount should be submitted to an assize.²

A Galloway man could be tried by assize only on his demand, and on his renunciation of the laws of Galloway.³

Parliament, as a court of first instance, employed this method of procedure in a question arising in 1434-35 between the King and George of Dunbar regarding the property and possession of certain lands. The three estates present in parliament exercised the functions of assizers. They heard a full discussion of the allegations of the parties, and after mature consideration of their arguments, "jura et rationes," they gave judgment, pronounced by the dempster of parliament, to the effect that the lands belonged to the king, by reason of the forfeiture of the Earl of March, then deceased.⁴ A similar course was followed in the forfeitures of John, Earl of Ross, in 1475,⁵ and Alexander, Duke of Albany, in 1483.⁶ Glassford⁷ observes that it was only in cases such as these forfeitures, and in others to which he refers,⁸ in which the "libere tenentes" had personal knowledge of the

¹ 'R. M.,' i. 13. See 1471, c. 9 ('A. P.,' ii. 100).

² Ass. David, c. 6; cp. c. 7. Cp. 1318, c. 6 ('A. P.,' i. 468).

³ Ass. Will., c. 22.

⁴ 'A. P.,' ii. 23.

⁵ 'A. P.,' ii. 111.

⁶ 'A. P.,' ii. 151.

⁷ Pp. 262 ff.

⁸ P. 263. He refers to the narrative of a charter granted by David II. to William de Disscyngtona ('R. M. S.,' i. No. 293), from which it appears that the king and parliament proceeded upon the former's personal knowledge of the facts.

facts, that parliament, as a court of first instance, adopted this method.

It is obvious that in cases relating to proprietary or possessory rights in land, it was indispensable that the assizers should be possessed of knowledge of the locality wherein the lands lay, and of the circumstances and family of the litigants. Accordingly, the courts of the sheriff and justiciar were the best adapted for the trial of such questions; and it may have been partly, at least, because of the unsuitability of Council and Session as tribunals for investigations for which personal knowledge was necessary that cases regarding fee and heritage were excluded from their jurisdiction.¹

§ 5.

Erskine observes² that the term "summons," or "summonition" in the old books and in the statutes earlier than 1532, is to be understood not of the warrant of citation but of the citation given upon the warrant.

The 'Regiam' provides³ that, in proceedings following upon a breve of right, the "tenens"⁴ shall be

¹ See the Act 1457-58, c. 2 ('A. P.,' ii. 47), as to the exclusion of the session's jurisdiction. In the Introduction to the 'Acta Dom. Conc.,' vol. ii. (p. xlv., note 1), another explanation of the exclusion of the Council's jurisdiction is suggested.

² 'Inst.,' iv. 1, 4. The 'Q. A.,' c. 2, defines "summonicio" as "exhibicio certi diei et loci partibus ad diem legalem," and adds, "est dies legalis in predictis placitis quindena et unus dies siue quindecim dies."

³ 'R. M.,' i. 5, 6.

⁴ A man hales his adversary before a court of law "either to demand (Lat. *petere*, Fr. *demandeur*) or to complain (Lat. *queri*, Fr. *se plaindre*); he is either a demandant or a plaintiff. And so his adversary is either a tenant (Lat. *tenens*), or a defendant (Lat. *defendens*), being there either to deny (*defendere*) a charge brought against him, or merely because he holds (*tenet*) what another demands" (Pollock and Maitland, ii. 571).

summoned "per interualla quindecim dierum continue a quinto decimo die in quintum decimum diem." The "tenens" might be summoned *simpliciter*, or he might be required to give pledges.¹ In the former case he either appeared or did not appear, or sent or did not send a messenger or excuse.² If he neither appeared nor sent, the claimant might offer to proceed. He waited three

¹ The practice of finding "borchs" ("plegii"), *i.e.*, sureties, formed an important part of early court procedure (see pp. 11 and note 1, 46, 47, 54, 56, 62, 69 note 3, 71 note 4, 92, 94 and note 6; Stat. Alex. II., cc. 11, 12). The Act 1429-30, c. 7 ('A. P.,' ii. 18), provides that when the parties appear at the bar and "the tane strek a borghe apone a weir of law, the tother party sal haf leif to be avisit, gif he will ask it, quhether he will recountre it or nocht." Mackenzie ('Observations on the Ninth Parliament of King James I.,' c. 118 ('A. P.,' ii. 18)) explains this enactment as meaning, "that if the pursuer be forc'd to find caution to answer as law will, he may force the defender to recountre it; that is to say, to find caution also." Cp. the expression "recontrariare plegium" ('A. P.,' i. 509). Many instances of finding and recountering borchs are to be found in reported cases (see 'A. P.,' i. 391, 479, 504, 505, 552: 'Registrum Episcopatus Moraviensis,' No. 159; 'Registrum Episcopatus Aberdonensis,' i. 143 ff.), and especially the case of the bishop of Brechin in the 'Registrum Episcopatus Brechinensis,' i. No. 23. One of the most common applications of the practice was in order to secure the appearance of a defender "ad standum juri et respondendum parti de se conquerenti" ('Q. A.,' c. 1). This was secured by attachments (see Pollock and Maitland, i. 592 f.) which are described in the 'Quoniam Attachamenta' (c. 1) as "principia et origo placitorum de wrang et unlaw, que prosecuta sunt per sacreborgh." Skene, 'De verborum significatione,' *s.v.* "Sacreborgh," explains the term as equivalent to "securus plegius." In actions relating to debt, contract, and moveables, the defender's goods were attached until he found pledges to appear and answer, while in actions relating to trespasses ("transgressionibus"), such as assaults by striking or wounding, his body might be attached ('Q. A.,' c. 1). If the defender failed to appear his borch was liable for the fine incurred ('R. M.,' i. 6; iii. 2; 'Q. A.,' c. 13). Attachments had no place in actions relating to lands, or services due in respect of lands, or where vassals were charged to show their titles ('Q. A.,' c. 2).

² As to excuses, see p. 61 below.

days¹ in court, and the "tenens" was summoned to a fourth day to appear and answer. If he neither came nor sent, the sasine of the lands with their fruits was adjudged to the claimant, and the "tenens" was never more to be heard, unless he purged his defaults or obtained a brieve from the king.² If, however, he had sent an excuse in response to each of the three previous summonses, and came on the fourth day and established these excuses by proof, he was required to answer then and there to the principal plea. But if he did not come, the lands were taken into the king's hands, and he was summoned on fifteen days' warning to answer and declare why he had not appeared and warranted his excuser, and to receive judgment regarding his defaults made on the fourth day. If the "tenens" did not appear or send, the

¹ Skene observes of the expression "three days," "Id est, per tres Curias tribus diebus tentas: nam secundum veterem formam processus, in his libris vsitatam, quatuor solent in singulis placitis et actionibus citationes fieri per intervalla certi temporis, veluti 15 aut 40 dierum, præsertim si pars defendens legitimis essoniis et excusationibus vtatur . . ." (Note to 'R. M.,' i. 7). The practice of using successive citations was known to Anglo-Saxon law (see p. 12, note 2 above) and to the Roman and Canon laws. According to the Roman law the defender was not treated as "contumax" until he had failed to appear after having been thrice cited. "Contumacia eorum qui jus dicenti non obtemperant, litis damno coërcetur. . . . Contumax est qui tribus edictis propositis vel uno pro tribus, quod vulgo peremptorium appellatur, literis evocatus presentiam sui facere contemnet" (D. xlii. 1, 53; cp. D. v. 1, 68-70; C. vii. 43, Authent. "Qui semel"). This triple citation is referred to in c. 7, X. de dolo et contumacia, ii. 14; c. 6 § 1, C. xxiv. q. 3; cc. 1 et 2, X. de dilationibus, ii. 8. See also 'Registrum Episcopatus Brechinensis (Bannatyne Club), Aberdeen, 1856, vol. ii., Nos. 27-30. Cp. vol. i. No. 47.

² 'R. M.,' i. 6. It is to be observed that the text of Skene's edition of this chapter of the 'Regiam' differs widely from that of Thomson's edition. See Glanvill, i. 7, and Reeves, 'History of the English Law,' ed. by W. F. Finlason, London, 1869, i. 179.

sasine of the lands was adjudged to the claimant.¹ When pledges were required of the "tenens" the procedure was different. In that case, when the "tenens" did not appear on the first day, his pledges were in the king's mercy,² and additional pledges were required to secure his response to the principal plea. The same course was followed on each of the three days if he did not appear. If he did not obey the third summons, the lands were taken into the king's hands, and the pledges remained in his mercy.³

The procedure prescribed by the 'Quoniam Attachiamenta'⁴ in actions of wrang and unlaw and the like⁵ gave effect to the same principle. Either party might excuse himself thrice on finding a pledge for each excuse. The party cited might make three defaults, a poind ("districcio") being taken for each, and entered in each court until the fourth court. At the fourth court he was fined for each default, and if he did not appear, the complainer was entitled to decree for his expenses.

A statute of 1449-50⁶ provided that, until the next parliament, any one summoned to appear before the king and council should be thrice summoned, that each summons should be upon fifteen days,⁷ that the third

¹ 'R. M.,' i. 7.

² "Every person liable in a fine was said to be *in misericordia regis*" (W. Ross, i. 398).

³ 'R. M.,' i. 6.

⁴ C. 3.

⁵ "Aliis placitis similibus et in placitis de transgressionibus."

⁶ C. 18 ('A. P.,' ii. 37).

⁷ In a case in 1427 in which Campbell of Lochaw and baron MacCorquodale were defenders, a precept of recognition was issued on 31st March of that year, and the parties were summoned to appear before the king in council on 30th June with continuation of days. (As to "continuation of days," see Stair, iv. 38, 2; and

summons should be peremptory, and that if the party summoned failed to answer to the third summons, judgment should pass in his absence.¹

A statute of 1457-58,² in prescribing the method to be employed in bringing actions before the session, enacted that the sheriff of the shire where the session was to sit should proclaim three months before the sittings the day on which and the place at which the sittings were to be held, and that, "gif ony persounis has ony accionnis to folow he sall warne thame to pass to the kingis chapell and raiss summondis peremptour apone xl dais."³

cp. iv. 2, 1-3; and 'A. P.,' ii. 574). The defenders did not appear. On 8th December Campbell was summoned to appear before the king or council on 27th January 1427-28, with continuation of days. The citation was executed on 4th January, and was not obeyed. On 20th June 1428, a new summons was issued. It narrated that at the last exchequer held at Dundee (see 'Exchequer Rolls,' iv. 432), Campbell and MacCorquodale had been summoned by the council to appear before the king or the council at the end of forty days, and had contumaciously absented themselves, and directed that they should be summoned to appear before the king or his council on the first day of the next parliament, or of the next general council, whichever should happen to be held first, with intimation that their case should proceed whether they appeared or not ('Highland Papers,' ii. 152 ff.). It may be that at that date the determination of the length of the "induciæ" was in the discretion of the judges, at all events where the residence of the parties cited was remote. Cp. D. v. i. 72; M. A. Bethmann Hollweg, 'Der Civilprozess d. Gemeinen Rechts,' Bonn, 1866, iii. 194; c. 1 Clem. de Judiciis, ii. 1. See also 'Registrum Episcopatus Brechinensis,' ii. Nos. 27-30.

¹ The Act further provided for the conditions on fulfilment of which the defender could reopen the case.

² C. 3 ('A. P.,' ii. 48).

³ The enactment proceeds as follows: "Ande this summondis to be vnderstande apone accionnis done befor the proclamacione of this Sessione. The party sall ansuere peremptourly apone schorter tyme eftir as he beis summonde sua that the tyme of the Summondis extend to xv dais And gif ony accionne pertening to the saide lordis knowlege be continewit in the tyme of the saide Sessione in the schyr quhar the Sessione sittis be ony personis,

The term of appearance was again shortened by an act of 1466,¹ which provided that "the summoundis peremp-toure be abregeit to xxi dais of al accionis costumabile to cum befor the king and his counsale that the sum-mondis be execute of the said tyme."

Procedure by way of triple summons is referred to in an act of 1491,² which relates to the summons of error. The act specially provides that the judge and members of the inquest complained of shall be called "to com-pere to ane certane day with certificacioune that quhether thai comperre or nocht the lordis will procede eftir the forme of the summondis and do Justice to the partiis, nocht abidand the second nor thrid summondis." Upon this enactment Hope³ observes that "of old the summons wer tuise continued and thrice summondit befor decreit could be given *ob contumaciam*."

It is to be noted that the form of four courts was

thay personnis to be arestyt furthwithe with a masare and Justice to be done thereapone as efferis . . ." In the Index to the 'A. P.,' *s.v.* "Induciæ Legales," it is stated that the effect of this enactment was to make the "'induciæ' of summonses before the session for actions done before the proclamation of this session of parlia-ment to be forty days, but for the future fifteen days." Hope, MS. 'Major Practicks' (Adv. Libr. MSS., 24.3.10, fol. 219), observes in reference to this enactment, that such actions as were done before the proclamation of the Session were brought before the Lords upon a peremptory summons upon forty days' warning, while in actions that were done after the proclamation of the Session the defender might be summoned upon fifteen days' warning or longer. He adds that when any action was done during the sitting of the Session within the shire, the defender might be charged at once by a macer. If the purpose of the statute was to introduce shorter *induciæ* in the case of all actions except those "done" before the proclamation of the Session, it is difficult to reconcile with its provisions the terms of the Act of 1466 quoted in the text.

¹ C. 7 ('A. P.,' ii. 85).

² C. 18 ('A. P.,' ii. 227).

³ MS. 'Major Practicks,' fol. 221.

competent in baron courts even in Bisset's time,¹ and we find references to it in proceedings in the Admiralty court in 1509,² in a MS. Dumfries Sheriff Court Book of 1537-38,³ and in a MS. Linlithgow Sheriff Court Book of 1541-61.⁴ The conjecture may perhaps be hazarded that the procedure was not uniform in all the courts.

Stair observes⁵ that the term of twenty-one⁶ days prescribed by the act of 1466 "is to be understood of the first summons; for the second summons is upon six or fifteen days." In Bisset's time the first summons was followed by a second summons,⁷ and it seems probable that this practice had its origin in the act above mentioned.

When the party excused himself for non-appearance on the ground that he was beyond Forth or Spey, or beyond the sea on the king's service, when cited, he was allowed a period of forty days in which to answer.⁸

The 'Regiam' provides that the "tenens" must be

¹ See vol. i. 300, l. 14.

² *Floure v. Bertouns*, 3rd December, 1509, MS. 'Act. Dom. Conc.,' xxi. fol. 38.

³ In H.M. Register House, Edinburgh; printed in the 'Transactions of the Dumfriesshire and Galloway Natural History and Antiquarian Society,' 1916-18. At fol. 7 we find references to "the ferd court and court perempter."

⁴ In H.M. Register House, Edinburgh. The first court is referred to at fol. 23, the second at fol. 6, the third at fol. 6, and the fourth and peremptory at fols. 7, 8. These references belong to the years 1541 and 1542.

⁵ iv. 38, 14, and 30.

⁶ Shorter terms were prescribed by statute in certain cases (see 1429-30, c. 18, and 1503-4, c. 40 ('A. P.,' ii. 19, 253); 1455, c. 9; 1503-4, c. 9; and 1540, c. 7 ('A. P.,' ii. 43, 250, 358); Mackenzie, 'Observations on the First Parliament of King James III.,' c. 6 (1466, c. 7 ('A. P.,' ii. 85)); Stair, iv. 38.4).

⁷ Vol. i. 133 ff.

⁸ 'R. M.,' i. 7. See 'Fragm. Coll.,' c. 10 ('A. P.,' i. 743). When the term was first enlarged to sixty days, we have been unable to discover.

cited by a lawful officer in the presence of "sufficient" witnesses. Until the fact that he has been duly cited has been proved in presence of the court, he need not answer unless he choose, or "incidat in stultam responsionem."¹ The 'Regiam' goes on to provide, in words which are not to be found in Glanvill, that a citation ("summonicio") is valid only if made on the mandate of one who has a general or special judiciary power, and it must name the officer who executes it and his office. Further, it must name the pursuer and the defender, and it must state the grounds of action and the day on which, the place at which, and the court before whom the defender is cited to appear. These six points are repeated in the 'Quoniam Attachiamenta,'² in an act of 1429-30,³ and by Bisset in his 'Form of Process.'⁴ The citation may not be made on a Sunday or other "dies solemnizatus,"⁵ or after sunset.⁶

The 'Quoniam Attachiamenta' provides⁷ that in actions of wrang and unlaw relating to moveables the citation shall be made at the domicile or residence of the party cited, while in actions relating to heritable subjects and to services due therefrom, and in processes of showing the holding,⁸ the citation shall be made at the lands.

¹ 'R. M.,' i. 5. The phrase "stulta responsio" occurs frequently (see 'L. Q. B.,' cc. 7, 118; 'R. M.,' i. 8; iv. 16, 34; and in the laws and customs of Newcastle ('A. P.,' i. 39 note 3)). "Every mistake in pleading, every *miskening* or *stultiloquium*, brought an amercement on the pleader, if the mistake was to be retrieved" (Pollock and Maitland, ii. 519).

² C. 2.

³ C. 2 ('A. P.,' ii. 17).

⁴ Title 5, cap. 2.

⁵ 'R. M.,' i. 5; 'Q. A.,' c. 45.

⁶ 'R. M.,' iv. 34; 'Q. A.,' c. 45.

⁷ 'Q. A.,' c. 2.

⁸ A form of this process is given by Bisset (vol. i. 300 ff.). In it the term of the "induciæ" was forty days ('Forme and Maner of Baron Courts,' c. 3).

The Burgh Laws provided that if the pursuer failed to attend the court at the hour appointed for its sitting he should lose his case for the day unless he had a lawful excuse.¹ The 'Quoniam Attachiamenta' deals with the pursuer's default in two chapters. In the earlier chapter it is stated that the defender may crave judgment as to the default. He shall be free of his attachment, but he may be re-attached.² In the later chapter it is laid down that in all actions of debt, or injury, or trespass, or breach of agreement, or breach of protection, the complainer, if he fail to appear at the fourth court, shall be held "pro insequente."³ In 1491⁴ it was enacted that if a pursuer made default, he should pay the defender's expenses and a fine of 40s. before he could be reponed.

§ 6.

It is unnecessary for our purpose to say much regarding excuses for non-appearance ("essonnia," "essonzies," "essoigns").⁵ In cases in which they were admissible they were pleadable by the pursuer no less than by the defender.⁶ In proceedings on a brieve of right, serious illness, floods or other chance or peril, absence beyond Forth or Spey or beyond the sea, employment on the king's service, absence on a journey or pilgrimage, and

¹ 'L. Q. B.,' c. 75.

² C. 3.

³ C. 41.

⁴ Cc. 11, 18 ('A. P.,' ii. 225, 227).

⁵ See p. 13 above and Reeve's 'History of the English Law,' i. 179 ff., 402 ff.

⁶ 'L. Q. B.,' c. 109; 'R. M.,' i. 7; 'Q. A.,' c. 3.

attendance at a fair were deemed valid excuses,¹ on being established to the satisfaction of the court.² In proceedings on brieves of debt and mortancestry,³ in recognition of novel disseisin,⁴ and in certain other cases,⁵ excuses were not admitted. An act of 1429-30⁶ provided that the "essonzeour" might not tender excuses unless he produced a special authority from the person for whom he appeared, and found caution to prove the excuse at the next court. No excuses were to be received except those already in use.

It is to be kept in view that the king's tenants-in-chief,⁷ suitors,⁸ attornies,⁹ and warrants¹⁰ were entitled, when occasion arose, to plead excuses.

§ 7.

When both parties appeared in court the pursuer made his statement ("narratio," "tayll"),¹¹ and the defender

¹ 'R. M.,' i. 7. In proceedings on a brieve of right within burgh the only excuses admitted were "infirmetas lecti" ("bed-evil"), the king's service, and attendance at a fair ('L. Q. B.,' cc. 40, 92; 'Q. A.,' c. 40). See Ass. Will, c. 25, and 1318, c. 6 ('A. P.,' i. 468).

² As to the mode of proof, see 'R. M.,' i. 7; 'L. Q. B.,' c. 92; 1318, c. 6 ('A. P.,' i. 468); 1429-30, c. 4 ('A. P.,' ii. 18). See also Mackenzie, 'Observations on the Ninth Parliament of King James I.,' c. 115 (1429-30, c. 6 ('A. P.,' ii. 18)).

³ 'Q. A.,' cc. 34, 35.

⁴ 'R. M.,' iii. 32.

⁵ 'R. M.,' iii. 26; iv. 37, 51; 'Q. A.,' c. 47.

⁶ C. 4 ('A. P.,' ii. 18). As to the form of the excuse, see 'The Forme and Maner of Baron Courts,' c. 40.

⁷ Ass. Will, c. 25.

⁸ 'Q. A.,' c. 19.

⁹ 'R. M.,' iii. 14.

¹⁰ 'R. M.,' i. 15; iv. 37. See p. 69, note 3 below.

¹¹ The form of claim in a brief of right provided by the 'Regiam' (i. 9) is not in Glanvill. It opens thus: "Ego Laurencius de K. dico contra Mauricum de S. quod . . ." It then states the

made answer ("responsio"). The pursuer's unsupported statement, however, was not sufficient. To entitle him to an answer he must offer something more, and the rule was the same whether the matter in hand was a criminal prosecution or a civil suit.¹ The man who alleges that he has been robbed must raise hue and cry, — "*clamorem leuare debet cum cornu vel ore cum clamore in vicinia*";² and the 'Regiam' provides that the woman who brings a charge of criminal assault shall not only acquaint her neighbours and the officials of the sheriffdom, while the crime is still fresh, with what has been done to her, and show her torn garments and marks of injury, but she must go to the head burgh of the sheriffdom "*cum secta*" and tell her story there. Lastly, she must repeat it publicly in the sheriff court.³ So, too, a charge of hamesucken was not to be entertained unless the complainer "*rationabilem faciat sectam scilicet ad tres baronias et ad seruitentes domini Regis et eodem*

pursuer's title, the defender's illegal action, and the amount at which the defender reckons the damage and injury to his honour ("*puorem*") which he has sustained, and concludes with the words: "*Et si talis negat peto assisam ville talis, et pono me in deum et assisam talis ville super petitione mea, salvis suspectis personis ne procedant in dicta causa, et saluo michi beneficio plus dicendi si necesse fuerit.*" As to the injury to honour, see note to vol. i. 315, l. 5. The Act 1318, c. 14 ('A. P.,' i. 470), provides that in actions relating to breach of agreement the pursuer's statement shall not be "*cassata seu calumpniata,*" provided that it specifies the date of the agreement, its terms, the nature of the breach, and the resultant loss. The Act 1318, c. 15 ('A. P.,' i. 471), required that in actions for payment of debt the year, day, amount, cause for which the debt was owing, date fixed for payment, and precise amount of damages ("*dampna in certo*") claimed should be specified.

¹ Pollock and Maitland, ii. 606.

² 'R. M.,' iv. 26.

³ 'R. M.,' iv. 7.

die vel nocte in qua delictum factum fuisset.”¹ In short, the “secta calumniatoris”² was required to corroborate his statement. This complaint-witness³ might never be called as a court witness; he belonged to the “stage of the preliminary allegations.”⁴ Sometimes the purpose for which the extrajudicial witness was employed was to protect the *bona fide* purchaser against the claim of a third person that the article purchased had been stolen from him. Thus the ‘Regiam’⁵ provides that if the purchaser has called his warrant “solet ipse warantus attachiari si sufficientem habuerit probacionem de mercatu suo legitimo et hoc ipsum a feloniam liberabit, sed tamen a damno non servat quin rem amittat. Sed si inde sectam bonam non habuerit et sufficientem in periculo est.” So, too, the man who had distressed (“ceperit namos”) without a warrant would be liable only to a fine if, on his way homeward, he acquainted worthy men with what he had done.⁶ So, too, the fact that certain lands had been sold,⁷ or that a payment had been made, the receipt for which had been lost,⁸ could be established for all time coming by persons who were

¹ Ass. Will, cc. 32; cp. 33.

² ‘Fragm. Coll.’ c. 14 (‘A. P.’ i. 739). See also Ass. Will, c. 7, repeated in ‘R. M.’ iv. 9; ‘R. M.’ iii. 11; iv. 4, 6, 35; ‘Fragm. Coll.’ c. 4 (‘A. P.’ i. 734); c. 2 (‘A. P.’ i. 737).

³ As to the complaint-witness, see J. B. Thayer, ‘A Preliminary Treatise on Evidence at the Common Law,’ London, 1898, pp. 10 ff.; Pollock and Maitland, ii. 606.

⁴ Thayer, p. 12.

⁵ ‘R. M.’ iii. 11. The passage is adapted from Glanvill (x. 37), who writes “si vero incertum warantum vocaverit; in tali casu si sufficientem habuerit probacionem . . .”

⁶ Ass. David, c. 21.

⁷ ‘L. Q. B.’ c. 10. Cp. ‘Fragm. Coll.’ c. 10 (‘A. P.’ i. 720).

⁸ ‘Fragm. Coll.’ c. 9 (‘A. P.’ i. 735).

present when the transaction was entered into.¹ If a man who had made a gift of his lands "in lege poustie" to his son had fallen into poverty, and his son would not assist him, he might sell or wadset the lands on proving his need by the oaths of twelve neighbours.² Further, witnesses were adduced to prove the due execution of a summons;³ and where a court had failed to do justice, the fact of its failure might be proved by the complainer's oath and the oaths of two others who had seen and heard.⁴ In all these cases the witnesses were in the first instance extrajudicial; but they might eventually be called to support the pursuer's statement.⁵

Sometimes the pursuer used a "solemnitie of wordes" ("clameum verborum legis"), and sometimes this solemnity was omitted. It seems to be highly probable that the solemn form was the older. It was called "clep and call," and was used both in criminal and civil proceedings.⁶ An example of it is supplied in the 'Registrum Honoris de Morton,'⁷ entitled 'Vne clepe et vne call dune

¹ As to "transaction-witnesses" and "community-witnesses" (see next three cases in text), see Brunner, ii. 392 ff.; 'Essays in Anglo-Saxon Law,' Boston and London, 1876, pp. 187 ff.; Pollock and Maitland, ii. 184, 207, 214, 605 f.; Thayer, pp. 10-17, 100 ff.

² 'L. Q. B.,' c. 107

³ See pp. 79 f. below.

⁴ 'R. M.,' iii. 17.

⁵ As to "court-witnesses," see pp. 79 ff. below.

⁶ See Skene, 'De verborum significatione,' s.v. "Clep and Call."

⁷ (Bannatyne Club), Edinburgh, 1853, i. App. No. 10. A similar form is to be found in the Bute MS., fol. 141 (see 'A. P.,' i. 182), under the title "The fourme to mak clepe and cal apon brekyng of proteccyon," and in MSS., Adv. Libr. 25.5.6, No. 40, and 25.5.9, No. 25, under the title of "Modus calumpniandi protectionem infrictam." See also Skene, 'De verborum significatione,' s.v. "Clep and Call." The form is mentioned in 'Q. A.,' c. 34, and in 'Fragm. Coll.,' c. 4 ('A. P.,' i. 735).

protectioun.' It runs as follows: "I apone the behalf of Sir J. de D. that here standis sayis to the R. that thar standis that qwhar that he his landis his men thaire possessiounis and al thair gudis was vnder the ferme pece and the protectioun of our Kyng Robert that now is Kyng of Scotland on Thurisday neist before Yhole last passit thou come with otheris with the to the tounis of Newton and Dodyngstoun in the Barony of Abircorne in the Constabelery of Lithcu within the Schirrefdome of Edinburgh, the qwhilk tounis the forsaid Sir J. has in malyng of Jonet Gourlay the dowchtir of qwhilome Sir Thomas of Erth Knicht, and thare wrangwisely and aganis the law thou and tha that with the come tuk away twenty-one beistis oxin and ky stotis and grys of syndri eildis and syndri hewis that is to say blak broun rede and braundit, the price ten pounds of Sterlingis, doand to the fornemmit J. and til his men beforsaid il molest wrang and greif, brekand on him and his men the ferme pece and the protectioun of howre fornemmit Kyng Robert that nov is Kyng of Scotland for the qwhilk doying I soume the schame¹ and the skath of the fornemmit J. and his men apone the R. iiii^o li of sterlingis, swilk as men byis and sellis with in Scotland, and gif thou be the man that this nitis I sal outrak it apone the as lauch of protectioun wil or as this gude court schewis me of lauch." In the 'Quoniam Attachiamenta,'² a similar example is to be found where it is employed in proceedings following upon a "breve de recto in burgo." In this form the pursuer's challenge concludes with the words—"et si tu sis talis homo qui

¹ See 1425-26, c. 23 ('A. P.,' ii. 12), and note to vol. i. 315, l. 5; cp. 'R. M.,' i. 9; iv. 12 (incorporating Ass. David, c. 8).

² C. 40.

hoc negas idem Johannes precatur prepositum et balliuos curie sibi facere iusticiam." To this the defender makes answer—"Domine balliue Robertus qui hic stat iniuriam et iniustum deforciamentum ac ius dicti Johannis in dicta particata terre . . . de verbo in verbum negat."¹

We learn from these provisions that the pleadings on either side were oral. After they had been stated they were recorded in a rolment of court.² It seems that the pursuer in making his claim offered to prove it,³ and, in some cases, produced witnesses in support of it.⁴ When, and not before,⁵ he had said all he had to say, it was the defender's time to speak. Whatever were the pleas or exceptions upon which he intended ultimately to rely, he was bound in the first place to deny, word by word,⁶ "injuriā ('wrang') et infraccionem proteccionis regis," or "iniustum deforciamentum," or whatever was the specific wrong alleged to have been committed by him.⁷ This de-

¹ See also John de Lyndesay's case in 1368 ('A. P.,' i. 505).

² See 'L. Q. B.,' c. 30; David de Anandia's case in 1368 ('A. P.,' i. 504).

³ 'Q. A.,' c. 3.

⁴ See pp. 65 above, and 79 ff. below.

⁵ 'R. M.,' i. 10; 1318, c. 18 ('A. P.,' i. 471).

⁶ 'Q. A.,' c. 40. "Word by word" was a formula which, by the end of the thirteenth century, had been substituted for the earlier English practice which required the denial of the plaintiff's statement verbatim (Pollock and Maitland, ii. 607).

⁷ See 'R. M.,' i. 10: "Nec tenens nec suus prolocutor sint per aliquam excepcionem petentis calumniati nec per aliquem balliuum amerciati, dummodo dictus tenens vel suus prolocutor defendat iniuriam aut iniustum deforciamentum ac ius ipsius ante exitum suum de curia ad consulendum se ulterius super dicendis." See also 1318, c. 17 ('A. P.,' i. 471): "Item quod nulla defensio sit calumpniata nec defendens sit indefensus quamdiu defendens aut suus prolocutor defendat torth et noun raysoun quod dicitur wrang et unlaw et dampna in certo que nominabuntur per querelantem."

fence,¹ became in course of time "a mere formal preamble . . . to . . . the more material part of the defendant's answer";² and a distinction came to be recognised between a "half" and a "full" defence ("plenarium responsum").³ Thus, in an action of damages for assault, while the defender must deny "wrang and unlaw," he may admit that he has done to the pursuer what he ought not to have done, and profess his readiness to make amends at the sight of "boni homines." If, however, he deny the whole claim and fail "facere legem,"⁴—*i.e.*, to make good his denial by the method of proof assigned to him by the court,—he will render himself liable to satisfy the claim as stated by the pursuer.⁵

The defender's next step was to ask for the brieve,

¹ "As a general rule the only plea that is open to him (the defendant) is a flat denial of all that the plaintiff has said . . . a 'thwert-ut-nay,' that is a downright No. A downright No has been in the past the one possible answer; it is still the indispensable preliminary to every possible answer" (Pollock and Maitland, ii. 607-9). The view expressed in the last sentence has been questioned (see R. Stewart Brown, "'Thwert-ut-nay,' and the custom of 'Thwertnic' in Cheshire," in 'The English Historical Review,' 1925, xl. 13 ff.). In 'Fragm. Coll.,' c. 5 ('A. P.,' i. 735), the word "Thwertnay" is used as meaning a complete denial ("plenum responsum"; see 'Q. A.,' c. 4). This, if stated by the defender, barred replegiation to his lords court ('Q. A.,' c. 4; 'The Forme and Maner of Baron Courts,' c. 25). It is stated in 'L. Q. B.,' c. 31, that "in placitis burgorum utitur Twertnay in defensionibus defendendo wrang and unlaue." As to replegiation, see note to vol. i. 241, l. 12. As to the speciality of the burgh law, see p. 31, note 6 above, and the Act 1318, c. 17 ('A. P.,' i. 471), and Skene's (Lat. Ed.) note thereon.

² Pollock and Maitland, ii. 608.

³ Pollock and Maitland, ii. 611, note 1; 'Fragm. Coll.,' c. 5 ('A. P.,' i. 735). See also the case of John de Lyndesay, in 1368 ('A. P.,' i. 505).

⁴ See below, p. 71 and note 4.

⁵ 'L. Q. B.,' c. 96.

and, on obtaining the judge's permission, to retire from the court in order to consult with his advisers as to his future action. On his re-entry he repeated his former denial, and then and there ("indilate") stated his exceptions,¹ or asked for a view of the land,² or for a day and term for calling his warrant.³ Exceptions⁴ might be taken to the judge, to other members of the court,

¹ 'R. M.,' i. 10; 'Q. A.,' c. 40. A legal fragment states the practice somewhat differently: "Quicumque fuerit defensor alicuius statim post woch et wrang et vnlaw debet proponere omnes excepciones suas vel petere licenciam ad consulendum ad easdem proponendas. Quod si non fecerit et vertat et poterit probari per curiam si iterum venerit ad allegandum excepciones suas audiri non debet" ('Fragm. Coll.,' c. 7 ('A. P.,' i. 742)). "Woch" seems to mean "assertion of right or claim." See the use of the verb "woche" in 'Act. Dom. Conc.,' i. pp. 108, 216. See also Skene, 'De verborum significatione,' s.v. "Voth." As to the meaning of "vertat," see the twelfth exception mentioned in 'Fragm. Coll.,' c. 10 ('A. P.,' i. 736), quoted below, p. 77, note 8.

² 'R. M.,' i. 8; iv. 52.

³ The defender might allege that the "res petita" was not his, but was held by him on loan, or for safe custody, or under a contract of hiring, or in security. In that case he was required to find pledges to enter it in court, and the true owner was cited. If the defender could not find pledges his body was attached. Or the defender might allege that the "res" was his and that he had a warrant. In that case, on his finding pledges, a day was assigned to him for calling his warrant ('R. M.,' i. 15). Both the defender and the warrant could excuse themselves thrice ('R. M.,' i. 20, 24). If the warrant admitted, or the court decided, that he was bound to warrant the defender, the latter retired from the case, and the warrant was required to answer the pursuer's claim. If he failed to make good his defence, the pursuer obtained the "res," and the defender received from the warrant an equivalent in value ('R. M.,' i. 15, 20). The warrant might call his warrant, and the process might be repeated until four warrants had been called, of whom the fourth was obliged to defend ('R. M.,' i. 22; iii. 10). See the form of procedure of 1563 printed at p. 74 of volume ii.; Pollock and Maitland's observations (ii. 164, note 1) on Glanvill, x. 15. As to the later practice, see Bisset, vol. i. 170 f.

⁴ As to the division of exceptions into dilatory and peremptory, see vol. i. 178 ff., and relative notes.

to the summons, to the brieve or libel, and to the pursuer's person, title, and claim;¹ and, in stating them, the defender observed a certain order.² The admission of frivolous exceptions, permissible at one time on the defender finding pledges,³ was absolutely prohibited by later enactments.⁴ Nullities of title might be pleaded by way of exception.⁵ When the court determined that an exception was provable only by writ, the writ was produced and, on the defender's renunciation of further proof, the pursuer was given an opportunity of impugning it.⁶

§ 8.

By an act of 1429-30,⁷ the parties' advocates and the parties themselves, if present, were required to swear that the cause in which they were engaged was "gude and lele."

¹ See 'R. M.,' i. 10; iii. 25, and Skene's notes to 'R. M.,' i. 11; iii. 29, of his Latin edition. See also the process of perambulation, cc. 11, 20 (vol. i. 293 ff.). As to the proof of exceptions contrary to the libel, see Balfour, 'Practicks,' pp. 349, 358; Stair, i. 9, 19, 20; iv. 39, 4. Balfour's statement is repeated by Hope, MS. 'Major Practicks' fol. 223.

² If the defender omitted to except to the brieve and excepted to the claim, he was held as admitting the validity of the former ('R. M.,' i. 10. See Skene's note to c. 11 (5) of his edition).

³ 'Q. A.,' c. 20.

⁴ 1425, c. 10; 1427, cc. 5, 7; 1503-6, c. 40 ('A. P.,' ii. 10, 14, 253).

⁵ 1555, c. 16 ('A. P.,' ii. 495). See vol. i. 175 f.

⁶ 1557, c. 5 ('A. P.,' ii. 502). See vol. i. 185 f.

⁷ C. 16 ('A. P.,' ii. 19). The oath of calumny seems to have been borrowed from the Romano-Canonical law. We find no trace of the fore-oath in the Scottish authorities. England refused to borrow the oath of calumny "though to all seeming the fore-oath of the Anglo-Saxon dooms, which we allowed to perish, was a kindred institution" (Pollock and Maitland, ii. 637). As to the fore-oath, see Brunner, ii. 343 ff., and below, p. 76 and note 4, 77 below.

§ 9.

After having heard and considered the statements of the parties, the court decided whether proof was or was not necessary. If it were deemed to be necessary, a judgment¹ was pronounced awarding it to one of the parties,² assigning a day for its production,³ and determining the method to be employed.⁴ So much, at least, may be inferred from the Scots authorities.

The *modus probandi*⁵ was by way of ordeal, compurgation, writ, adduction of witnesses, or assize. A legal fragment provides that if the pursuer be directed by order of court to adduce witnesses or other proof, and fail to appear on the day appointed and the defender be present, the former shall lose the "beneficium et officium probationis." If the pursuer be present and the defender be absent, the pursuer's proof shall pass ("transeat") against the latter.⁶

¹ See Pollock and Maitland, ii. 602.

² Stair (iv. 39, 4), in speaking of "our ancient custom," observes that "a great part of our debates were which of the parties should have the benefit of probation or be burdened to prove." It has been pointed out (Pollock and Maitland, ii. 47) that under the old formal procedure "the benefit of the proof was often enormous; the party to whom it is adjudged may have merely to swear to his right and find others who will swear formally and in set phrase that his oath is true." See Brunner, ii. 370; 'Essays in Anglo-Saxon Law,' pp. 185 ff. (Pollock and Maitland, ii. 603).

³ See the form of procedure of 1563, printed at p. 73 of vol. ii.

⁴ If, for example, the judgment declare for law that the party must "purge himself with oath-helpers, thereupon he 'wages,' that is, undertakes, to fulfil or to 'make' this 'law'" (Pollock and Maitland, ii. 602; see i. 175). The party "wages" because he gives pledge to fulfil the judgment. Cp. 'Q. A.,' 3, where the phrase "faciat legem" occurs.

⁵ See W. S. Holdsworth, 'A History of English Law,' 3rd ed., London, 1922, i. 299 ff. As to the decisory oath, see above, p. 22.

⁶ 'Fragm. Coll.,' c. 2 ('A. P.,' i. 741).

The ordeal¹ is referred to in charters of Alexander I.,² David I., and Malcolm. Thus David granted to the Abbey of Holyrood "examen duellii, aque et ferri calidi quantum ad ecclesiasticam dignitatem pertinet,"³ and Malcolm confirmed to the church of Scone a grant of an island of Loch Tay,⁴ and of a right to hold there "curiam suam in duello, ferro et aqua."⁵ The ordeals of iron and water are not mentioned in the assizes attributed to David. They are mentioned in assizes ascribed to William,⁶ and in two passages of the 'Regiam.'⁷

It was not permissible for a baron "tenere curiam belli aque vel ferri" unless the sheriff or his officers were present to see that justice was done.⁸

It lies beyond our purpose to comment in detail upon

¹ See Brunner's account of ordeals (ii. 406 ff., 437 ff.). See also Schmid, p. 639; 'Essays in Anglo-Saxon Law,' pp. 300 ff.; I. Æthelred, 1; II. Cnut, 30; Neilson, p. 79. According to Salic Law, the ordeal was in some cases the principal means of proof, while in others it was employed when other means of proof failed—*e.g.*, when the defender was unable to adduce the requisite number of oath-helpers (Brunner, ii. 406; cp. 'Essays in Anglo-Saxon Law,' pp. 188, 300); and the defender was entitled, on making a payment to his opponent, to swear with oath-helpers instead of submitting himself to the ordeal (Brunner, ii. 407).

² 'Liber Ecclesie de Scon' (Maitland Club), Edinburgh, 1843, No. 4; Lawrie, pp. 43, 297.

³ 'A. P.,' i. 358; Lawrie, p. 116.

⁴ 'Liber Ecclesie de Scon,' No. 2; see No. 5, where the island is mentioned as the spot "qua solet fieri duellum de Scona."

⁵ *Ib.*, No. 5; 'A. P.,' i. 365.

⁶ Cc. 2, 12, 15, 20.

⁷ iv. 2, 12 (reproducing Ass. Will., c. 15). As to the date of the abolition of the ordeal in Scotland, see pp. 14, 15, and note 3 above. It was abolished in England in 1219 (Pollock and Maitland, ii. 599 and note 6).

⁸ Ass. Will., c. 12; see 'R. M.,' iv. 11, where the reference to the ordeal is omitted.

the formalities of the combat.¹ For a full treatment of the subject, the reader is referred to Dr Neilson's authoritative treatise.² It will suffice to note some of the more important points, which, it is to be observed, are mentioned in documents belonging to different periods. Any man³ of twenty-one years of age was regarded as capable of waging battle,⁴ unless he were a "man of religion," a clerk or a prebendary,⁵ or unless he were too old or maimed.⁶ In some cases, the defender had no alternative but to fight;⁷ in others, he had the option of putting himself on an assize.⁸ Knights and freeholders might fight by deputy, while tenants and the base-born were required to fight in person, unless their lords would fight for them by deputy.⁹ According to the 'Regiam,'¹⁰ a debt or a transaction of sale or loan was proved by the general mode of proof in court, namely, "per scriptum vel per duellum."

In the 'Quoniam Attachiamenta' the only reference

¹ See 'Fragm. Coll.,' cc. 26, 29-31 ('A. P.,' i. 746 f.). As to the employment of champions, see *ib.*; and cp. Alex. II., c. 8; and 'R. M.,' iii. 20. As to rules regarding the behaviour of onlookers, see Ass. Will., c. 22; 'R. M.,' iv. 31. See also Ass. David, c. 8; 'R. M.,' iv. 12.

² 'Trial by Combat,' Glasgow, 1890. See also H. C. Lea, 'Superstition and Force,' Philadelphia, 2nd ed., 1870, pp. 85 ff.

³ As to the case of widows, see Alex. II., c. 5; 'R. M.,' ii. 13.

⁴ 'Fragm. Coll.,' c. 25 ('A. P.,' i. 745).

⁵ Alex. II., c. 5.

⁶ A burgess too old to fight might have recourse to oath-helpers ('L. Q. B.,' c. 22). In treason cases a man over sixty or maimed might acquit himself, if a freeman, by the ordeal of hot iron, if a rustic, by the ordeal of water ('R. M.,' iv. 2).

⁷ Ass. David, c. 20. See 'R. M.,' ii. 27.

⁸ Ass. David, c. 2; 'R. M.,' ii. 58; iv. 2, 48; 'Q. A.,' c. 8; 'Fragm. Coll.,' c. 28 ('A. P.,' i. 746).

⁹ Alex. II., c. 8.

¹⁰ iii. 11; see the corresponding passage in Glanvill (x. 17).

to the judicial combat is in the chapter "de calumpnia furti."¹ It is mentioned in 'The Forme and Maner of Baron Courts,' where the accused in a charge of "fellow slaughter" offers to prove his innocence by his hand.² In 1464,³ Lord Kilmauris, who had fallen under suspicion of treason, offered to clear himself by battle,⁴ and in 1567⁵ a similar offer was made by the Earl of Bothwell when suspected of Darnley's death.

Oath-helpers ("compurgatores," "conjuratores," "con-sacramentales")⁶ swore to the truth of the oath of their principal,—to a set formula that his oath was clean. They were selected from those who were in the best position to judge of his character,—his kinsmen, peers,⁷ or neighbours.⁸ He it was who, as a general rule, made the selection, but sometimes the helpers were appointed by the court.⁹ Among the Anglo-Saxons the numbers of the oath-helpers varied "according to the importance of the charge, the property in question, the nature of the

¹ C. 8.

² C. 79.

³ See below, p. 76.

⁴ 'A. P.,' xii. 29.

⁵ 'A. P.,' iii. 7 f. Trial by combat was abolished in England in 1819 (Thayer, p. 45).

⁶ See Brunner, ii. 378 ff.; 'Essays in Anglo-Saxon Law,' pp. 297 ff.; Schmid, pp. 564 ff.; Thayer, pp. 25 ff.; Pollock and Maitland, ii. 600, 634 ff.; K. A. Rogge, 'Ueber Das Gerichtswesen der Germanen,' Halle, 1820, pp. 136 ff.; Lea, 'Superstition and Force,' pp. 1 ff. The word "testis" is sometimes used in the sense of oath-helper (Brunner, ii. 378 and note 7).

⁷ See 'L. Q. B.,' cc 22, 29; 'Q. A.,' c. 17; Lord Kilmauris' case ('A. P.,' xii. 29).

⁸ 'Essays in Anglo-Saxon Law,' p. 298.

⁹ At a Baron Court held at Finlurg in 1622, a suspected thief was adjudged by an assize to clear himself by six out of twelve persons nominated and chosen by the assizers, or by four out of eight chosen by them ('The Black Book of Taymouth' (Bannatyne Club), Edinburgh, 1855, p. 373).

crime, the amount of the 'bot,' 'wite,' and the 'wergeld,' and the personal trust enjoyed by the swearer";¹ and a similar variety presents itself in the Scottish authorities. Thus, an *essoign* on the ground of sickness could be proved "*propria manu et unica*";² the record of a court could be contradicted "*tercia manu*";³ and the debtor could, in the absence of proof, clear himself "*cum se sexto*,"⁴ or, according to the "*Leges Marchiarum*,"⁵ "*cum septima manu*." A lord might not impose an obligation ("*conuentio*") of any kind upon his man or tenant if the latter made his acquittance "*cum se duodecimo id est cum duodecim viris*," or "*cum se vicesimo quarto*," if the king were his lord;⁶ and an assize ascribed to David I. prescribed that a man accused of theft should have the option of defending the charge by battle or by the oaths of twelve leal men "*cum clengyng de uno hirdman*."⁷ If

¹ 'Essays in Anglo-Saxon Law,' p. 298.

² 'R. M.,' i. 7.

³ 'R. M.,' iii. 20, "*vel cum pluribus vel paucioribus secundum consuetudinem diversarum curiarum*."

⁴ 'Q. A.,' c. 3. "*Sexta manu*" was the practice according to the "*lex burgi*" ('L. Q. B.,' c. 38; cp. c. 29).

⁵ 'A. P.,' i. 414, "*per juramentum sex virorum cum se septimo*."

⁶ 'Q. A.,' c. 17. Brunner (ii. 385) observes that the question whether the man who swore "*duodecima manu*" had twelve or only eleven oath-helpers must be answered sometimes in the one way and sometimes in the other. See Pollock and Maitland, ii. 601 note 2.

⁷ C. 2. The editor is indebted to Professor W. A. Craigie for the following note. The O. E. "*hiredmann*," "*hirdmann*," (M. E. "*hirdmann*") retains the general sense of "member of a household," though contextually it may denote the follower or attendant of a person of rank. But the O. N. "*hirðmaðr*" (acc. "-mann") was distinctly a member of the royal household, and the name was practically a title though not of high degree (see Vigfusson's Icelandic Dictionary, *s.v.* "*hirðmaðr*"). It is fairly certain that the Norwegians adopted the word from the Anglo-Saxons, and there is no difficulty in supposing that their specialised sense of the term survived in northern districts of this country once ruled

the "hirdnan" were the same as the king's thane of the Anglo-Saxons, his oath outweighed the oath of a man of inferior rank, probably in the proportion of six to one.¹ In 1464 Lord Kilmauris offered to purge himself of a suspicion of treason by battle or by the oaths of a hundred knights and esquires, or by the verdict of an assize of his peers.² Robertson³ observes that "the accusation frequently had to be repelled by a number of compurgators doubling the amount of those who supported the charge." It is true that where the fore-oath⁴ of the accuser or complainer formed part of the procedure, as among the Franks, Saxons, Lombards, and Anglo-Saxons,⁵ it might be sworn either with or without oath-helpers, and that if the principal swore with oath-helpers he imposed on his opponent the necessity of adducing

by them or under their influence. In fact, this and another passage (see 'A. P.,' i. 359) are fairly clear evidence that the survival did take place. The possibility of Scandinavian influence is supported by the occurrence of a distinctly Scandinavian word in the 'Laws of the Four Burghs,' c. 27—"kyrset," which is O. N. "kyrsetta" or "-saeti," "sitting in quiet" (see above, p. 9 f. and note 8). Reference may be made to the articles or agreement made between Ælfred and Guthrum (art. 3; Schmid, p. 107), from which it appears that a man inferior in position to a king's thane could clear himself of a charge of homicide by the oaths of eleven of his equals along with one king's thane. Here the "cyninges Þegn" is exactly the "hirdman" of Scottish law. The editor owes to Dr Neilson a reference to W. Morris and L. Magnússon, 'The Stories of the Kings of Norway called the Round of the World' (Heimskringla), London, 1905, iv. 306, 321.

¹ See Schmid, p. 663, and Anhang, viii. 1; 'Leges Henrici primi,' 64, §§ 2, 3; H. Munro Chadwick, 'Studies on Anglo-Saxon Institutions,' Cambridge, 1905, pp. 76 ff., 134 ff.

² 'A. P.,' xii. 29.

³ i. 267, 280.

⁴ In swearing the fore-oath, the accuser swore that he made his charge or claim not from hate or any motive other than the desire to establish his rights (Brunner, ii. 344; 'Essays in Anglo-Saxon Law,' pp. 193, 207 f., 287 f.).

⁵ Brunner, ii. 343.

weightier proof than the case would have required had he sworn alone. This was recognised by the Salic law in the process between Antrustions, and by the *Lex Ribuaria* in questions regarding freedom and succession. In such cases the number of oath-helpers adduced by the accused or defender must be double the number of those who swore in support of the fore-oath.¹ We have failed to discover any traces of this practice in the Scottish sources.

It is to be observed that a defender's offer to clear himself by oath-helpers was not entertained where the action was founded upon a written instrument.²

The 'Laws of the Four Burghs,'³ the 'Regiam,'⁴ and the 'Fragmenta Collecta'⁵ include provisions regarding oath-helpers other than those which we have already noted, and of these perhaps the most important are those containing lists of exceptions to acquittances⁶ and of persons who were excluded from acting as oath-helpers.⁷ The eleventh and twelfth exceptions are of special interest as showing the rigid formalism of the court procedure.⁸

The latest instance of compurgation in Scotland is

¹ 'Lex Salica,' ed. J. H. Hessels, London, 1880, c. 106; 'Lex Rib.,' 67, 5; 59, 8; Brunner, ii. 345, and notes 19, 21; Rogge, p. 186. Robertson (i. 267, 280) refers under the title of 'Liber de Beneficiis,' to 'Libellus Antiquus de Beneficiis,' c. 98. See Canciani, 'Barbarorum Leges Antiquæ,' Venice, 1785, iii. pp. xiv., 113 ff.; C. Thomasius, 'Selecta Feudalia,' Halle, 1728, pp. 73 ff.

² 'Q. A.,' c. 17.

³ 'L. Q. B.,' c. 28.

⁴ 'R. M.,' ii. 58; iii. 2; iv. 22, 53.

⁵ Cc. 13 ('A. P.,' i. 743), 17 ('A. P.,' i. 744).

⁶ 'Fragm. Coll.,' c. 10 ('A. P.,' i. 736).

⁷ 'Fragm. Coll.,' c. 18 ('A. P.,' i. 744). See 1318, c. 28 ('A. P.,' i. 474), and p. 80, and note 9 below.

⁸ 'Fragm. Coll.,' c. 10 ('A. P.,' i. 736): "The elevent excepcioune is gif he puttis nocht fullery his hand ande platly apone the buk or on the halydome throv encheson of evill contenance making. The xij excepcioune is gif he turnys his bak on the courte before the acquyttance be maide." See Thayer, p. 25, note 4.

supplied by the proceedings of a Baron court held at Finlarg in 1622.¹

Little is to be found in the early Scottish authorities regarding proof by writ. According to the 'Regiam,'² proof of debt or of a transaction of sale or loan was by the general mode of proof—namely, "per scriptum vel per duellum." An exception to this rule seems to have been allowed in the case of pecuniary claims, and claims relating to moveables where the amount did not exceed 50s. 4d. In that case the claim might be proved by four witnesses. If the amount were less, fewer witnesses were required; if it were greater, the claim could be proved only "per literam et sigillum sufficienter factum vel per duellum."³ In the record of the "Curia Quatuor Burgorum"⁴ it is provided that sums exceeding or within 50s. may be proved by "twa men of gude fame quha saw and heard . . . observing alwaies the forme prescryved in the Law betwix Burges and Burges⁵ quha may sweare be his awin eath gif he hes na witnes." It was enacted by a statute of 1557⁶ that when the court determined that an exception was provable only by writ, the writ was to be produced, and, on the defender's renunciation of further proof, the pursuer was to have an opportunity of impugning it. We have already seen⁷

¹ See above, p. 74, note 9. In England it survived until 1833 (3 and 4, Will. IV., c. 42 § 13; Thayer, p. 34).

² 'R. M.,' iii. 11. Cp. the corresponding passage in Glanvill (x. 17).

³ 'Fragm. Coll.,' c. 7 ('A. P.,' i. 735).

⁴ 'A. P.,' i. 704. See 'The Forme and Maner of Baron Courts,' c. 12.

⁵ 'L. Q. B.,' c. 28.

⁶ C. 5 ('A. P.,' ii. 502).

⁷ See p. 77 above.

that a defender's offer to clear himself by oath-helpers was not entertained where the action was founded on a written instrument.

It was a rule of Germanic procedure¹ that "no one could be compelled, or even suffered, to testify to a fact, unless when that fact happened he was solemnly 'taken to witness ;'"² and this rule seems to have been recognised to some extent, at all events, in Scotland. Thus, the witnesses to the execution of a summons were required to swear that they "bystude saw and herde and for witnes were tane" by the summoner;³ and it is provided in 'The Forme and Maner of Baron Courts'⁴ that "Quatsomever person wil proue ane debt, he sall proue it with twa leill men vnsuspect, that heard and saw, and for witnes were taine at the time of the condition."

We hear little of court-witnesses in secular cases in the Scotland of the twelfth and thirteenth centuries. No doubt, the party who sought to establish the facts essential to his case might call upon the extrajudicial witnesses⁵ who had "seen and heard" to support his statement, but we have no information as to the contents of their deposition. We do not know whether they swore that what their adducer said was true, or whether they swore to tell

¹ See Brunner, ii. 391, where he refers to the Aryan custom of dragging by the ear the man whose evidence was desired,—a practice prescribed by some of the Germanic laws (see J. Grimm, 'Deutsche Rechtsalterthümer,' 3te ausg., Göttingen, 1881, pp. 144 ff., 857).

² Pollock and Maitland, ii. 601.

³ 1429-30, c. 2 ('A. P.,' ii. 17); 'Forme and Maner of Baron Courts,' c. 7; vol. i. 283, 301-7, 311-12.

⁴ C. 12.

⁵ See pp. 63 f.

the truth.¹ Nor do we know whether the proof was or was not a "one-sided" proof.² One of the Laws of the Four Burghs³ provides that "ille qui ducit testes in aliqua querela ad probandum non tenetur jurare sed testes jurabunt quod verum est hoc quod testificantur, et erit in juramento suo quod hoc non dicunt propter odium unius nec propter amorem alterius sed propter veritatem dicendam.⁴ Et tunc debet fieri recordum coram testibus de appellacione et responsione ut audiant quid jurare debeant antequam jurent." This provision, of which the date is uncertain,⁵ seems to refer to the examination of witnesses in court. In a document,⁶ attributed to the early part of the fourteenth century,⁷ the competency of proof of debt by two witnesses is declared; and there is evidence of a later date that the production of witnesses at successive terms formed part of the general practice.⁸ A legal fragment⁹

¹ Cp. 'Essays in Anglo-Saxon Law,' p. 186; Pollock and Maitland, ii. 601.

² Pollock and Maitland, ii. 602; Thayer, pp. 9 f.

³ C. 30; cp. c. 26, where the twelve neighbours seem to have been witnesses and not oath-helpers, the oath with helpers in a case between a burghess and an upland man being taken "sexta manu," that number being prescribed by the "lex burghi" (c. 38).

⁴ The terms of this oath resemble those of the "duplex juramentum," prescribed in c. 5 X. de testibus et attest., ii. 20.

⁵ See p. 5, note 3 above.

⁶ "Curia Quatuor Burgorum" ('A. P.,' i. 704).

⁷ 'A. P.,' i. 51, note 4.

⁸ MS. 'Linthgow Sheriff Court Book,' 1551-54, where terms of first probation (fol. 33), second probation (*ib.*), and third probation (fol. 51) are referred to. Cp. vol. i. 200; 207 f.; vol. ii. 74. It seems probable that this practice was borrowed from the Canon law (see p. 83, note 3 below).

⁹ 'Fragm. Coll.,' c. 18 ('A. P.,' i. 744). This list may have been borrowed from the Romano-Canonical law (see D. xxii. 5; C. iv. 20; Caus. iv. q. ii. and iii.). It includes boys under fourteen years of age, lunatics, thieves, adulterers, those who had been "dungyn about the kirk" or through the town, poor, perjured, infamous, and convicted persons, persons redeemed from justice,

supplies a long list of those who were excluded from acting as witnesses or oath-helpers or assizers; and it is interesting to observe that those mentioned in the list belong largely to the same classes of disqualified persons as those contained in lists two hundred years later in date.¹ In a prosecution for treason in 1594 an interlocutor, pronounced by the lords of session in a previous case, was founded upon, in which it had been held that in cases of treason and heresy infamous persons, minors, and

accomplices, churls, bondmen, clerks against laymen and laymen against clerks, the father, son, brother, father's brother, and every relation by marriage within the fourth degree, the lord and his bailie, every one wearing the adducer's livery, or being his adviser or of his retinue, or holding land of him in feu or on payment of rent, every party to the charge, every enemy and ill-wisher, and every hired witness, every one not admissible as an accuser, outlaws, every one accused of crime until cleared of the charge. See also 'L. Q. B.,' cc. 69, 80, 83; 'R. M.,' iv. 46; 1318, c. 28 ('A. P.,' i. 474); 1567, art. 88 ('A. P.,' iii. 44).

¹ In Hope's 'Major Practicks' (MS., Adv. Libr. 24.3.10, fol. 228), the following persons are stated to be incapable of giving testimony. Those under fourteen years of age, lunatics, women, adulterers, thieves, poor men, perjurers, persons scourged, infamous persons, persons convicted and "redeemed from the Justice," accomplices, the master for the servant, those who are of blood or affinity within the fourth degree, the servant for the master, the tenant who pays yearly rent, the parties' enemy or ill-wisher, he who is "conduced be prayer or pryce," persons excommunicated or in prison or in bonds, those who may not accuse or pursue, outlaws, those lying under a criminal charge in dependance, the tasker for him in whose barn he threshes, the advocate in the cause in which he is engaged, he who may tyne or win in the cause, yet his kinsman or servant may be witness in the same cause, he who solicits in the cause or maintains it at his expense, or assists being at the Bar, or their friends, servants, or tenants, he whose name is inserted in the summons although he be not summoned, or although summoned and past from, the curator for his minor, and the sub-tenants, cottars, and tenants' servants for the master of the ground. See Stair, 'Inst.,' iv. 43, 7-10; Hume, 'Commentaries,' ii. 340 ff.

accomplices were admissible as witnesses.¹ In one case, which was regarded as of great importance, each witness was required to be not only "omni exceptione major," but worth a thousand merks "in land and geir."²

It may be noted that, prior to an act of 1686,³ the parties were not allowed to see the testimonies of the witnesses: "for when they were taken none but every singular witness could be present; and when all had deponed, the ordinary was to seal the testimonies with his own seal; and when they were opened, which was only at the time they were to be advised, so soon as decret was pronounced they were sealed up again, never to be opened thereafter."⁴

These scattered and fragmentary notices tell us scarcely anything of the procedure followed in producing witnesses in court; but we have fuller information regarding the practice in courts in which the law of the church was administered; and it seems probable that it was the influence of this practice that was the main factor in altering and reforming the practice of the secular courts in regard to witnesses. In 1233 a dispute between the abbot and convent of Paisley, and Gilbert, son of Samuel, regarding the lands of Monachkennaran, was decided by three papal delegates.⁵ The complainers alleged that these lands belonged to the church of Kirkpatrick, and that they had

¹ 'A. P.,' iv. 57.

² 'A. P.,' iv. 317.

³ C. 30 ('A. P.,' viii. 599).

⁴ Stair, iv. 46, 17. Cp. iv. 2, 16. The Act 1693, c. 42 ('A. P.,' ix. 305), provided that all causes should be advised with open doors.

⁵ 'Registrum Monasterii de Passalet' (Maitland Club), Edinburgh, 1832, pp. 166 ff.; 'A. P.,' i. 95 ff. See C. Innes, 'Lectures on Scotch Legal Antiquities,' pp. 214 ff.

been illegally alienated to Gilbert. They craved that he should be removed, and that the right and property in the lands should be restored to the church. Gilbert appeared in obedience to the citation, and, "post intentionem monachorum fundatam,¹ et post litem inter eos rite contestatam,"² two terms³ for the production of their witnesses were assigned to the complainers. The witnesses were admitted, sworn, and examined.⁴ Gilbert was twice cited to attend on a day fixed for the publication of their depositions.⁵ He did not appear "per contumaciam," the depositions were published, and he was again cited "ex habundanti." Again he failed to appear, and the judges, acting on the advice of men of experience, skilled in the law, gave judgment in favour of the complainers, found Gilbert liable in modified expenses, and

¹ Gaius (iv. 41) defines "intentio" as "ea pars formulæ qua actor desiderium concludit." It was possible "intentionem fundare," "vel per testes vel per instrumenta vel per confessionem vel per evidentiã facti" (gloss on "fundaverit," c. 5 X. de dolo et contum., ii. 14). See also c. 38 X. de test. et attest., ii. 20; c. 15 X. de restitut. spol., ii. 13; and the case regarding the church of Molle, 'Liber S. Marie de Calchou' (Bannatyne Club), Edinburgh, 1846, i. No. 179.

² "Quum non per positiones et responsiones ad eas factas, sed per petitionem in jure propositam et responsionem factam contestatio litis fiat" (c. 54 § 3, X. de electione, i. 6; cp. C. iii. 9, 1, et authent.; C. iii. 1, 14 § 1).

³ A term ("dilatio") was assigned within which witnesses could be adduced from day to day until the last day of the term expired. It was in the discretion of the judge to grant a second and a third term on cause shown. A fourth term was granted only in special circumstances (c. 15 X. de test. et attest., ii. 20; c. 55 ejusd. tit.; cp. C. iv. 19, authent., "at qui").

⁴ The judge examined the witnesses one by one (c. 52 X. de test. et attest., ii. 20; see C. iv. 20, 14).

⁵ After publication just as after renunciation of further proof, neither the witnesses who had deposed nor other witnesses could be adduced to speak to the point as to which proof had been already led (c. 25 X. de test. et attest., ii. 20; cf. cc. 17, 18 ejusd. tit.).

demanded of the bishop of Glasgow that the sentence should be executed under pain of ecclesiastical censure.

§ 10.

It remains to say something of the modes of procedure which were employed to remedy the failure of an inferior court to administer justice.¹

In some of his grants to religious houses David I. reserved to himself the "justicia regalis," "si abbas in curia sua aliqua negligencia de justicia deciderit";² and an assize attributed to his reign provided that, where a lord or sheriff or bailie had failed to do justice, the party aggrieved might bring the matter before the king.³ Among the statutes of Robert I. we find an enactment⁴ imposing punishment on the judge who "terram seu aliquam rem aliam capiat ad champart⁵ ad differendum seu prorogandum jus alicuius extra formam juris"; and in 1424-25 an act⁶ provided that the judges ordinary should "do

¹ An account of the methods in which delays and refusals to do justice were treated in the laws of the Germanic peoples is supplied by G. Cohn, 'Die Justizverweigerung,' Karlsruhe, 1876.

² 'Registrum de Dunfermelyn,' No. 1.

³ Ass. David, c. 24. See 'Fragm. Coll.,' cc. 14, 15 ('A. P.,' i. 743); c. 34 ('A. P.,' i. 754).

⁴ 1318, c. 22 ('A. P.,' i. 472).

⁵ Skene in his note on the statute says of this word that "apud Gallos significat campi partem, hoc est, fructuum fundi, quos colonus partiarius solvit suo Domino. Hinc deducta metaphora; in re forensi accipitur pro quota parte litis, quam iudex, corruptus sordibus, accipit a litigante sive Actore, sive Reo, contra jus Angliæ Edwardi primi Ann. 33 in statuto de conspiratoribus"; and cites C. ii. 6, 5; 13, 15; vii. 49, 2, and other authorities. In his 'De verborum significatione,' he defines the word as meaning "a bud, or gift, taken be onie greate man, or judge, fra onie person, for delay of just actiones, or furthering of wrangous actions; quhidder it be landes or onie gudes moveable."

⁶ C. 24 ('A. P.,' ii. 8).

full law and justice to poor as well as to rich without fraud or favour." . . . "Ande gif the Juge refusis to do the law evinly as is before said the party plenzēand sall haf recours to the king the quhilk sall se rygorusly punyست sic juges that it be ensampill til all utheris." By an act of 1469¹ it was provided that if the judge ordinary failed to do justice the aggrieved party should come to the king and council and "tak lettres and summond his partij and in like wise his Juge ordinare," that, if the charge were established, the judge should be punished and pay the complainer's expenses, and that the king should "ger minster justice" to the complainer. This provision was repeated in an act of 1475.² In 1487³ it was enacted that the lords of council should have jurisdiction as a court of first instance in complaints made against "officiaris forfalt of execucion of thair office," and that whenever the complaint charged an officer with "wragwis and inordinat proceding" in an action, the pursuer or defender should be cited to appear for his interest on the same day as the officer, that they should be specially charged to bring with them the "rolmentis" of court, and that, if the complaint were established, the process should be "reducit and adnullit" and the officer should be punished. Long before the date of the three acts last referred to complaints based on a protestation for "remeid of law" appear to have formed part of the ordinary practice. In 1385, in a question between William of Fenton and the baron of Dirleton regarding the former's tenement of

¹ C. 2 ('A. P.,' ii. 94).

² C. 3 ('A. P.,' ii. 111).

³ C. 10 ('A. P.,' ii. 177). These provisions were not affected by the Act 1487, c. 17 ('A. P.,' ii. 183). The first-mentioned Act reserved to litigants liberty to proceed by way of falsing the doom.

Fenton, judgment had been given in the baron's court against William in his absence. William "falsed" the judgment within the time prescribed by law, and appealed to the higher court by presenting a surety to the sheriff of Edinburgh, and finding sureties to secure the prosecution of his appeal. The sheriff restored him to his former possession, but the baron again evicted him. He appeared before the council and craved the king's assistance and "remeid of law" ("remedium juris"), and the king, with the advice of his council, ordered that he should be reinstated, and that the barony should be seized in the king's hand. This was done; nevertheless William was again dispossessed. Again he craved "remeid of law," and the council, after full consideration of all points, and of the record of the sheriff court, decided that he should be restored to his former possession, together with complete restitution of the rents and goods of which he had been deprived by the baron.¹

Balfour² reports a case in terms which suggest that an appeal from the court of session to the parliament was competent. "Gif ony man thinkis him heavilie hurt be the Lordis of Sessioun in pronouncing of ane decreit aganis him, he may protest for remeid of law, and appeal to the parliament." The case, as reported in the MS. 'Acta Dominorum Concilii et Sessionis,'³ is stated as follows: "Maister Edward Cunygham allegit that he was hurt be

¹ 'A. P.,' i. 552. Cp. the case of Nichol Logane, stated at p. 94 below.

² 'Practicks,' p. 268. Hope, MS. 'Major Practicks' (Adv. Libr. MSS., 24.3.10, fol. 132), refers to and adopts Balfour's report. The editor is indebted to Professor Hannay for pointing out Balfour's mis-statement.

³ 18th January 1532-33, ii. fol. 49.

the lordis in the non-pronunciatioun of the decrete gevin for him decernand the lettres purchest be him to mak him to be ansuerit and obeyit of the teyndis and frutis of the vicarage of Inuernes. The said Maister Edward knawand him hurt therein as he allegit. Thairefor he apelit to the lordis of parliament and askit instrumentis thairupoune." It seems plain from this report that Cunyngham's recourse to the parliament was by way of protestion for remeid of law and not by way of appeal. The ground of his complaint was not that an erroneous judgment had been pronounced, but that the delay in pronouncing judgment had amounted to a refusal to do justice.¹

In passages borrowed from Glanvill, the compiler of the 'Regiam' provides a remedy for four cases of failure to do justice. If the failure occurred in a lord's court, the action might be transferred to the county court,² or to the "capitalis curia regis."³ Further, an action might be transferred from the county court to the court of the

¹ In 1674 a controversy arose as to the competency of an appeal from the court of session to parliament; of which an account is given in Æ. J. G. Mackay's 'The Practice of the Court of Session,' Edinburgh, 1877-79, i. 39 ff., where the authorities are cited. See Rait, pp. 475 ff. "The distinction between *protesting* for remeid of law and *appealing* consisted only in this, that in the one form process and execution still went on, while in the other all proceedings were stopt until the appeal should be discussed" (Sir Ilay Campbell's Preface to 'The Acts of Sederunt,' Edinburgh, 1811, p. xxxii.). It will be seen that there were other distinctions. See A. Fletcher, 'Political Works,' London, 1737, pp. 358 ff.; Fotheringham's case, 'A. P.,' xi. 52 ff.; Hume of Crossrig, 'A Diary of the Proceedings in the Parliament and Privy Council of Scotland, May 21, MDCC - March 7, MDCCVII' (Bannatyne Club), Edinburgh, 1828, pp. 107 f. An example of a protest for remeid of law is to be found in the Act 1695, c. 22 ('A. P.,' ix. 398 ff.), and a form of protest is supplied in 'The Art and Office of a Notary-public,' 2nd ed., Edinburgh, 1762, p. 313.

² See note 3 below.

³ 'R. M.,' iii. 17; Glanvill, xii. 1, 7.

king or the justiciar, especially when a doubt had arisen which the county was unable to resolve.¹ Jurors who were charged with having sworn a false oath might be tried by a jury twenty-four in number. If convicted they were liable to severe punishment.² Lastly, the complaint of "false judgment" was open to the litigant who felt aggrieved by the decision of the court.³ In the provisions of the 'Regiam' for the transference of actions, and in those of the acts of 1469 and 1475, quoted above, Lord Kames⁴ sees the application of advocacion "ob denegatam justitiam," and observes that this form of procedure, "invented as a remedy for delay of justice, was extended to remove causes to the court of session, where there was any suspicion of partiality in the inferior judge, or where there occurred any personal objection, till it obtained that iniquity singly was a sufficient ground."⁵ Thus in

¹ 'R. M.,' ii. 13; Glanvill, vi. 6, 8. Skene, in his Scots version, writes "sheriff court" for "county court," and "sheriff" for "county."

² 'R. M.,' i. 13; Glanvill, ii. 19. By the Act 1471, c. 9 ('A. P.,' ii. 100), a remedy was provided in the case of a non-pleadable brieve, to meet the case where the jurors on an inquest had erred either through ignorance or "parcial malice." The aggrieved party was empowered to summon the members of the inquest before the king and council; and, if he established his complaint, the jurors were punished as "temere jurantes super assisam" (see 'R. M.,' *ut supr. cit.*). By the same statute this summons of error was declared to be incompetent in the case of pleadable brieves (see 'Q. A.,' c. 33), and it was enacted that, on proof of error, the determination of the inquest should be null and void. See the Acts 1491, c. 18; 1496, c. 6; and 1617, c. 13 ('A. P.,' ii. 227, 238; iv. 544).

³ 'R. M.,' iii. 21; Glanvill, viii. 9. See pp. 90 ff. below.

⁴ 'Historical Law Tracts,' i. 396 ff.

⁵ The Act 1555, c. 12 ('A. P.,' ii. 494), provided that "na aduocatioun of causis be takin be the Lordis fra the Juge Ordinar except it be for deidlie feid or the Schiref principall or the Juge Ordinar be partie or the causis of the Lordis of counsall and thair Aduocattis, Scribis and members." This provision occurs in a

Erskine's time¹ a party who had duly excepted to the jurisdiction of an inferior judge before whom he had been cited, or who thought himself aggrieved by any interlocutory sentence pronounced in the cause, might, at any time before decree, apply to the Court of Session for letters of advocation,—letters, that is to say, for calling the action from the lower to the higher court. The grounds for craving such letters were incompetency and iniquity.²

It is to be observed that the decrees of the Session were final,—“but ony remeide of appellacione to the king or to the parliament;”³ and the same observation holds true of the Daily Council.⁴ Moreover, within the Court of Session, as remodelled by King James V.,

statute which is wholly concerned with actions of removing. Stair (iv. 37, 20) and Hope (MS. ‘Major Practicks,’ fol. 156) hold that it is to be confined to such actions. Mackenzie (‘Observations on the Sixth Parliament of Queen Mary,’ c. 39) is of opinion that it is of general application; and Kames (*loc. cit.*, i. 399) observes that it soon fell into disuse. It may be noted that when there existed a deadly feud between a sheriff and a party cited to his court, it was a frequent practice to exempt the latter from the former's jurisdiction, and either for the lords to appoint, or to require the sheriff to appoint “unsuspect” deputes to try the cause (Douglas *v.* Crichtoun, 20th November 1531, MS. ‘Act. Dom. Conc.,’ xliii. fol. 91), or to transfer the cause to another court (Gordon *v.* Earl of Buchan, 16th January 1499-1500, ‘Act. Dom. Conc.,’ ii. 347).

¹ ‘Inst.,’ iv. 2, 40.

² Incompetency included want of jurisdiction and every ground for declining a jurisdiction, though in itself competent, flowing either from privilege in the party, or suspicion of the judge. A judge was said to commit iniquity when he either did anything in the exercise of his jurisdiction contrary to law, or neglected to do anything which he was bound by law to do (Ersk., ‘Inst.,’ iv. 2, 40 and 41). Advocation without intimation to the inferior judge did not stop process (*ib.*, c. 42).

³ 1457-58, c. 3 (‘A. P.,’ ii. 48). See 1425-26, c. 19 (‘A. P.,’ ii. 11).

⁴ 1503-04, c. 2 (‘A. P.,’ ii. 249).

there was no place for appeals. "The court all sat as one court, and the so-called Outer House was not really in any sense a separate court, but was simply a place where one of the fifteen judges sat for the preparation of cases."¹ His decree was not his own decree, but the decree of the lords of Council and Session. A rehearing was always competent, but a rehearing is not an appeal.²

There remains for consideration a form of process which resembles more closely than those with which we have been dealing the modern appeal, — the process, namely, of the falsing of the doom.³

According to Germanic law he who was dissatisfied with a judgment of court could impugn it.⁴ By impugning it he charged those who had "made" it with a refusal to do justice. It was a universal rule that the judgment must be impugned at once.⁵ Further, it was not sufficient

¹ *Purves v. Carsewell*, 1905, 8 F. 351, 354, per Lord Pres. Dunedin.

² *Clippens Oil Co. v. Edinburgh and District Water Trustees*, 1906, 8 F. 731, 750, per Lord Pres. Dunedin.

³ Part of what follows appeared in the 'Scottish Historical Review,' 1918, xv. 205 ff.

⁴ In Anglo-Saxon law he was said "*dòm forsacan*." The contradiction was also called "*wemming*" (see Brunner, ii. 356; I. Eadgar, 3; II. Cnut., 15; 'Leges Henrici primi,' 32 § 2; 67 § 2). In some laws, — those of the Anglo-Saxons, for example, — a distinction was drawn between intentional illegality and unintentional error (see III. Eadgar, 2; II. Cnut., 15, 1; *Leis Wl.*, 1). A doom given in error was nugatory, and, according to most of the later legal systems, those who erred escaped punishment (Brunner, ii. 360).

⁵ See Brunner, "*Wort und Form in altfranzösischen Prozess*," 'Sitzungsberichte der K. Academie der Wissenschaften, Philosophisch-Historische Classe,' Wien, 1868, lvii. 738. The judgment must be impugned "*mit unveruckten fuss*" (H. Siegel, "*Die Gefahr vor Gericht und im Rechtsgang*," 'Sitzungsberichte,' *ut supra*, 1866, li. 145 f.), or "*stante pede*," or "*standes fusses er hinder sich trede*" (J. Grimm, p. 866), or at all events before the contradictor had retired from the judge's presence (M. J. Noordewier, '*Nederduitsche Regtsoudheden*,' Utrecht, 1853, p. 409).

to impugn the judgment; he who impugned it was required to propose a judgment appropriate in his opinion to the circumstances of the case; and the impugment resolved itself into a legal contest between the party impugning and the makers of the judgment as to which was the better judgment. It is to be observed that not only the party aggrieved but any member of the court might impugn the judgment and propose another, and that the party in whose favour the judgment had been pronounced took no part in the subsequent proceedings. Save in isolated instances, the question whether the judgment should stand or fall was determined by battle.¹ In the course of the Frankish period this procedure assumed the form of a suit in which the question whether the judgment impugned was good or bad was submitted to a higher tribunal.²

According to the 'Regiam Majestatem'³ a court is not bound to defend its record; it is bound to defend its doom by battle. Accordingly, if a court be charged with making a false doom, and if he who delivered the doom be prepared to deny the charge, and if he who made the charge be prepared to prove it, the matter is one which may very properly be decided by battle; and the proper person to defend the doom is he who pronounced it.

¹ Brunner, ii. 358. The Assizes of Jerusalem, which supply the best record of feudal organisation, prescribed that whoever alleged that the court had made false judgment should do battle with all the judges who had concurred in it ('Les Assises de Jerusalem,' ed. par Beugnot, Paris, 1841, i. 179, 560 ff.): and the same method was practised in France (Beaumanoir, 'Les Coutumes de Beauvoisis,' ed. par Beugnot, Paris, 1846, ii. 372). See M. Fournier, 'Essai sur l'histoire de Droit d'Appel,' Paris, 1881, pp. 143 ff.

² Brunner, ii. 361.

³ 'R. M.,' iii. 21. The passage is borrowed from Glanvill, viii. 9.

The reports of the decision in the dispute between the Keledei and the bishop of St Andrews, and of cases in which dooms, "falsed" in the justiciar's courts, were submitted to the king and parliament for final determination; acquaint us with a procedure differing widely from that set forth in the 'Regiam.' In the case of the Keledei,¹ which occurred in 1309, it was held that within the Boar's Chase ("Cursus Apri") there were three baronies only, that of these the barony of the Keledei was one, that these baronies were immediately subject to the bishop and church of St Andrews, and were therefore bound to give suit in the bishop's court, and that any doom falsed in the courts of any of these baronies should be brought before the bishop's court there to be determined.²

Again, in 1321,³ in proceedings following upon a brieve of mortancestry, doom was given in a justiciar's court held at Lanark by the serjeant of Colybaynestoun. It was falsed, and the falsers found pledges before the king at Forfar to prosecute their appeal. Justiciars were directed to attach the serjeant by pledges to appear before the king and council⁴ to maintain the doom, to warn the parties of the time and place of the diet, and to attend themselves with the process and citations. Further, they

¹ "Black Buik of St Androis," fol. xxxiii., printed in the 'Registrum Prioratus S. Andree,' p. xxxi.; Lawrie, p. 432.

² An interesting example of the feudal practice is supplied by the report of the proceedings of an appeal to Edward I. as Lord Superior of Scotland, when the judgment impugned had been pronounced by Balliol (W. Ryley, 'Pleadings in Parliament,' London, 1661, pp. 152 ff.; Hailes, 'Annals of Scotland,' i. 273 ff.; Burton, 'History of Scotland,' ii. 158 ff.; J. H. Ramsay, 'The Dawn of the Constitution,' London, 1908, pp. 399 ff.).

³ Case of Joanna, daughter of Adam de Mora ('A. P.,' i. 479).

⁴ See p. 37, note 5 above.

were instructed to reseise the falsers in the lands from which they had been ejected, seeing that they had found pledges "ad falsandum iudicium." In these cases the question as to the validity of the doom was submitted to a superior court;¹ and it appears from the report of the Lanarkshire case that the holder of the judgment was cited to appear as well as the falsers and the serjeant.² It is remarkable that nothing is said as to the citation of the members of the court who made the doom. From the case of Sir David de Anandia,³ and the cases of John de Lyndesay and William de Borthwic,⁴ it seems clear that at this period combat had no place in the procedure.

In a legal fragment⁵ assigned by Skene on the authority of a single MS. to the reign of William the Lion, the rule is laid down that "si aliquis⁶ in patria vel in burgo reddit iudicium in curia, defensor aut concedet aut statim dimittet et contradicet.⁷ Et si vertat articulos pedum ubi talones steterint antequam contradicat per certas rationes et attestatum fuerit per curiam, postea non audietur ad

¹ As to the judicial committees of parliament appointed to deal with "iudicia contradicta," see pp. 37 f. above.

² Cp. the case of Sir David de Anandia in 1368 ('A. P.,' i. 504). From the form given by Bisset (vol. i. pp. 279 ff.) it appears that, according to the later practice, the holder of the judgment appealed against took no part in the proceedings in the appeal.

³ 'A. P.,' i. 504.

⁴ 'A. P.,' i. 505. These cases belong to the year 1368.

⁵ 'Fragm. Coll.,' c. 4 ('A. P.,' i. 742). The other MSS. which contain the fragment give no indication of its date (see 'A. P.,' i. 260).

⁶ Cp. 'Q. A.,' c. 9: "In quolibet comitatu de regno potest quelibet libera persona reddere iudicium pro qua parte voluerit litigancium dum tamen non sit suspecta . . ."

⁷ Brunner, ii. 361, notices an ordinance of Charles the Great which prescribes that he who delayed to accept or impugn a judgment should be kept in custody until he made up his mind to adopt one or other alternative.

contradicendum licet iudicium tale fuerit falsum de plano." This rule is repeated in very similar terms in the 'Quoniam Attachiamenta,'¹ and in an enactment of 1429-30,²—an enactment which is cited as in force in the form of falsing given by Bisset.³ We have seen above that Germanic law recognised a very similar rule.⁴

Where the judge prevented a would-be falser from prosecuting his appeal, the latter was not without means of redress. Thus in the case of Nichol Logane,⁵ judgment had been pronounced by the sheriff of Ayr against Logane and in favour of John, lord Cathcart. Nichol falsed the judgment and offered to find a surety that he would go on with his appeal. The sheriff and his deputes forbad the officer of court to receive the surety, and Logane

¹ 'Q. A.,' c. 9.

² C. 6 ('A. P.,' ii. 18) directs that the falser "sal nocht remufe oute of the place that he standis in quhen the domme is gevin, na 3it be avisit na spek with na man, quhil the domme be agayn callit, ande that salbe within the tyme that a man may gang esily xl. payss, ande that to be comptit efter the consideracione of the Juge ande the courte. Ande gif it be agayncallit be ane advocate of the party he beand admittit anis to spek for that party in the courte be name and surname, it sal nocht nede hym to reherrs his awin name na the dempstaris in the domme falsing, bot alanerly to say that the domme is fals, stinkande and rottyn in the self and tharto a borghe and assigne a resonne at the lest protestande for ma." By the Act 1503-04 c. 46 ('A. P.,' ii. 254), the words of falsing were changed to "I am grettumly hurt and Iniurit be the sade dume, therfor I appele and find ane borcht in the officiaris hande of the Court to persew the saide appellatione conformande to the law made of before and within the tyme sik like as is contenit in the saide law of the realme." See the cases reported in 'Registrum Episcopatus Moraviensis,' No. 164; 'Registrum Episcopatus Aberdonensis' (Spalding Club), Edinburgh, 1845, i. p. 145, and 'Third Report of the Historical MSS. Commission,' Appendix, p. 418.

³ Vol. i. 279.

⁴ See p. 90, note 5 above.

⁵ 10th December 1512, MS. 'Act. Dom. Conc.,' xxiv., fol. 66. Cp. the case of William of Fenton, stated at pp. 85 f. above.

raised a summons against them and lord Cathcart for his interest, craving that they should desist from executing the judgment. Logane and lord Cathcart appeared while the sheriff and his deputes absented themselves. The lords restored Logane to the falsing of the judgment, and directed that the sheriff and his deputes should be charged to "sett and affirm" a court, to receive Logane's surety, and to cease from execution of the judgment until it had been discussed before a competent judge.

The terms of a statute of 1471¹ show that not only final but incidental judgments were open to falsing.

The 'Quoniam Attachiamenta'² contemplates an appeal from the baron court to the sheriff court, and from the sheriff court to the justiciar's court; and we have seen that an appeal lay from the justiciar's court to the king and parliament. Provision was made by the parliaments held in 1368-69³ and 1369-70⁴ for the appointment of a judicial committee,⁵ who should hear and consider the averments and arguments in these appeals and report the conclusion at which they had arrived to parliament for

¹ 'A. P.,' ii. 101.

² C. 9. An appeal lay from a court of regality to parliament. See the case of Nicholas de Suthirland in 1369-70 ('A. P.,' i. 535). See p. 97, note 1 below.

³ 'A. P.,' i. 506-7.

⁴ 'A. P.,' i. 507. A similar provision was enacted by the parliament of 1371-72 ('A. P.,' i. 547).

⁵ It is to be observed that the cases of David de Anandia, John de Lyndesay, and William de Borthwic were decided before the practice of appointing a committee to deal with 'judicia contradicta' had been introduced ('A. P.,' i. 504 ff.). It appears from the first of the cases cited above that the holder of the judgment took part in the appeal proceedings (see also the case of Joanna de Mora ('A. P.,' i. 479)). In the forms given by Bisset he is not mentioned as taking part, and it is possible that this change was contemporaneous with the appointment of judicial committees.

its final decision. In an act of 1503-04¹ a somewhat different form of procedure was prescribed, which was to be observed "in all maner of dumys falsing allsswele brevis as othir ciuile materis." It enacted that when "in the persute of the breve of rycht" a doom was falsed in the court of a sheriff, steward, baillie, or other officer, or depute the falser should present the process within fifteen days to the justice clerk, that a justice ayre should be held forty days thereafter for its discussion, that the justice should issue a precept or summons to the sheriff, directing him to notify the parties of the day appointed, and that the freeholders should attend and "warde" upon the doom under penalty of fine. If in the proceedings in that brieve or any other pleadable brieve the doom were falsed in the justice ayre, the falser was required to present the process within fifteen days to the clerk of register and council. It was the clerk's duty to show it to the king, who was then to depute thirty or forty persons, or more or fewer, with power "as it war in ane parliament to decide and discuss the saide dume." The parties were to have forty days' notice of the diet. If a doom were falsed within burgh, the falser was required to present the process to the chamberlain whose duty it was to fix a court of the four burghs² "vpone xv. dais" for discussing it. If a doom had been falsed before a baron or freeholder, the falser was required to come to the sheriff or the immediate superior of the said baron or freeholder. If a doom had been falsed in the court of the four burghs or in the sheriff court, the falser had "like process to the

¹ C. 41 ('A. P.,' ii. 254).

² As to the court of the four burghs, see note to vol. i. 288, l. 1.

courtis immediate superiour.”¹ These provisions do not seem to have interfered with the activities of the judicial committees elected “ad judicia contradicta,” for these were appointed in 1503-4, 1525, 1526, 1542-43, 1543 and 1544.

We have noticed above² the fines imposed on suitors who had taken part in making a judgment which was afterwards found to have been “evil gevin.”

The Act of 1487,³ which introduced a procedure for the reduction of processes on the substantiation of a complaint of “wranewis and inordinat proceding,” contained the proviso that “this statut hurt nocht processes of falsing of domez quhare it plessis the partj to procede that way.” Erskine⁴ observes that from the passing of this act the process of falsing of dooms fell gradually into disuse, until it gave place to other methods of redress, namely, advocations, reductions, and suspensions. How gradual was its decline may be inferred from the existence of the provisions of the Act of 1503-4⁵ regarding it, and from the

¹ It is to be observed that in ‘The Forme and Maner of Baron Courts,’ c. 17, it is provided that “sic ane Court quhere the four Burrowes are assembled together before the Chalmerlane to knowledge the judgement that is againe said in the burrow Courts, stands to Burges, as finall decreit in Parliament, makand end of all thing before them done.” This statement of the practice accords with the provision of a statute of 1454 (‘A. P.,’ xii. 23). In Bisset’s version of the falsing of dooms, c. 19 (vol. i. 288), it is laid down that “gif the actionis dependis betuix ane burgh and ane lord of regalitie, then it aucht to be discussed in parliament.” See p. 95 note 2 above.

² P. 48 above.

³ C. 10 (‘A. P.,’ ii. 177). See p. 85 above.

⁴ ‘Inst.,’ iv. 2, 39; Stair, ii. 3, 63; iv. 1, 31-34; Mackenzie, ‘Observations on the Ninth Parliament of King James I.,’ c. 117 (1429—30 c. 7 (‘A. P.,’ ii. 18)); Kames, ‘Historical Law Tracts,’ i. 393 ff.; J. D. Mackie and W. C. Dickinson, “Relation of the Manner of Judicatoris of Scotland,” § 19, ‘Scottish Historical Review,’ 1922, xix. 254, 269.

⁵ C. 41 (‘A. P.,’ ii. 254).

fact that a parliamentary committee for the discussion of dooms was appointed as late as 1544.¹ It would appear, however, that in 1560 this form of process was no longer practised.²

The form of falsing dooms contained in Bisset's work supplies many details other than those which we have been considering; and to it and to the relative notes we must refer the reader for a statement of what has been omitted here.

¹ See p. 38 and note 2 above.

² 'Discovers particulier d'Escosse,' escrit . . . par MM. Jacques Makgill, clerck dv Registre, et Jean Bellenden, clerck de la Jvstice, 11 Janvier MDLIX (Bannatyne Club), Edinburgh, 1824, pp. 12, 14 ff. An instance of the employment of this form of process is reported to have occurred in 1511 (Transcript Cur. Itin. Just., 1508-1513, iii. fol. 8, in H.M.S. Register House, Edinburgh).

NOTES

NOTES TO VOLUME I.

Reference by page and line.

2. 15. The reference should be to Deuteronomy, c. xvii., v. 18.

2. 19. Sir George Hay (1572-1634), first Earl of Kinnoul, was appointed Chancellor on 9th July 1622. See 'D. N. B.,' xxv. 259.

3. 25. The reference in the margin is to Josephus, 'Jewish Antiquities,' xi. 8. The previous reference has not been traced.

4. 8. The reference in the margin is to Polydore Vergil, 'De Rerum Inventoribus,' Cologne, 1600, iv. 1.

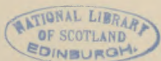
4. 12. Boece (Bellenden's translation), iii. 7, 8, 10, 11, 13-16, makes Caractacus a Scots king, but says nothing of his conversion to Christianity. See Tac. 'Ann.,' xii. 33 *et seq.*

4. 25. A full account of the legends regarding Pilate's birthplace will be found in G. A. Müller, 'Pontius Pilatus, der fünfte Prokurator von Judäa, Richter Jesu von Nazareth,' Stuttgart, 1888. According to one legend he was born at Forchheim, according to another his birthplace was Mainz, and was the base-born son of the King of Lyons and Vienne and a miller's daughter named Pila. Gaul also claimed to be his mother-country, and Vienne and Lyons contended for the doubtful honour of having given him birth (Chouer, 'Histoire de Dauphiné,' Grenoble, 1661, i. 331). See note to p. 8, l. 15 below.

5. 1. As to the removal of the national records to England, see J. Bain, 'Calendar of Documents relating to Scotland,' Edinburgh, 1881, i. pp. vi. ff., and 'A. P.,' i. 24 f.; J. Maitland Thomson, 'The Public Records of Scotland,' Glasgow, 1922, pp. 1 ff.

5. 16. As to Sir John Skene, see G. Neilson, "Skene's Memorabilia Scotica, 1475-1612, and Revisals of Regiam Majestatem," Glasgow, 1923, reprinted from the 'Transactions of the Glasgow Archæological Society,' and 'D. N. B.,' lii. 336. Sir John, says Dr Neilson, "was a noted scholar, lawyer, and ambassador, who from king's advocate had been advanced in 1594 to the clerk-registership and a lordship of session."

5. 20. Appended to Sir John Skene's 'Lawes and Actes be King James the First and his Successors Kings of Scotland visied col-



lected and extracted furth of the Register,' Edinburgh, 15th March 1597, is "ane chronologie of all the Kings of Scotland from the beginning." The privilege granted to him, dated 1st March 1597, authorised him "to caus the saides lawes, constitutiones, and actes be imprented be Robert Waldegrave our prenter or be onie uther quhom it sall pleas him to nominate to that effect, togiddir with ane treatise entitulat De verborum significatione & ane Chronologie of the Kings of this realm."

5. 33. John Leslie or Lesley (1527-1596) landed in France in January 1574, and about a year later proceeded to Rome—Bisset says that he was prior of Equeis, apparently the monastery of Eyssey (Exaquium) in the diocese of Coutance, of which he became bishop in 1592 (J. Dowden, 'The Bishops of Scotland,' ed. by J. Maitland Thomson, Glasgow, 1912, p. 229). The work to which Bisset refers seems to be the bishop's 'Defence of the Honour of the Right Highe Michtye and Noble Princesse Marie, Queen of Scotlande and Dowager of France,' printed in 1569. It was suppressed, re-printed in 1571, and was translated into Latin, French, and Spanish. It was his history of Scotland ('De Origine Moribus et Rebus Gestis Gentis Scotorum') that he published at Rome in 1578, and in it he states that in the reign of Donald, Scotland embraced Christianity. Dalrymple's translation of Leslie's 'History' has been edited by E. G. Cody for the Scottish Text Society (Edinburgh, 1888-95). See 'D. N. B.,' xxxiii. 93 ff.

6. 23. "Little ease" was used as the name of a prison cell too small to permit the occupant to assume a comfortable position. There was a place of confinement situated in the Guildhall for unruly apprentices, and called by this name ('New English Dictionary,' where J. B. Heath, 'Some Account of the Worshipful Company of Grocers of the City of London,' 1869, p. 92 note, is cited).

7. 26. As to the succession of James VI. to the title of Defender of the Faith, see note to ii. 435, l. 14, and relative note.

8. 6. As to Pilate's birthplace, see note to p. 4, l. 25 above.

8. 12, 13. The references are to R. Higden, 'Polychronicon,' iv. 7; Eusebius, 'Hist. Eccles.,' ii. 7; Bede, 'De Sex Ætatibus Mundi,' Sexta Ætas.

8. 15. "Lungdownous" is Bisset's form of "Lugdunus" (Amm. Marcellinus, xv. 11), or "Lugdunum,"—the modern Lyons. See note to p. 4, l. 25 above.

8. 22. St Guthagonus was, according to Thomas Dempster ('Hist. Ecclesiast. Gentis Scotorum' (Bannatyne Club), Edinburgh, 1827, i. 314), of royal birth, and was born A.D. 248. An MS., "Historia Scotica," mentions his banishment and retirement into Flanders. Molanus, 'Natales Sanctorum Belgii,' Douay, 1616, pp. 136 f., from whom Dempster quotes, says that the saint was a Scotsman, and reputed to be of the royal house; that, seeing the vanity of all things,

he retired to Flanders, where he performed many miracles, and that he was buried at Oostkerke.

8. 28. As to Caractacus, see note to p. 4, l. 12 above.

8. 35. The passage of Tertullian ('Adversus Judæos,' c. 7), merely states that the haunts of the Britons, inaccessible to the Romans, were subjugated to Christ. George Thomson ("The Antiquity of the Christian Religion among the Scots," 1594, translated and edited by H. D. G. Law, in the 'Miscellany of the Scottish History Society,' 1904, ii. 121 ff.) quotes the passage as evidence that, in A.D. 403, the whole kingdom of Donald, King of Scotland, received the Christian religion.

9. 5. The references are to Eusebius, 'Hist. Eccl.,' ii. 14, and to Platina, 'In vitas Summorum Pontificum ad Sixtum IV.' As to the various editions of Platina's work, see note to ii. 279, l. 26.

9. 12. St Dionysius, the Areopagite (Acts xvii. 34), has been identified by some writers and the Greek Church with St Denis, the traditional apostle of France, whose mission began about A.D. 250. He was martyred at Lutetia Parisiorum, see Petrus de Natalibus 'Catalogus Sanctorum,' Lyons, 1519, ix. 41. The reference in the text has not been traced.

9. 15. As to the legend of St Andrew, see note to vol. ii. 9, l. 11.

10. 7. John de Serres was the author of a work, translated into English by E. Grimeston, and published in 1607, under the title of 'A General Inventory of the History of France from the beginning of that Monarchy unto the Treatie of Vervins in . . . 1558 . . . and continued unto these Times.' Bisset makes some mistakes of his own, while correcting those of the French author.

10. 28. The date of the Council of Chalcedon is 451 A.D.

11. 18. Bisset writes "populus" in both MSS. The authorship of these verses has not been traced.

14. 14. As to these verses, see note to p. 11, l. 17 above.

15. 23. "Sleuthfullie overslydes," *i.e.*, treats with lazy disregard.

16. 26. The marginal reference is to Livy, iii. 34.

17. 16. "He garte," &c., a proverbial expression denoting the strict suppression of cattle-lifting ('New English Dict.,' *s.v.* "Rush-bush"). Cp., Bower, 'Scotichronicon,' xvi. c. 34; Sir David Lyndsay, 'Poetical Works,' Edinburgh, 1871, "The Complaint to the King," l. 408.

21. 17. William Barclay is probably the miscellaneous writer of that name. See 'D. N. B.,' iii. 174.

22. 5. A certain John Wrey was the author of commendatory verses addressed to Alexander Garden (see next note). These are printed in the Abbotsford Club Edition of the latter's 'A Garden of Grave and Godlie Flowers,' Edinburgh, 1845, pp. xxiv.-v.

22. 24. Alexander Garden is probably the author of 'A Garden of Grave and Godlie Flowers' (see preceding note), 'The Theatre of

the Scottish Kings,' and 'The Theatre of Scottish Worthies.' He was a member of the Society of Advocates in Aberdeen. His birth may be placed before 1585, and he was Master of Arts before 1609. See Dr Laing's Introductory Notice to 'The Theatre of Scots Worthies' (Hunterian Club), 1878; 'History of the Society of Advocates in Aberdeen,' ed. by J. A. Henderson (New Spalding Club), Aberdeen, 1912, p. 198; 'D. N. B.,' xx. 434.

23. 13. James Chisholm of Cromlix succeeded his father before 1598, and died before 1617. Little is known of him except the romantic story of his courtship, and the verses to the lady of his love (see Alexander Mackenzie, 'History of the Chisholms,' Inverness, 1891, pp. 211 ff).

23. 28. Alexander Craig (1567?-1627) was born at Banff, and was educated at the University of Glasgow. He went to London on the accession of James I., and published a volume of poems containing many complimentary allusions to the king and queen. He was granted a pension, and, on his return to Scotland, took up his residence near Perth. From time to time he published volumes of poetry, of which a collective edition was issued by the Hunterian Club in 1873, with an introduction by David Laing. It includes the verses addressed to Bisset.

24. 1. "Mauseol's tomb." The tomb erected for Mausolus, King of Caria, by his wife Artemisia, was one of the seven wonders of the world (Plin., 'H. N.,' 36, 4).

24. 17. Patrick Mackenzie has not been identified.

24. 19. Cicero ('De Legibus,' ii. 2) writes, "Sed necesse est caritate eam præstare qua rei publicæ nomen universæ civitatis est; pro qua mori et cui nos totos dedere et in qua nostra omnia ponere et quasi consecrare debemus."

25. 3. The source of this account of Justinian's consultation with his counsellors has not been traced.

25. 15. Professor Craigie observes that "exquised" is for "exquisite," which is found with the construction "to" in Topsell's 'Four-footed Beasts,' ed. 1673, p. 393. "It is a creature very diligent and exquisite both to compass, seek out and chuse the same."

26. 1. The reference in the margin to Josephus is probably to the preface to his 'Antiquities,' and to c. 5 of book iii. That to Polydore Vergil is to his 'De Rerum Inventoribus,' ii. 1, where Eusebius, 'De Preparatione Evangelica,' c. 10, is cited.

26. 16. By the expression "leif on the iniquities of the peopill be the executioun of guid lawes and sworde of justice," Bisset apparently means that kings and princes should derive a revenue from the fines and escheats of law-breakers.

26. 21. The phrase "justice gif it be subpressit procuris alteratioun of unrichtious judges," may mean that the suppression of justice by unjust judges is a disorder of the body politic. Professor Craigie,

who regards this explanation as not wholly satisfactory, quotes Urquhart's 'Rabelais,' i. xxiii., "By which medicine he cleansed all the alteration and perverse habitude of his braine."

27. 31. The commission to prepare a collection of laws was published in April, A.D. 529, and in rapid succession followed the first Code (A.D. 529), the Fifty Decisions (A.D. 529-32), the Institutes (A.D. 533), the Digest (A.D. 533), and the revised edition of the Code (A.D. 534). From that date until Justinian's death, A.D. 565, there followed a series of novels (see J. H. Muirhead, 'Historical Introduction to the Private Law of Rome,' 3rd ed., London, 1916, p. 365 ff.; Gibbon, 'Decline and Fall of the Roman Empire,' c. xlv.). See the constitutions, 'Hæc quæ,' prefixed to the revised code, and 'Deo auctore' (C. i., 17 1).

28. 6. According to Gibbon, Vigilius purchased the papal throne.

28. 28. "H. B." The numerous references to these initials are to Bellenden's translation of Hector Boece's 'Historia Gentis Scotorum.'

29. 9. "The bodie cured," is Bellenden's translation of Boece's 'corpus exenteratum,' *i.e.*, disembowelled.

29. 12. "At the nixt kirk," an instance of Bisset's curious bent in paraphrase. Boece writes, "Si horum aliquod in dubium veniret, judicem communi assensu dicerent qui Diana violati juris venatici ultrice invocata de controversia ferret judicium." This Bellenden translates thus—"Gif ony contention rais amang the huntaris to cheis ane jugs with all thair consentis in the tempill of Diane to aggre thaim."

29. 27. The passage is taken from Bellenden's translation of Boece (ii. 10), which has "remedyis as they usit quhen they convalessit of thair malidis."

31. 10. "Repledgit," see note to p. 241, l. 12 below.

32. 6. The reference should be to c. 17.

32. 13. The reference should be to c. 9 as well as to c. 6.

35. 1. Skene, in his note to Fordun, iii. 48, observes that "the supposed treaty between Achaius and Charlemagne appears to be based upon the following passage in Eginhard's Life of Charlemagne,—'Scotorum quoque reges sic habuit (Carolus magnus), ad suam voluntatem, per suam munificentiam, inclinatos, ut eum nunquam aliter nisi Dominum, seque subditos ac servos ejus pronuntiarent. Extant epistolæ ab eis ad illum missæ, quibus hujusmodi affectus eorum erga illum indicatur.' . . . But the Scots here referred to were unquestionably the Irish." See John Major, 'History of Greater Britain' (Scottish History Society), Edinburgh, 1892, p. 101, note 1; Hailes, 'Annals of Scotland,' iii. 1 ff.; G. Chalmers, 'Caledonia,' New Ed., Paisley, 1887-94, i. 298.

36. 4. As to the royal arms, see ii. 387, l. 21 below, and relative note.

36. 17. As to King Alexander's ratification of the league, see Boece (Bellenden's translation), xiii. c. 11.

37. 5. 1491, c. 2 ('A. P.,' ii. 224).

37. 8. 1558, c. 6 ('A. P.,' ii. 507). The Letter of Naturalisation in its original form will be found in 'A. P.,' ii. 515. See also 'A. S.,' 11th June 1594.

37. 26. "To the king," is written in error for "by the king." See Act 1558, c. 6 ('A. P.,' ii. 507).

40. 23. "Ceissing and causing to ceis." The paragraph of which these words are the commencement runs as follows in the original: 'Cessans et faisans cesser tous troubles et empeschemenz au contraire Car tel est nostre plaisir non obstant que la valleur de ladite finance ne soit cy specifiee ny declaires Que telz dons naions accoustume faire que pour la moictie ou le tiers les ordonnances par nous et noz predecesseurs faictes sur lordre et distribution de noz finances et mesmes celle du moys de decembre dernier par laquelle Il est dict que tous dons biensfaictz et recompenses seront paieez par le Tresorier de nostre espargne A quoy Nous avons de nostre plaine puissance et auctorite Royal deroge et derogeons et aux derogatoires y contenues par ces presentes Et a quelzconques aultres ordonnances restrinctions mandementz et defenses a ce contraires."

41. 10. 'Vilies Cowstres,' Villers Cotterets.

41. 17. James Makgill of Rankeillour Nethir, Clerk of Register, was a son of Sir James Makgill, Provost of Edinburgh. He was dismissed from his office by Queen Mary, and restored to it by the influence of the Earl of Moray.

41. 24. The laws attributed to King Kenneth are printed in Balfour's 'Practicks,' pp. 679 ff.

43. 25. "Guild," the corn marigold ("chrysanthemum segetum"), see 'New English Dictionary,' s.v. "gold." Two legal fragments (cc. 11, 12 ('A. P.,' i. 750-51)), deal with the offence of planting "guld" ("maneleta"), and suffering it to grow; and in the XVIII. century "gool courts" were held in the parish of Torthorwald, Dumfriesshire, for the purpose of fining farmers among whose growing crops three heads or upwards of the weeds were found ('Statistical Account of Scotland,' Edinburgh, 1792, ii. 4).

44. 24. "and . . . jurisdiction." The words are an addition of Bisset's. His meaning seems to be that questions regarding churchmen's goods belonged solely to ecclesiastical jurisdictions.

46. 33. King Gregory's laws are printed in a somewhat different form in Balfour's 'Practicks,' p. 681.

47. 14. "Faith of bodie," see note to ii. 62, l. 23 below.

48. 6. As to Donald VI., see Skene's edition of Fordun, ii. 409, 421.

48. 20. Malcolm I. is said to have acquired from the Earl of Northumberland the districts of Lothian and Teviotdale, as the result of a battle, A.D. 1018. An almost contemporary historian calls him

"Rex Scotiæ." Scotia had been previously applied exclusively to Ireland. The districts included under that name were still distinguished from Moravia, Ergadia, and Lothian and Cumbria or Strathclyde (Skene's edition of Fordun, ii. xxxi. 382, 412 f.). See E. W. Robertson, 'Scotland under her Early Kings,' Edinburgh, 1862, i. 96; Hume Brown, 'History of Scotland,' Cambridge, 1899-1909, i. 38 note.

50. 11. "be," which makes nonsense of the sentence, is not in Bellenden.

50. 16. After the words "and 3ow)," Bellenden has in brackets the following words, which make the passage intelligible: "wer patent to yow, ye suld knaw that thir armit men."

52. 4. The Roman fort at Bertha is situated upon the Tay, two miles north of Perth (see J. Graham Callander, "Notes on the Roman Remains at Grassy Walls and Bertha near Perth," in the 'Proceedings of the Society of Antiquaries of Scotland' (1919), 5th ser., v. 137 ff.).

52. 22. Hill Burton ('The History of Scotland,' i. 338, note) regards the story of the Battle of Luncarty and the achievement of the Hays as an invention to be attributed in all probability to Boece. See the Douglas 'Peerage,' 2nd ed. i. 544.

52. 35. As to the change in the rule of succession, see Fordun, iv. 29. The laws attributed to King Kenneth are printed in Balfour's 'Practicks,' p. 682.

55. 1. As to King Malcolm's gift of the Crown lands and the nobles' return, see Boece (Bellenden's translation), xi. 19; Fordun, iv. 43, and Skene's note; Hailes 'Annals of Scotland,' iii. 328 f.; Robertson, i. 106; Burton, 'History of Scotland,' i. 342 and note.

55. 11. "Wairdis and releiffis"—On the death of a vassal whose tenure was that of ward (Ersk., 'Inst.,' ii. 5, 5 ff.), and whose heir was a minor, the superior was entitled to the guardianship of the minor's person, and the administration of his estate with the full profits arising therefrom. Relief was a payment due on the entry of an heir as vassal (Ersk., 'Inst.,' ii. 5, 47 ff.).

55. 30. There is a spurious charter by Malcolm II. purporting to grant the church of Morthelach to bishop Beyn, "ut ibidem construatur sedes episcopalis, cum terris meis de Morthelach, ecclesiam de Cloueth cum terra, ecclesiam de Dulmech cum terra" ('Registrum Episcopatus Aberdonensis (Spalding Club), Edinburgh, 1845, p. 3; A. C. Lawrie, 'Early Scottish Charters prior to A.D. 1153,' Glasgow, 1905, pp. 4, 229). It is quoted vol. ii. 24, l. 7.

55. 32. As to St Melok, see note to vol. ii. 424, l. 8.

56. 2. The laws attributed to King Malcolm are of a date much later than that of his reign (see 'A. P.,' i. 51).

56. 27. As to Macbeth, see vol. ii. 156, l. 6, and relative note; Skene's edition of Fordun, ii. 419, 422 f.

57. 2. Macbeth's laws are printed in Balfour's 'Practicks,' pp. 682 f.

59. 8. The traditional account of the descent of the Stewarts from Banquo is now generally discredited. They seem to have been of Breton origin ('The Scots Peerage,' i. 9). The first Steward was named Walter, the second Alan, the third Walter, the fourth Alexander, the fifth James, the sixth Walter.

59. 17. Walter was son of Walter, the third Steward, and became Earl of Menteith.

59. 19. "Larkis"—*i.e.*, Largs.

59. 22. Robert of Tarbolton and Cruyton was son of Walter, the third Steward.

60. 4. King Robert II. had five daughters: Margaret, who married John, Lord of the Isles; Marjorie, who married John, brother of George, Earl of March; Elizabeth, who married Thomas Hay, Constable of Scotland; Isabella, who married, firstly, James, Earl of Douglas, and, secondly, Sir John Edmonstone, ancestor of the Duntreath family; and Jean, who married, firstly, Sir John Keith, eldest son of the Marischal, secondly, Sir John Lyon, ancestor of the Earls of Strathmore, and, thirdly, Sir James Sandilands of Calder, ancestor of the Lords Torphichen ('The Scots Peerage,' i. 16).

60. 29. Robert Stewart was son of David, eldest son of Walter, Earl of Atholl.

60. 30. David, Earl of Strathearn, was the eldest son of the marriage of King Robert II. and Euphame Ross. The Earl's daughter and only child married Patrick, son of Sir Patrick Graham of Dundaff. Robert Grahame was a younger son of Sir Patrick (See 'The Scots Peerage,' vi. 214).

60. 33. The reference to the Earl's daughter and David, Earl of Buchan, is not understood.

61. 17. Where Bisset writes "quha," Bellenden writes "He," that is, King James I.

61. 29. The Countess was the third daughter of the Comte d'Auvergne et de Bouillon.

61. 33. Mar's sudden death raised the suspicion that he had been murdered. Those who desired to clear the King asserted that the deceased had been bled to relieve him of a fever, and that the bleeding, insufficiently stanch'd, had broken out while he was in his bath, with a fatal result (Burton, 'History of Scotland,' iii. 20; Hume Brown, 'History of Scotland,' i. 271).

62. 1. "Gregane," Grizel or Margaret. Her second husband was Earl of Cassillis.

62. 11. James, whom Bisset calls Alexander, was Archbishop of St Andrews, Duke of Ross, and Marquis of Ormond.

64. 16. As to thanes, see Robertson, ii. 444 ff.; Skene, 'Celtic Scotland,' iii. 246 ff.

64. 22. As to the privileges accorded to the Earl of Fife, see Wyntoun, vi. 19; Boece (Bellenden's translation), xii. 9. Burton, ii.

174 note. They were (1) to lead the King from the altar and place him in his chair at his coronation; (2) to command the vanguard in the King's army; and (3) to compound for a homicide committed by any of his kinsmen. See J. Stuart, "Notice of the Early System of Replegiation in Scotland," in the 'Proceedings of the Society of Antiquaries of Scotland,' 1874-75, xi. 163 ff. Laing in his edition of Wyntoun (iii. 239) observes that, according to Hume in the preface to his 'History of the Douglasses,' the leading of the vanguard was the prerogative of the Douglas, and that, if so, he must have enjoyed it as Lord of Galloway.

64. 26. The phrase "he sall have frie regalitie to mak officeris," is borrowed from Bellenden's translation of Boece (xii. 9). Boece explains "regalitas" as "privilegium quoslibet in sua tribu creandi magistratus aut judices juri dicundo constituendi quacunq; in actione extra crimen majestatis læsæ." As to regalities, see note to vol. i. 241, l. 12 below.

64. 35. As to King Malcolm's erection of the church of Durham, see note to vol. ii. 118, l. 10.

65. 1. In 1107 A.D., Turgot, Prior of Durham, was appointed to the bishopric of St Andrews. According to one account, he was confessor to Queen Margaret, and wrote her biography (edited by W. Forbes-Leith, S.J.). He left Scotland and returned to Durham, and died in 1115 A.D. (J. Dowden, 'The Bishops of Scotland,' pp. 1 ff.; Lawrie, pp. 261, 264).

65. 5. According to Turgot, in his life of Queen Margaret, the church at Dunfermline was founded by the Queen immediately after her marriage.

65. 12. The law attributed by Boece to King Ewin III. is not mentioned by Fordun or Major. It is referred to by Lesley, Buchanan, Sir John Skene (note to 'R. M.,' iv. 31: 'De verborum significatione,' s.v. "Marcheta") and others, and is the subject of an essay by Hailes ('Annals of Scotland,' i. 395 ff.), and of a chapter in Karl Schmidt's 'Jus Primæ Noctis,' Freiburg im Breisgau, 1881, pp. 196 ff., who cites and comments upon the not inconsiderable literature regarding it. Schmidt regards the *jus primæ noctis* as a "gelehrter Aberglaube," but Westermarck ('The History of Human Marriage,' 5th ed., London, 1921, i. 174 ff.), holds his arguments to be inconclusive, and cites modern instances of the exercise of the "droit de seigneur." See E. Crawley, 'The Mystic Rose,' London, 1902, p. 347, 475, 479; A. H. Post, 'Grundriss der Ethnologischen Jurisprudenz,' Leipzig, 1894-95, i. 24. According to Cosmo Innes ('Lectures on Scotch Legal Antiquities,' p. 53), "the merchet of women with us was simply the tax paid by the different classes of bondmen and tenants and vassals when they gave their daughters in marriage, and thus deprived the lord of their services to which he was entitled *jure sanguinis*."

65. 25. The foundations of Alexander I. and David I. are dealt with by Bisset in his third book (vol. ii. 105 ff. See relative notes).

66. 4. Some light is thrown upon the imperfect text by the corresponding passage in Bellenden's translation of Boece (xii. 16). He writes,—[David] "did greit justice after his coronation, in all partis of his realme. . . . He gart ilk judge redres the skaithis that come to the party be his wrang sentence."

66. 6. As to King David's foundations, see note to p. 65, l. 25.

66. 20. As to the fable of King David's "exploraturis," see Hailes, 'Annals of Scotland,' iii. 296, who regards Ferrerius, author of the 'Historia Abbatum de Kinlos' (edited for the Bannatyne Club, Edinburgh 1839), as its originator.

67. 10. As to "the statutis of gyld brether," see 'A. P.,' i. 44, 431 ff.

67. 15. As to "the chalmerlane of Scotlandis airis," see 'A. P.,' i. 51, 693 ff.

67. 16. The date 1265 given by Bisset as the forty-ninth year of King William's reign is erroneous. It should be 1214.

67. 18. As to "the forrest laws," see 'A. P.,' i. 51, 687 ff.

67. 19. As to King Alexander's laws, see 'A. P.,' i. 43, 397 ff.

67. 23. As to the removal of the national records to England, see note to p. 5, l. 1 above.

68. 1. The first Statutes of Robert I. belong to the year 1318 ('A. P.,' i. 44, 466).

68. 7. The second statutes of Robert I. are "either repetitions of the first code, or laws of other kings, or chapters of no authority" ('A. P.,' i. 45). In his address to the reader prefixed to his edition of the 'Regiam,' published in 1609, Sir John Skene observes "Verum nonnullas constitutiones, quarum auctor est incertus, & inter Apocryphos tractatus male relatæ sunt, dignæ tamen quæ in usum revocentur, in unum titulum conjeci; cui inscriptio est, 'Statuta 2. Rob. I.' Nam in vulgatis codicibus mentio fit cum priorum tum posteriorum Statutorum Roberti primi; & cuilibet legenti manifestum est posteriores ejus constitutiones, fere easdem esse cum prioribus, ut mirum sit ea vecordia fuisse scriptores, qui easdem bis scripserunt. Ne igitur desideraretur titulus secundorum statutorum, his quæ numero quidem pauca sunt, diversæ a prioribus constitutionibus, eas quæ sunt incerto auctore adjeci."

68. 13. The parliament at Canibuskeneth was held on 15th July 1326 (see 'A. P.,' i. 14, 475, 483).

68. 23. The parliament of David II. was held at Scone on 6th November 1357. Skene places a number of laws ascribed by all the MSS. to David I. under this reign ('A. P.,' i. 45, 491).

68. 27. The record of the Court of the Four Burghs rests on the sole authority of Skene ('A. P.,' i. 51, and note, 309, 703 f.).

68. 31. There is no record of a parliament held at Scone on 2nd May 1372. See 'A. P.,' i. 76.

69. 9. See the record of the parliament of Robert III. referred to ('A. P.,' i. 575).

69. 18. By the act 11th March 1425-26, c. 10 ('A. P.,' ii. 10), a commission was appointed to "se and examyn the bukis of law of this realme, that is to say 'Regiam Majestatem' and 'Quoniam Attachiamenta,' and mend the lawis that nedis mendment."

69. 32. The Act 11th March 1425-26, c. 4 ('A. P.,' ii. 9), provides for registration "til perpetuale memore." As to Lekprevik's edition, see note to p. 72, l. 30 below.

69. 35. As to the publication of Statutes, see the Act 11th March 1425-26, c. 21 ('A. P.,' ii. 11).

70. 12. 1457, c. 39 ('A. P.,' ii. 52).

70. 17. The true date of the Act referred to is 1469, c. 20 ('A. P.,' ii. 97). See 'A. P.,' i. 28 and note.

70. 30. The marginal note refers to John Gutenberg and his partner John Faust or Fust, who set up a printing-press at Mainz about 1450 A.D.

71. 5. "In the year 1507 the art of Printing was introduced into Scotland under the royal auspices avowedly for the purpose of 'imprenting within our realme the Bukis of our Lawis, Actis of Parliament, Croniclis, Mess Bukis,' &c., and exclusive privileges were conferred on the first printers for their encouragement and support in the execution of these national works." ('A. P.,' i. 28, where the privilege granted to Walter Chepman and Andro Myllar, the first Scottish printers, will be found. See also R. Dickson and J. P. Edmond, 'Annals of Scottish Printing from the Introduction of the Art to the beginning of the 17th Century.' Cambridge, 1890).

71. 13. Marginal note "Mentis," "Moguntia," *i.e.* Mainz.

71. 15. As to Thomas Davidson, see note to l. 21 below.

71. 17. The reference in the margin to Polydore Vergil is to his 'De Rerum Inventoribus,' ii. 7.

71. 21. Sir James Foulis of Colintoun, Clerk Register, chose Thomas Davidson to print the Acts of three parliaments of James V., and this appointment placed him in the position of King's Printer (Dickson and Edmond, 105). The Act referred to is 1540, c. 47 ('A. P.,' ii. 379).

71. 34. As to Thomas Davidson, see immediately preceding note.

72. 16. As to Sir James Balfour, see note to p. 84, l. 25.

72. 21. As to Edward Henrysone, see note to p. 82, l. 2.

72. 30. Robert Lekprevik obtained letters under the Privy Seal authorising him to print the Acts of Queen Mary and her predecessors; and in 1568 he was appointed King's Printer for twenty years, with a monopoly of printing the statutes, 'Regiam Majestatem,' and other books (Dickson and Edmond, 201 and note, in which the licence is quoted).

73. 1. "In albis, unbund." Dr W. B. Blaikie informs us that in

his opinion the phrase means "in sheets." In answer to a question addressed to the editor of 'Notes and Queries,' Mr R. Pierpoint (N. and Q., ser. vi., May 22nd 1920) suggests "rolls," or "registers," as the meaning. Dickson and Edmond (p. 227 note) quote the passage in which the phrase occurs; and in reference to Lekprevik's edition, they observe (p. 227) that "before many copies of the work had time to find their way into private hands, the remainder of the impression underwent several important alterations, so that the volume as it originally left Lekprevik's press is very rare indeed, while the altered copies, which bear the date of 28th November 1566, are common enough. The changes had evidently been made with a view to get rid of certain Acts of King James V. and Queen Mary relating to the upholding of the Roman Catholic religion—no doubt considered obnoxious by the reformers. . . ." The authors proceed to indicate in detail the nature of the alterations.

73. 2. As to James Makgill of Nethir Rankeloure, see note to p. 41, l. 17 above.

73. 15. 1578, c. 18 ('A. P.,' iii. 105).

73. 17. 1592, c. 45 ('A. P.,' iii. 564).

76. 19. The remaining portion of Bisset's Preface, as given in the Edinburgh University MS., is printed in Professor G. Gregory Smith's 'Specimens of Middle Scots,' Edinburgh, 1902, pp. 239 ff.

77. 13. Bisset's statement as to his choice of language recalls the somewhat similar statement by the author of the 'Complaynt of Scotland' (Edinburgh, 1801, p. 25 f.).

77. 20. "Archadicien." The MSS. have a stroke over the "n" which may stand for "e." The word appears to be an adjective meaning "Written in antiquated language." Professor Gregory Smith prints "archidicienis," and explains the word as "a ἀπαξ λεγ, meaning either 'speakers or writers of antique words,' or 'master writers.'"

77. 21. "Minzearde." Professor Gregory Smith quotes 'Basilikon Doron' (1603), 15,—“all mignard and effeminate terms,” of which, as he observes, "Bisset's phrase is probably an echo."

78. 15. For "paterne" Professor Gregory Smith prints "patrone." See his note.

79. 12. The Queen's Commission is prefixed to the first edition of the statutes (see 'A. P.,' i. 29 note).

80. 10. Articles dealing with the commissioners named, with the exception of John, Earl of Atholl (see 'The Scots Peerage,' i. 444), will be found in the 'D. N. B.'

80. 20. As to Sir James Balfour, see note to p. 84, l. 25.

80. 24. John Spens, son of John Spens of Condie in Perthshire, was appointed joint advocate with Henry Lauder on 21st October 1555. After Lauder's death in 1560 ('Edin. Com. Testaments,' i., 13th February 1567-68), he was made a judge,—an office which

he held along with that of Advocate. In 1559 Robert Crichton was appointed joint Advocate with him. He continued Advocate until his death in 1573 (G. Brunton and D. Haig, 'An Historical Account of the Senators of the College of Justice,' Edinburgh, 1832, p. 105; G. W. T. Omond, 'The Lord Advocates of Scotland. . . ' Edinburgh, 1883, i. 21 ff; 'D. N. B.,' *s.v.*). Robert Crichton of Eliok was appointed Lord Advocate jointly with John Spens of Condie, on 8th February 1559-60, and with David Borthwick of Lochhill, on Spens' death in 1573. On 1st February 1581-82, he became sole Advocate and a senator of the College of Justice. He died on 20th June 1582 (Brunton and Haig, p. 176; Omond, i. 21 ff. 'D. N. B.,' xiii. 87, 91; 'Edin. Com. Testaments,' xvi., 24th Jan. 1586-7).

80. 26. As to Edward Henrysone, see note to p. 82, l. 2.

81. 27. The Queen's privilege to Henrysone is prefixed to the first edition of the statutes ('A. P.,' i. 29 note).

82. 2. Henrysone's preface is prefixed to the first edition of the statutes ('A. P.,' i. 29 note). Edward Henrysone (1510?-1585; 'Edin. Com. Testaments,' 24th July 1590), studied Roman Law at the University of Bourges. In 1552 he returned to Scotland and seems to have practised as an advocate. In 1554 he was elected professor of Roman Law at the above-named University, and acquired a high reputation as a civilian and scholar. On resigning his professorship he returned to Scotland and, in 1557, was appointed Counsel for the Poor. He became a commissary in 1563, and an extraordinary Lord of Session in 1566 ('D. N. B.,' xxvi. 129 f., Brunton and Haig, p. 132).

84. 19. As to John, bishop of Ross, see note to p. 5. l. 33 above.

84. 25. An account of Sir James Balfour's career will be found in the 'D. N. B.,' iii. 52 f. We note here only a few particulars relating to his official life. He was trained for the priesthood, and, adopting the legal side of that profession, became chief judge of the consistorial court of the archbishop of St Andrews. He was rewarded for his betrayal of the counsels of the lords of the congregation by the preferment of the parsonage of Flisk. He was appointed an extraordinary lord of session in 1561, ordinary lord in 1563, and chief of the four commissaries constituted in the latter year. In 1567, on his resignation of the office of Clerk Register, he was advanced to the office of president of the Court of Session. See note to vol. ii. 275, l. 22.

86. 2. 'R. M.,' ii. 1.; c. 10 X. de verb. signif. v. 40.

86. 3. Title I., c. 2, is not in Skene's 'Forme.' See the "Admonition to Judges" (p. 122 below and relative note).

86. 21. Ass. Will. (Skene's edition) c. 25 is not printed in the 'A. P.'

86. 22. The Act 1318, c. 22 ('A. P.,' i. 472), provides against the maintenance of suits by judges. The Act 1424, c. 24 ('A. P.,' ii.),

deals with the punishment of the judge who refuses "to do the law evinly."

86. 23. The Act 1427, c. 1 ('A. P.,' ii. 14), provides that the parliamentary committee chosen *ad terminandas causas* shall be sworn to act without favour, hatred, fraud, or bias. The Act 1540 c. 22 ('A. P.,' ii. 374) provides for fining unjust judges.

86. 25. As to the case of "The Queen's Advocate *v.* John Udny," see Balfour's 'Practicks,' p. 407.

86. 33. 'R. M.,' i. 1, 2.

87. 6. 'R. M.,' i. 1; iv. 4; Stat. Alex. II. c. 14. ('A. P.,' i. 403). The reference in the text to "lib. 4 c. 55" (of Skene's edition) should be "lib. 4 c. 5 (5)."

87. 11. "Curia Christianitatis"—*i.e.*, court of ecclesiastical jurisdiction. See Skene's 'De verborum significatione,' *s.v.* "Curia."

87. 14. Actions "effected with ane aith"—*i.e.*, "juramenti interpositio." See note to vol. ii. 63, l. 20.

87. 15. 'R. M.,' i. 3; ii. 31, 45, 54; iii. 6.

87. 18. As to "fidei vel juramenti interpositio," see note to vol. ii. 63, l. 20.

87. 21. 'R. M.,' iii. 6.

87. 27. 'R. M.,' i. 1, 2, 4.

87. 31. 1532, c. 2 ('A. P.,' ii. 335).

88. 1. As to the bulls of Clement VII. and Paul III., see note to l. 18 below.

88. 5. The ratification referred to is contained in the Act 1532 c. 2 ('A. P.,' ii. 335).

88. 13. The first Act referred to is 1532 c. 2 ('A. P.,' ii. 335), relating to the institution of the College of Justice. Chapter 43 is the Act of Sederunt of 27th May 1532, and chapter 68 is the king's ratification of 10th June 1532, both of which are printed in the authorised edition of the 'Acts of Sederunt' (May 1532—January 1553 with additional acts), Edinburgh, 1811, pp. 2-6. See note to p. 103, l. 18 below.

88. 14. The reference to the Act James 6, parl. 8, c. 139 (1584 c. 15 ('A. P.,' iii. 300)), seems to be erroneous. Skene refers to James 6, parl. 18, c. 18 (1606 c. 25 ('A. P.,' iv. 300)), which seems to be even less in point. Perhaps the reference should be to 1606 c. 38 ('A. P.,' iv. 305).

88. 18. The Papal Bulls are printed in the edition of the Acts of Sederunt referred to in the note to l. 13 above. The reader is again warned that Bisset's paraphrase is not to be relied upon (see vol. I, xiii).

The Bull of Clement, dated 13th September 1531, proceeds upon the narrative that the Duke of Albany had made known to the pope the king's desire to establish a college of learned men, of whom half should be ecclesiastics to be chosen by him, for the administration of justice, that the project required more money than the royal resources

could supply; that the king asked that the prelates—*i.e.*, the holders of benefices of every class from and inclusive of priories upwards—should be directed to contribute a subsidy; and that the pope approved of the proposal. Accordingly, the pope ordained that, so long as the king and his successors remained true to the faith and to the papal see, the prelates should contribute 10,000 ducats *auri de camera*. This arrangement was modified by a bull of Clement's successor, Paul III., dated 10th March 1534-35. It narrates the provisions of the bull of 13th September 1531, and states that the amount of the contribution had been reduced to £1400 to be paid out of the benefices in the patronage of the prelates as they fell vacant. It was to be levied and raised by the college and its collector, and was to be distributed ("per modum distributionum quottidianarum . . . loco annuarum pensionum") free of all charges among the judges in proportion to their attendance. The bull proceeds to deal with the relation of the college to the ecclesiastical jurisdiction, and provides for publication, for penalties in case of disobedience to its injunctions, and for certain matters of procedure. The confirmatory bull, dated 12th March 1534-35, narrates that the college of justice had been constituted with a president and fourteen counsellors, of whom the president and half of the counsellors were ecclesiastics with jurisdiction in civil causes. It signifies approval of the institution and provides for the protection of the property, rights and privileges, not only of judges, but of the advocates, writers, notaries, and officials of the court, and for bringing to justice all who should molest them in the peaceable enjoyment thereof.

The history of this endowment of the college is the subject of two valuable articles by Professor R. K. Hannay (see 'Scottish Historical Review,' 1918, xv. 30 ff., and 'The Book of the Old Edinburgh Club,' 1922, xi. 87 ff.).

The article regarding the order of justice which was approved by the three estates, and ratified by the king on 17th May 1532 ('A. P.,' ii. 335), marks not so much the birth of an institution as a stage in the development of an institution already in existence. It proceeds on the narrative that the king "is maist desyrous to . . . institute ane college of cunning and wise mene baith of spirituale and temporale estate for the doing and administracioune of Justice in all civile actiouns, and therfor thinkis to be chosin certane persounis maist convenient and qualifyit therfore to the nowmere of xiiij persounis half spirituale half temporall with ane president, the quhilkis persouns sall be auctorizate in this present parliament to sitt and decyde apone all actiouns civile and nane utheris to have voit with thaim onto the tyme that the said college may be institute at mare lasare. And thir persounis to begyne and sitt in Edinburgh," at certain times appointed, and "to be sworne to minster justice equaly to all persounis . . . with sic uthir rewlis

and statutis as sall pleis the kingis grace to mak and geif to thaim for ordouring of the samin." The king, with consent of the estates, ordained this article to have effect, and chose certain persons named "quhais process, sentencis and decretis sall have the samin strenth, force and effectis as the decretis of the lordis of sessioun had in all tymes bigane." The lord chancellor if present was to preside, and it was in the king's pleasure to add to the judges three or four lords of his great council with power to vote. These provisions recall to us those of the king's letter to the chancellor (see MS. 'Acta Dom. Conc.,' 14th February 1530-31) appointing certain persons spiritual and temporal to vote in the decision of civil causes, and prescribing that at least fourteen of their number should remain with the chancellor to do the work of the court. And when we consider the provisions of the A.S., enacted on 27th May 1532, we find that many of them are revisions and adaptations of rules previously in existence. Thus the duties of the macers (MS. 'Acta Dom. Conc.,' under dates 23rd July 1511, 13th March 1526-27, 14th February 1530-31, and MS. 'Royal Letters, Council and Session,' No. I., see note to p. 153, l. 22 below), the restrictions upon admission to the council house (*ib.*, see note to p. 153, l. 22 below), and the calling of summonses by the Table ('Acta Dom. Conc.,' ii. 61 under date 21st January 1496-97; MS. 'Acta Dom. Conc.,' under dates 13th March 1526-27, 14th February 1530-31, 13th November 1531; MS. 'Royal Letters, Council and Session,' No. I.) had all been the subject of earlier regulation.

88. 28. "Borne legattis." "Legati nati" are legates whose office is not personal but attached to the ecclesiastical dignity which they hold.

89. 8. Bisset writes: "Jerholme de Clientis" for "Hieronimus de Ghimitijs," the Latinized form of Jerome de Ghinucci, who was auditor of the Papal Chamber, bishop of Ascoli and nuncio. He was nominated bishop of Worcester by a bull dated at Rome, 6 Cal. Oct. 1522 ('Letters and Papers, Foreign and Domestic,' Henry VIII., iii., pt. 2, No. 2569), and was deprived of the bishopric in 1534 (25 & 26, Henry VIII., c. 27).

89. 9. "Vigorme" for "Wigorniensis" (Worcester).

90. 29. A ducat of gold of the chamber was equivalent in value to £1 Scots ('Acta Dom. Conc.,' 27th January, 1502-3, xii. fol. 50; Act of 20th August 1524 ('A. P.,' xii. 41); A. Theiner, 'Vetera Monumenta Hibernorum et Scotorum,' Rome, 1864, p. 524, No. DCCCXXVI). The £1 Scots was then equal in value to one-fourth of the £1 sterling (see next note).

91. 18. "The said sowme . . . streviling money." The original has "summa decem millium ducatorum predicta ad mille et quadringentas libras usualis monete regni predicti, trecentas quinquaginta libras sterlingorum vel circa constituentes, reducta." Here and at ll. 28,

30, p. 92, l. 21, and p. 93, l. 21, Bisset writes "fourtie" for "four hundred."

91. 35. "Chaptourlie kirkis" is Bisset's rendering of "capitulorum, ecclesiarum." See note to p. 99, l. 31 below.

92. 5. "Dalie deceis" is Bisset's rendering of "decedentibus modernis . . . possessoribus."

95. 10. The bishop of Galloway was Henry Wemyss. He was appointed to Candida Casa (Whithorn), 24th January 1525-26, and died shortly after 14th March 1540-41 (Dowden, 'The Bishops of Scotland,' p. 372).

95. 12. James, Abbot of Newbottill, is mentioned as holding that office in 1531-32 ('Registrum de Dunfermlyn' (Bannatyne Club), Edinburgh, 1842, No. 464), and in 1554 ('A. P.,' ii. 603).

95. 13. The holder of the office of provost of the church of St Mary of the Rock, 1531-1540, was Sir James Kincragy, Dean of Aberdeen ('Reg. Sec. Sig.,' ii. 872, 987, 3598). "Præpositura Sancte Marie de Rupe" seems to have been the old name of the Provostry of Kirkheugh (see J. Martine, 'Reliquiæ Divi Andreae,' St Andrews, 1797, pp. 209 ff.).

96. 15. The bull "Volentes" is printed in c. 1. VI. de Privilegiis, v. 7.

96. 26. As to these orders, see notes to vol. ii. 111, l. 7; 112, ll. 15, 30; 122, l. 22.

97. 33. "Genitus" is an addition of Bisset's, written in error for "Ghimitijs" which occurs in the original.

99. 31. "Chaptourlie conventionis" is Bisset's rendering of "capitula . . . conventus." See note to p. 91, l. 35 above.

100. 30. "Archdene" is used as here by Wyntoun and other Scottish writers as equivalent to archdeacon ("archidiaconus") ('New English Dictionary,' *s.v.*).

101. 22. "Informe and faithfullie procur." The words represent "insinuent et fideliter publicare procurent."

103. 18. The Act referred to is 1532, c. 2 ('A. P.,' ii. 335). Among the statutes of the reign of James V. "as given in all the printed editions, there is to be found an unwarranted interpolation which has been here rejected. After the Act of the Parliament, May 27, MDXXXII., establishing the College of Justice, there are introduced into those editions, as Proceedings of the same Parliament, a series of Acts of the Lords of Council and Session, and a royal ratification of those Acts, of which the originals remain on record in the Books of that Court; but which either among the Records of Parliament, or in a compilation of genuine Parliamentary Proceedings, could have no place" ('A. P.,' ii. p. xiv). These omitted Acts and the royal ratification are printed in the authorised edition of the 'Acts of Sederunt' (May 1532 - January 1553), Edinburgh, 1811. The royal ratification is printed at vol. i. 118 ff.

103. 33. The exemption is contained in the royal ratification (see note to p. 103, l. 18 above).
104. 6. 1540-41, c. 10 ('A. P.,' ii. 371).
104. 22. 1540-41, c. 22 ('A. P.,' ii. 374), entitled "The panis imput to wrangous Jugis."
104. 26. 1543, c. 7 ('A. P.,' ii. 443).
105. 4. 1579, c. 38 ('A. P.,' iii. 153).
106. 29. "repeititng of allegeances," see p. 113, l. 23-l. 34.
106. 33. Ass. Will. c. 25 (Skene's edition), is not printed in the A. P.; 1318, c. 22; 1540-41, c. 22 ('A. P.,' i. 472; ii. 374).
106. 37. 1592, c. 50 ('A. P.,' iii. 569).
108. 12. 1594, c. 21 ('A. P.,' iv. 67).
108. 17. 'A. S.,' May 1605. The version printed in the 1811 edition of the 'Acts of Sederunt' differs verbally in many particulars from Bisset's version.
108. 25. As to Sir Alexander Seton, first Earl of Dunfermline, see 'D. N. B.,' li. 261 ff.
109. 29. "3ea these," printed "ye and thes," in the 1811 edition of the 'A. S. S.'
111. 20. "Within," printed "with" in the 1811 edition of the 'A. S. S.'
112. 23. "Guardonis," *i.e.*, "guerdons," "rewards," "recompenses." The 1811 edition of the 'A. S. S.' has "guardians."
112. 27. The 1811 edition of the 'A. S. S.' has "be" after "labouris."
112. 36. The 1811 edition of the 'A. S. S.' has "and" after "chancellare."
113. 5. "intreated." The 1811 edition of the 'A. S. S.' has "treated."
113. 22. "ressonit." The 1811 edition of the 'A. S. S.' has "received."
114. 10. "sall refuse and reclame." The meaning of the sentence in which this phrase occurs is obvious; but the phrase itself seems to suggest the opposite of what it is used to express.
114. 25. The supernumerary or extraordinary lords were those who were appointed by the king to sit with the "lordis numeraris ordinarie"—*i.e.*, the fourteen judges ordinary. The appointment of extraordinary lords continued to be made from time to time until 1723 (10 Geo. I. c. 19). As to this 'A. S.,' see the 1811 edition of the 'A. S. S.,' p. 55 note.
115. 17. "lord numeraris ordinarie." See note to p. 114, l. 25.
115. 26. See the 1811 edition of the 'A. S. S.,' p. 55 and note.
116. 34. 'A. S.,' 4th March 1532 (Grant MS. 26).
116. 35. The reference seems to be to 1543, c. 7 ('A. P.,' ii. 443).
117. 3. 1593, c. 24 ('A. P.,' iv. 22).

117. 7. 'A. S.,' 4th March 1532-33 (printed in the 1811 edition of the 'Acts of Sederunt').

117. 13. John Reid was provost of the collegiate church of St Mary founded in 1504 by John, first lord Semple, within the park near his residence of Castle Semple in the parish of Lochwinnoch, Renfrewshire. It was endowed for a provost, six chaplains, two singing boys, and a sacrist (J. M. Mackinlay, 'Ancient Church Dedications in Scotland (Scriptural Dedications),' Edinburgh, 1910, p. 85). The charter of foundation is printed in the 'Archæological and Historical Collections relating to the County of Renfrew,' Paisley, 1885, i. pp. 57 ff.

117. 17. Bisset writes "Sinclair" in error for "Gibson." William Gibson was dean of Restalrig, and one of the judges of the Court of Session appointed in 1532 (see 'A. S.,' 27th May 1532, and G. Brunton and D. Haig, 'An Historical Account of the Senators of the College of Justice,' Edinburgh, 1832, p. 13).

117. 27. 1587, c. 21 ('A. P.,' iii. 445).

118. 12. The king's ratification is printed in the 1682 edition of the Statutes (see note to p. 103, l. 18 above), and in the 1811 edition of 'Acts of Sederunt.' See note to p. 103, l. 18 above.

118. 16. "ane certane of persones." Bellenden in his translation of Boece (vii. 16) uses the phrase "ane certane of Britonis."

118. 31. "Or" seems to be an interpolation of Bisset's.

119. 10. Murmuring or defaming judges is an indictable offence (Hume, 'Commentaries,' i. 341).

120. 7. "threttie sevin 3eir." It was the nineteenth regnal year.

120. 8. 1593, c. 22 ('A. P.,' iv. 22).

121. 17. 1600, c. 12 ('A. P.,' iv. 227).

121. 37. 1594, c. 21 ('A. P.,' iv. 67).

123. 17. The first reference seems to be to Ass. Will. (Skene's ed.), c. 25 (not printed in the 'A. P.');

De Maritagio, cc. 2, 4; 1318, c. 2 ('A. P.,' i. 467). A version of De Maritagio will be found in MS., Adv. Libr. 25.5.6. See Balfour's 'Practicks,' p. 280.

123. 18. The reference should be to Leges Malcolmi Makkeneth, c. 14 (Skene's ed.) and to c. 14 ('A. P.,' i. 712).

124. 3. This title is not in Skene's 'Forme.'

124. 6. Sir George Mackenzie in his 'Observations on the Fifth Parliament of King James V.,' c. 59 (*i.e.*, § 20 of the 'A. S.,' 27 May 1532. See note to p. 103, l. 18 above), states that "at first there was but one clerk of session who was called the clerk of council, as is clear by the 53 Act of this Parliament" (*i.e.*, § 14 of the 'A. S.' cited above), "and he was chosen *per vices* out of the writers to the Signet," then called clerks to the Signet. These clerks were admitted by presentation from the secretary or lord keeper of the Signet upon a trial of their sufficiency (Bankton, iv. 4. 10).

124. 15. The word "signature," "in its most proper meaning,

signifies a writing indorsed by a clerk or writer to the Signet, and presented to the king or the barons of Exchequer, as the king's commissioners, importing a grant of some subject, office, or right, to him by whom, or in whose name, it is presented" (Ersk., 'Inst.,' ii. 5, 82).

124. 21. 'A. S.,' 27th May 1532, §. 18.

125. 3. The reference is as given.

125. 15. 'A. S.,' 30th October 1564 (Grant MS. 37). The ratifying 'A. S. S.' have not been traced.

125. 22. 1593, c. 25 ('A. P.,' iv. 22).

126. 2. 'A. S.,' 22nd June 1589 (Grant MS. 55, under date 22nd June 1586).

126. 11. 'A. S.,' 22nd June 1586 (Grant MS. 55).

126. 16. 'A. S.,' 14th August 1590 (Grant MS. 68).

126. 23. 'A. S.,' 14th August 1590 (Grant MS. 68).

126. 28. "Battered." Until the end of the XVII. century deeds were written on rolls of paper battered ("pasted") together lengthways. See 1696, c. 15 ('A. P.,' x. 59).

126. 29. 'A. S.,' 14th August 1590 (Grant MS. 68).

127. 5. 'A. S.,' 14th November 1569 (part of 'A. S.,' 22nd June 1586, as given in the Grant MS. 55); 'A. S.,' 22nd June 1586 (Grant MS. 55).

127. 7. Title 4 is not in Skene.

127. 8. In the following passage from Stair (iv. 3, 4) the practice relating to summonses with or without bills is set forth. He states that ordinary summonses followed the style in common use and "were directed to sheriffs in that part, having a blank for inserting the name of any person the pursuer pleased, who thereby was substituted in place of the sheriff; and they behoved to be continued, and entered, into a roll or table dividing the several causes for every day in the week, and for the four quarters of the kingdom. And because some summonses required more speedy dispatch, therefore, the writers could make no alterations in these points, but did address to the Lords by bills, and did obtain warrants from the Lords for summons, dispensing with some, or all, of these requisites, which therefore were called 'privileged summonses'; and they bear at the end of the summons *Ex deliberatione Dominorum Concilii*. And likewise such summonses passed upon bill, as were of a special nature, not comprehended in the ordinary style; which at first were perused and considered by the Ordinary on the Bills, and passed if they were found relevant; but being exceedingly multiplied they passed in course upon the trust of the writers and clerk to the bills, that no bill pass but what is accustomed; and therefore they pass only *periculo petentis*." (See also Stair, iv. 3, 32; W. Ross, *op. cit.*, i. 298 f.; Æn. J. G. Mackay, 'The Practice of the Court of Session,' Edinburgh, 1877-79, i. 62).

Bills were also required before certain diligences could proceed (Mackay, *loc. cit.*; W. Ross, *op. cit.*, i. 237 ff.), and in case of summonses in which the King had an interest, letters of advocacy and letters of suspension, suspension and liberation, and suspension and interdict (Mackay, i. 63).

127. 15. "Transferringis." "An action of transference was formerly necessary where a party to an action died, or transferred the right in respect of which the action was raised in order that his representatives might proceed with it" (Mackay, i. 492; Stair, iv. 34, 1-3).

"Spulzeis." The Act 1457-58, c. 2 ('A. P.,' ii. 47), divides spuilzies into spuilzies of moveables and spuilzies "done because of landis or possessionis debatable or grondyt apone fee and heretage." In Mackenzie's time the term "spuilzie" was limited to the taking away of moveables without the consent of the owner or order of law ('Observations on the fourteenth Parliament of King James II.,' c. 61. See Stair, i. 9, 16-24; iv. 30, 1-6). Mackenzie observes (*loc. cit.*), that the dispossessing a man out of his heritage is called ejection (see Stair, iv. 28), and that the maxim "spoliatus ante omnia restituendus" applies to both forms of spuilzie. The maxim seems to have been incorporated into Scots law by the Act 1449-50, c. 8 ('A. P.,' ii. 34. See Introduction to 'Acta Dom. Conc.,' ii. p. lxxi.). Pollock and Maitland (ii. 48) remark that the action of novel disseisin was undoubtedly "suggested by the canonist's 'actio spoli,' which itself had its origin in the Roman interdict 'unde vi.'" The Act 1457-58, c. 19 ('A. P.,' ii. 50), mentions "spulze of gudis othir be thift or reif." (Hume 'Commentaries,' i. 73 f.) points out the distinction between spuilzie and theft or stouthrief.

127. 17. "Recognitionis." "The word, as it was anciently used, included under it all the ways by which the superior returned to his fee, or claimed it again as his own. . . . But the term came afterwards to be used in a more limited signification, to express that special casualty by which the fee returned to the superior in consequence of the alienation made by the vassal of the greatest part of it to a stranger, without the superior's consent" (Ersk., 'Inst.,' ii. 5, 10; Stair, ii. 11, 10-28; iv. 14, 1-6. See Skene, 'De verborum significatione,' s.v. "Recognition").

"Disclamationis." "Disclamation is when the vassal denieth his superior to be his superior" (Stair, ii. 11, 29; iv. 14, 2; Ersk., 'Inst.,' ii. 5, 51. See Skene, 'De verborum significatione,' s.v. "Disclamation").

127. 18. "Purpresture." See note to p. 310, l. 18 below.

127. 19. "Awaill of mariaige." "Marriage in the feudal sense of the word, or 'Maritagium,' is that casualty by which the superior was entitled to a certain sum of money, to be paid by the heir of his former vassal, who had not been married before his ancestor's death, at his age of puberty, as the avail or value of his tocher" (Ersk.,

'Inst.,' ii. 5, 18). "As by the later practice the single avail was estimated at two year's free rent, it is probable that the double, if the quantum of it had been lately brought into dispute, would not have exceeded three. The double avail was not due except in the precise case where the superior, having offered to the heir a wife without disparagement, the heir, not contented with refusing the match offered, intermarried with another woman without the superior's consent" (*Id. ib.*, ii. 5, 21. See Stair, ii. 4, 38, 60; Skene, 'De Verborum Significatione,' *s.v.* "Maritagium Hæredis").

127. 20. Tinsel or forfeiture of the superiority was the penalty imposed on a superior who failed to obey a charge to enter and infest the restored heir of a deceased vassal (Stair, iii. 5, 46; iv. 7, 1; Ersk., 'Inst.,' iii. 8, 79, 80).

127. 21. "Billis." See note to l. 8 above.

127. 27. "delivering . . . of frie persons," *i.e.*, where the custody of a pupil was in question.

127. 28. "Suspensionis." By a suspension the effect of a sentence condemnatory that has not received execution is put off till the cause is again considered (Ersk., 'Inst.,' iv. 3, 8).

127. 29. "executorialis." Stair, iv. 41, 1, distinguishes between executorials and diligence. The distinction "is purely from the French practice, and coincides exactly with our own. When letters are issued by the King, on the Sovereign Courts, for compelling obedience in civil business, they were, and still are termed, *lettres exécutoires*; when executed, they become *diligences* . . . Our letters and precepts before execution, are also termed executorials . . . It is only after execution that, properly speaking, they become diligences, in which term is included the execution or indorsations themselves. In general, however, the King's letters are termed diligences even before execution" (W. Ross, i. 235). See next note.

127. 32. "diligens" is (1) the process of law by which persons, lands, or effects are attached on execution, (2) it is the warrant issued by a court to enforce the attendance of witnesses on the production of documents ('New English Dict.'). See note to i. 196, l. 27.

128. 2. "Reductionis . . . [or Improbation]." Actions of reduction—improbation, are brought for declaring writings to be falsed and forged, *fictione juris* only. Actions of simple reduction crave only that the writings called for by the pursuer shall have no effect till they be exhibited or produced in judgment (Ersk., 'Inst.,' iv. 1, 18).

128. 6. Interdiction is a legal restraint, voluntary or judicial, imposed upon prodigal or facile persons, disabling them from signing any deed to their prejudice relating to or affecting heritage without the consent of their curators (Ersk., 'Inst.,' i. 7, 53-59; Stair, i. 6, 37; iii. 8, 37; iv. 20, 30).

128. 7. Inhibition is a personal prohibition against the contraction of debt, or grant of any deed by which any portion of the lands of the party inhibited may be alienated or carried off to the prejudice of the creditor inhibiting (Ersk., 'Inst.,' ii. 11, 2; Stair, iv. 50. See iv. 35, 21).

As to Arrestment, see vol. i. 244, title 37, cap. 6.

"Deforcement is the opposition given, or the resistance made, to messengers, or other public officers, while they are actually engaged in the exercise of their offices" (Ersk., 'Inst.,' iv. 4, 32; Stair, i. 9, 29; iv. 49).

As to Comprisings, see note to i. 137, l. 23.

128. 8. Poincing is that diligence by which the moveable property of the debtor is made available for the payment of his debts. Poincing may be divided into personal and real, of which the latter proceeds on debts which have been constituted a real burden or lien upon lands (Ersk., 'Inst.,' iii. 6, 20-28; iv. 1, 11-13).

As to Letters Conform, see note to i. 231, l. 25 below.

128. 17. As to Lawborrows, see note to ii. 234, l. 2 below.

128. 18. As to Acts of Adjournal, see note to i. 144, l. 17 below.

Assythment was the sum payable by a homicide to certain relatives of the deceased (Hume, 'Commentaries,' i. 284; ii. 124; Stair, i. 9, 5).

128. 23. As to transuming of evidents and contraventions, see note to i. 144, l. 21 below.

128. 29. As to Violent Profits, see note to i. 145, l. 10 below.

128. 30. Succeeding in the Vice was an intrusion, whereby one entered into the possession, upon a tenant's removal by the tenant's collusion without consent of the heritor (Bankton, i. 10, 149; Stair, i. 9, 27).

128. 32. In the MS., Adv. Lib. 7.1.9., fol. 323-325, are several undated entries. Of these the first is the 'A. S.' regarding the "super-numerall or extraordinarie lordis" (see pp. 114 f.), which in Bisset's version is dated 1555. On this ground the entries which follow it have been assigned to the same date in the 1811 edition of the 'Acts of Sederunt.' These entries, in so far as they relate to the delivery of bills, are reproduced with some variation of language in chapters 3-6, 8, and 9.

129. 8. See immediately preceding note.

129. 14. See note to p. 128, l. 32 above.

129. 19. "And sall delyver the saidis bills." The insertion of these words by Bisset, and his separation of chapters 5 and 6, make chapter 5 ungrammatical.

129. 20. See note to p. 128, l. 32 above.

129. 31. The 'A. S.' referred to is in the Grant MS. 18, under date 13th June 1532. It is printed in the 1811 edition of the 'Acts of Sederunt,' under date 1555. See note to p. 128, l. 32.

130. 22. 'A. S.,' 14th August 1593 (Grant MS. 82).

130. 24. See note to p. 128, l. 32 above.
130. 29. "to." The original has "be."
130. 33. The 'A. S.' referred to is in the Grant MS. 28, under date 13th June 1532. It is printed in the 1811 edition of the 'Acts of Sederunt,' under date 1555. See note to p. 128, l. 32.
131. 1. See note to p. 128, l. 32 above.
131. 5. The 'A. S.' referred to is printed in the 1811 edition of the 'Acts of Sederunt,' under date 1555. See note to p. 128, l. 32.
131. 10. 'A. S.,' 27th May 1532, § 20.
131. 21. 'A. S.,' 27th May 1532, § 20.
131. 29. The true date is 'A. S.,' 11th January 1604 ('Books of Sederunt').
132. 6. The first reference is perhaps to 'A. S.,' 11th January 1604 (see Pitmeddan's MS. Abridgment, § 13, Adv. Lib. 25.2.5); the second is to 'A. S.,' 3rd June 1579 (Grant MS. 45).
132. 16. The references are the same as in the immediately preceding note.
132. 20. As to Letters Conform, see note to p. 231, l. 25 below.
132. 25. 'A. S.,' 16th April 1580 (Grant MS. 43).
132. 27. Chapter 1 is not in Skene's 'Forme.'
133. 9. As to the Secretary, see note to p. 124, l. 6 above.
133. 28. 'R. M.,' i. 5, 7; 1429-30, c. 2 'A. P.,' ii. 17; 'Q. A.,' c. 64 (Skene's edition, printed in 'A. P.,' as Ass. Will. c. 30; C. vii. 43, 5). The passage cited from the 'Regiam' is not in Glanvill. See c. 1 X. de libelli oblatione, 11.3, gloss., where the following lines are given:—
- " Quis, quid, coram quo, quo jure petatur et a quo,
Recte compositus quisque libellus habet."
- The law attributed to King William provides that the summons shall state the offence in respect of which the party summoned is charged. The passage from the code prescribes that a judgment given against an absent party at a place other than that to which he has been cited, shall be of no avail.
133. 35. As stated in the 'A. S.' quoted in the next chapter, the old practice was to call the principal summons, and thereafter to put it under continuation, whereupon a second summons was issued (see Stair, iv. 2, 2; 38, 30; Bankton, iv. 6, 3; Ersk., iv. i. 6; and see 'A. P.,' ii. 574*a*, 580*b*, 582*b*, 585, 587*a*, 589*b*). Stair (iv. 38, 30) observes that "summonses were not to be continued which were instantly verified by writ. But if they were to be proved by witnesses, or oath of party, they were to be continued, and so required two citations."
134. 9. See note 204, l. 13 below.
134. 10. As to the procedure when the defender did not appear on the second day, see Title 12, cc. 1, 2 below.
134. 13. D. v. 1, 71; C. vii. 43, 2.

134. 15. This chapter is not in Skene's 'Forme.'

135. 15. "Amangis . . . the counsall." The original does not have these words.

135. 23. The reference is as given.

136. 10. C. 11 X. de prob. ii. 19, et ibi gloss. verb. "dilationes," where it is observed that various circumstances are to be taken into account in fixing the induciæ, and reference is made to c. 5 X. de appell. ii. 28, where it is laid down that distance, the quality of the parties, and the nature of the matter in issue, are to be considered, and to D. v. 1, 72, where the same rule is prescribed.

136. 12. This chapter is not in Skene's 'Forme.'

136. 14. The original has "simpill."

136. 26. "Personallie apprehendit," *i.e.*, personally cited. See Title 7, cc. 1, 2, 16, Mackenzie, 'Observations on the Third Parliament of King James V.,' c. 5 (1528, c. 1; 'A. P.,' ii. 331), observes that "when the Crouner got the Porteous Roll, containing the names of those who were to be cited to the Justice-airs, he was oblig'd to cite them at their dwelling houses, and Paroch Kirks by this act; for by the word *arrestment*, in this act, and many of our old laws, is meant citation; but if they can be apprehended personally, this manner of citation is unnecessary, tho' that be not here exprest." Cp. Stair, iv. 38, 15.

136. 28. "Be ane summonis of continuatioun." These words are not in the original.

136. 32. The reference is as given.

137. 5. "Personalie apprehendit." See note to p. 136, l. 26.

137. 7. 'Q. A.,' c. 2, 'Modus tenendi curias Baronum,' or 'Forme and Maner of Baron Court' (Skene's edition), c. 2. (The proper reference is to c. 3); c. iii. 9, authent. "offeratur"; 1540, c. 10 ('A. P.,' ii. 359).

137. 12. "Personallie apprehendit." See note to p. 136, l. 26.

137. 16. "Habitare autem ibi quis dicitur ubi uxorem liberos et familiam habet" (Craig, ii. 9. 6).

137. 19. 1540, c. 10 ('A. P.,' ii. 359); D. xxv. 3, 1, § 2, et ibi Bartolus. The passage from the Digest is as follows: "domum accipere debemus hospitium, si in civitate maneat, quodsi non sit, sed in villa vel in municipio, illic, ubi larem in matrimonio collocarent." Bartolus discusses the meaning of "domus" at length.

137. 21. The first portion of this chapter is in Skene's 'Forme,' c. 4 (4). See note to l. 27 below.

137. 23. "Perambulationis." An action upon a brieve of perambulation was for the purpose of settling disputed boundaries (Stair, iv. 3, 14; Ersk., 'Inst.,' iv. 1, 48).

"Comprysing's of Landis." Comprising or apprising was a form of diligence by which the debtor's lands were valued, and a portion of them corresponding to the amount of the debt was made over to

the creditor. Eventually the whole lands of the debtor fell under the decree of apprising (Ersk., 'Inst.,' ii. 12, 2 ff.). By the Act 1621, c. 6 ('A. P.,' iv. 609), it was provided that the appriser should have right to no more of the rents than corresponded to the interest of the debt (see Ersk., 'Inst.,' ii. 12, 17).

137. 24. "Schawing of haldings." An action brought by a superior against his vassal for judicial exhibition of the latter's title-deeds (Ersk., 'Inst.,' ii. 5, 3). See vol. i., 300 ff.

137. 26. 'Modus tenendi curias Baronum,' c. 2. The reference should be to c. 3 (see note to l. 7 above); 'Q. A.,' c. 2.

137. 27. The remainder of the chapter is an addition by Bisset.

137. 28. 1555, c. 12 ('A. P.,' ii. 494), provides that lawful warning shall be given either personally or at the dwelling-place and at the ground, and that it shall be read at the parish church. (See W. Ross, ii. 535; Craig, ii. 9, 6.) It was requisite in all cases of real execution that copies of the warning should be left on the ground (Mackenzie, 'Observations on the Sixth Parliament of Queen Mary,' c. 39).

138. 1. As to the process of four dooms, see Vol. ii. 131 ff., and relative notes.

138. 3. "Seasingis successorio." See note to Vol. ii. 145, l. 9.

138. 8. 1489, c. 21 ('A. P.,' ii. 222), had fallen into desuetude in Mackenzie's time, letters of poinding having been substituted for the old procedure ('Observations on the Second Parliament of King James IV.,' c. 20).

138. 10. A portion of this chapter is in Skene's 'Forme.' The last two sentences are Bisset's.

138. 14. 'Q. A.,' 18; 'R. M.,' iii. 23.

138. 17. 1555, c. 12 ('A. P.,' ii. 494). See note to p. 137, l. 28.

138. 30. 'R. M.,' i. 7. The reference is not in Skene's 'Forme,' and does not seem to bear out Bisset's statement.

139. 8. 1555, c. 5 ('A. P.,' ii. 493), provides that civil actions shall proceed against a person leaving the kingdom who has been cited eight days before his departure, "nisi reipublice causa." He must have been cited at his dwelling-place, or, if he have neither dwelling-place nor procurator, at the market cross. A person out of the country must be cited on sixty days (Balfour, 'Practicks,' p. 308; Mackenzie, 'Observations on the Sixth Parliament of Queen Mary,' c. 32).

139. 16. The reference should be to 'R. M.,' i. 6 (10) (Skene's ed.), and to i. 5, in 'A. P.'

139. 17. See Stair, iv. 38, 14.

139. 21. 1466, c. 7 ('A. P.,' ii. 85).

139. 28. 1503-04, c. 9 ('A. P.,' ii. 242).

140. 6. 1540, c. 10 ('A. P.,' ii. 359).

140. 8. 1592, c. 59 ('A. P.,' iii. 573).

140. 12. "Mairis and officeris, alsweill of fie as in that pairt." As to

“mairis,” see note to p. 281, l. 19. As to sheriffs in that part, see note to p. 127, l. 8.

140. 24. 1469, c. 8 ('A. P.,' ii. 95); 1540, c. 9 ('A. P.,' ii., 359).

141. 1. 'R. M.,' i. 7. The passage cited is as follows: "Est et aliud genus *essoniani* et *necessarium*, cum quis *essoniat* de esse ultra mare de Forth vel ultra aquam de Spey. Et tunc si recipiatur *essonium* dabuntur ipsi *essoniato* quadraginta dies integri, die in quo proponitur *essonium* non computato." These words hardly authorise the general proposition stated in the text. In the case of *Mackulloch v. Mackulloch*, 27th July 1626 ('Mor. Dict.,' 6856), the lords found that all acts appointing citations upon a certain number of days do not require that both the day of citation and that of compareance be free; for it is sufficient if either of them be free (Mackenzie, 'Observations on the Sixth Parliament of King James IV.,' c. 94; Cp. Balfour, 'Practicks,' p. 306).

141. 3. In place of Skene's 'Forme,' c. 4 (15), Bisset adopts Skene's MS. revisal of the chapter, with the exception that he writes "commoun law," whereas Skene writes "canon law."

141. 6. The statute of David II. referred to is printed in 'A. P.,' i. 509a (third paragraph).

141. 8. C. 11, X. de prob., ii. 19.

141. 10. Chapter 16 is not in Skene's 'Forme,' but is adopted by Bisset from Skene's MS. revisal.

141. 14. "personallie apprehended." See note to p. 136, l. 26.

141. 15. As to the 'A. S.,' 20th July 1590, see Title 6 c. 5 (p. 136 above). The reference is as given.

141. 17. Chapter 17 is not in Skene's 'Forme,' but is adopted by Bisset from Skene's MS. revisal.

141. 25. The 'A. S.' referred to is given in the Grant MS. 58, under date 8th August 1583.

142. 9. 1503-04, c. 21 ('A. P.,' ii. 251).

142. 11. 1540-41, c. 24 ('A. P.,' ii. 375).

142. 33. The original of Bisset's version of the 'A. S.,' 18th June 1613, has not been traced. The version printed in the 1811 edition of the 'Acts of Sederunt' extends to less than five lines.

142. 35. 1469, c. 12 ('A. P.,' ii. 96); 1540-41, c. 24 ('A. P.,' ii. 375).

143. 7. 1621, cc. 19, 27 ('A. P.,' iv. 623, 627).

143. 12. Title 8 is not in Skene's 'Forme.'

144. 1. The 'A. S.' referred to is dated 11th January 1604 in the original ('Books of Sederunt').

144. 8. The 'A. S.' is given in the Grant MS. 56.

144. 17. "Actis of Adjornall," are regulations enacted by the judges of the High Court of Justiciary.

144. 20. "Improbationis." See note to p. 128, l. 2 above.

144. 21. "Transsumyng of Evidentis." An action of transumpt is an action to force production of a writing in order that it may be

copied, and that the copy duly authenticated may be declared equivalent to the original (Ersk., 'Inst.,' iv. 1, 53).

144. 29. "Protestationis." Protests were frequent under the old procedure (see Introduction to the second volume of the 'Acta Dominorum Concilii,' pp. lxiii., xci.). As to protestation taken by the defender against the pursuer for not insisting in his summons, see Ersk., 'Inst.,' iv. 1, 7.

145. 6. As to Letters Conform, see note to p. 231, l. 25.

145. 10. "Violent Profits" are so called "because they are such profits as are due by, and for, violent possession, whatsoever way it be, by warning and removing, ejection, intrusion, or succeeding in the vice" (Stair, ii. 9, 44; see iv. 26, 16; iv. 29). As to the later and more limited meaning attached to the expression, see Ersk., 'Inst.,' ii. 6, 54.

145. 11. "Succeeding in the vyces." See note to p. 128, l. 30 above.

145. 13. The 'A. S.' is given in the Grant MS. 45.

145. 16. The privilege was extended to advocates by 'A. S.,' 19th February 1537-38.

145. 20. The 'A. S.' is given in the Grant MS. 24.

146. 1. The 'A. S.' is given in the Grant MS. 23.

146. 16. The reference is to § 10 of the 'A. S.' cited.

146. 19. "Actis"—*i.e.*, interlocutors which do not contain any denutment (Mackay, 'The Practice of the Court of Session,' i. 612).

146. 23. The 'A. S.,' 23rd June 1579, is given in the Grant MS. 45. The second reference is to sec. 6 of the 'A. S.,' 17th November 1610. The lords went in rotation from the Inner to the Outer House (see Stair, iv. 1, 63; Bankton, iv. 7, 4, 5).

147. 5. The 'A. S. S.' referred to are in the Grant MS. 45, 52.

147. 9. As to solicitation of judges, see note to p. 149, l. 11 below.

147. 13. The 'A. S.' is given in the Grant MS. 47.

147. 18. The 'A. S.' referred to is in the Grant MS. 61, under date 1st August 1590.

147. 27. The 'A. S.' referred to is in the Grant MS. 44.

148. 12. The date of the 'A. S.' referred to is 11th January 1604.

148. 24. The 'A. S.' referred to is in the Grant MS. 24, under date 13th June 1532.

148. 26. The limitation is noted in the 'Discovrs particulier d'Escoffe,' par MM. Jacques Makgill, cleric dv Registre, et Jean Bellenden, clerk de la Justice, 11th Janvier 1559-60 (Bannatyne Club), Edinburgh, 1824, p. 12.

149. 3. The 'A. S.' referred to is in the Grant MS. 32.

149. 9. 'A. S.,' 1532, § 9.

149. 11. By the 'A. S.,' 27th May 1532, provision was made for a table or roll in which all summonses, both privileged and unprivileged, were to be set down. In order to regulate the time of calling, the

kingdom was divided into four quarters, each quarter containing certain shires. The summonses of the shires of the first quarter were to be called in the first quarter of the year, those of the second quarter in the second quarter of the year, and so on. The inconveniences of this method are obvious. As a party could not call his summons except in the appropriated quarter, he might not be able to commence proceedings for three-quarters of a year. This procedure fell into desuetude, and as Stair (iv. 2, 5) informs us, causes came to be called promiscuously at the will of the Lord Ordinary in the Outer House, or of the chancellor or president in the Inner House. (See cc. 1, 20, of this Title). "By this the whole nation became in dependence and clientel of the Chancellor and President and such Ordinaries as went to the Outer House, whereby every one might call their own friend, so that the defenders were all in diffidence, surprise and confusion, supposing the causes to be called upon particular respect of persons, and when they were not in the advocates' recent memory; so that they wrangled upon every frivolous pretence, and did not acquiesce in the interlocutors" (Stair, *loc. cit.* See Title 10, c. 10 below, and the 'A. S.,' there cited). It was in such circumstances as these that the practice arose of soliciting judges to call actions out of their proper order. (See cc. 9, 18, of this Title.) These mischiefs were finally remedied by the Act concerning the Regulation of the Judicatories, 1672, c. 40 ('A. P.,' viii., 80). As to the earlier provisions for a "table," see the concluding sentence of the note to p. 88, l. 18 above.

149. 28. 'A. S.,' 27th May 1532, § 1. See the note immediately preceding.

150. 6. "Foudis." See 'New English Dictionary,' *s.v.* "Foud." The term in Orkney, Shetland, and the Faroe Isles means "a bailiff, magistrate or governor; formerly the President of the Supreme Court in Orkney and Shetland." See 'Proceedings of the Society of Antiquaries of Scotland,' Edinburgh, 1878, xii. 488 ff.; and 1892, xxvi. 189 ff. The "Foudry" of Shetland is mentioned in several Scots Acts. (See 'A. P.,' Index, *s.v.* "Foudry"), and the "Fouds," in 1581, c. 72 ('A. P.,' iii. 255*b*).

150. 8. "The Annuell of Norway" originated in an agreement entered into in 1266 by Magnus IV., King of Norway, and Alexander III., whereby the former ceded the Isle of Man and the Sudries to the latter, who bound himself to pay 4000 merks in four years, and 100 merks yearly. The Norwegian king reserved Orkney and Shetland to himself ('A. P.,' i. 420). This agreement was reviewed in 1312 ('A. P.,' i. 461). The annual is mentioned in 1466 ('A. P.,' ii. 85), and was discharged in the contract of marriage between James III. and Margaret, daughter of Christian I., king of Denmark, Norway and Sweden, dated 8th September 1468. (See Skene, 'De Verborum Significatione,' *s.v.* "Annuell.")

150. 14. 1503-04, cc. 5, 18 ('A. P.,' ii. 249, 251), and 1509, c. 2 ('A. P.,' ii. 268).

150. 19. 'The auld actis.' See c. 16 of this Title, and note to p. 149, l. 11.

150. 34. The 'A. S.' cited is in the Grant MS. 27, under date 13th June 1532.

151. 1. As to solicitation of judges, see cc. 9, 18, of this title, and note to p. 149, l. 11.

151. 19. The reference should be to 'A. S.,' 17th November 1610 (4).

151. 27. The reference should be to 'A. S.,' 17th November 1610 (5).

152. 1. "Actis of witnessis." "The interlocutory sentence or warrant of the judge, by which parties are authorized to bring their evidence, is either by way of act or of incident diligence" (Ersk., 'Inst.,' iv. 2, 30).

152. 6. 'A. S.,' 17th November 1610 (6).

152. 12. "That." The original has "and."

152. 17. 'A. S.,' 17th November 1610 (7).

152. 24. The "quotidian distributioun." As we have seen (see note to p. 88, l. 18 above), the bull of Paul III. provided for the distribution of £1400, "per modum distributionum quottidianarum . . . loco annuarum pensionum," among the judges in proportion to their attendance (see 'A. S.,' 24th February 1548-49). It seems that this amount was found to be insufficient, and by the 'A. S.,' 13th April 1564, an additional sum of £1600 out of the quots of testaments (see Ersk., 'Inst.,' iii. 9, 28) was made payable to the judges, "secundum ratam residentiaē." This provision, confirmed by the Acts 1587, c. 20, and 1606, c. 38 ('A. P.,' iii. 444; iv. 305), was relinquished for an annual payment of £10,000 (1609, c. 18; 'A. P.,' iv. 437). In 1633 the produce of a taxation was secured in favour of the judges (1633, c. 22; 'A. P.,' v. 40), and in 1641 (c. 102; 'A. P.,' v. 412) the exacting of sentence money was prohibited. In the time of the old session sentence money was the only remuneration which the judges received. By the Act 1457-58, c. 4 ('A. P.,' ii. 48), they, jointly with the clerk register, were entitled to the "kingis unlawe," being the sum of 40s. upon every decree. This sentence money was increased by the Act 1587, c. 24 ('A. P.,' iii. 447), to the twentieth part of the sum awarded against the defender, where the decree was for a liquid sum, and to £5 Scots, where it was a decree *in facto* (Ersk., 'Inst.,' i. 4. 37). See titles 9 c. 9, 35 c. 18, and 39 c. 7, and notes to p. 228, l. 14, l. 23.

153. 2. The 'A. S.' cited is in the Grant MS. 17.

153. 6. The 'A. S.' cited is in the Grant MS. 26, under date 13th June 1532.

153. 7. Bisset does not refer to any authority for the contents of this and the following chapter. See the 'A. S. S.' printed in the 1811 edition of the 'Acts of Sederunt' under date 1555.

153. 16. See the immediately preceding note.

153. 22. Title 9 is not in Skene. At an early date it was found necessary to provide against the hindrance to the administration of justice occasioned by the "multitud of peple that cumis in the consale hous makand gret voyis and misreule" (MS. 'Acta Dom. Conc.,' under date 23rd July 1511). The macers were instructed to refuse admission to all persons except the litigants and their advocates, and those who had obtained special permission (*Ib.*, MS. 'Acta Dom. Conc.,' under date 13th March 1526-27; MS. 'Royal Letters, Court of Session,' No. 1). A later order (MS., 'Acta Dom. Conc.,' under date 14th February 1530-31) prescribed that after the entrance of the lords, none should remain but advocates and "sic able men to leir practik as sall pleis the chancelare." On 25th February 1537-38, the king directed the lords of session to admit "Maister William Lamb, persone of Conveth, ane able and qualifeit persoune, to be with you in our sessionne to heir and understande the practik, that he may be the mair able efterwart to serve ws therein." (See 'A. S.' of that date). Lamb was appointed a judge ordinary on 27th April 1540 (Brunton and Haig, pp. 64 f.). The order of February 1530-31 further provided that none should stand at the bar but the parties, their advocates and forespeakers. Provision was made for the performance by the macers of their duties, and for the punishment of those who disobeyed them. W. Ross (i. 259) observes that the macers of session and judiciary are the descendants of the "mairs," officers of court, who executed citations and other orders of the judge. As to mairs of fee, see note to p. 281, l. 19 below.

154. 9. 'A. S.,' 27th May 1532, § 21.

154. 22. 'A. S.,' 9th November 1596.

154. 29. The 'A. S.' cited is in the 'MS. Books of Sederunt.'

155. 17. The 'A. S.' cited is in the 'MS. Books of Sederunt,' under date 11th January 1604.

155. 23. The 'A. S.' cited is in the Grant MS. 69.

155. 27. "Agentis." This chapter and chapter 3 of Title 10 show that the attempts of this class of practitioners to establish themselves as a separate body were strongly resisted by the advocates who acted in the double capacity of counsel and agent. Even so late as 1672 we find an enactment which, proceeding on the narrative that "severall persones, being neither Advocates nor Advocats' servants, doe take vpon them, undir the name of agents, to medle and negotiate in processes, who are found to be of noe vse, but burdensome to the Leidges," provides "that hereaftir all the agents be debarred the house and not permitted to negotiat in, or mannage processes . . ." (1672, c. 40 § 31; 'A. P.,' viii. 86).

155. 31. 'A. S.,' 11th January 1604 (§ 13 in 'MS. Abridgment of Acts of Sederunt').

156. 11. 'A. S.,' 27th May 1532, § 8.

156. 29. As to the "quotidian distributionis," see note to p. 152, l. 24.

156. 31. As to admission of procurators, advocates, advocates' servants, and literate young men, see note to p. 153, l. 22 above. As to advocates' servants, see note to p. 160, l. 7 below.

157. 6. As to advocates' servants, see note immediately preceding.

157. 10. Printed with some variations in the 1811 edition of the 'Acts of Sederunt,' under date 1555.

157. 20. Those who represented litigants in court were known sometimes as attorneys, sometimes as procurators, sometimes as forespeakers, sometimes as prolocutors, and sometimes as advocates. Thus in 1368 the "attornati" of the earl of Ross appeared in a case on his behalf ('A. P.,' i. 504). The representative of a party was not infrequently his friend or patron. Thus, in the year above referred to, John de Lyndesay acted as prolocutor for his tenant ('A. P.,' i. 505). "Advocats" are mentioned in the 'Statuta Gilde' (c. 20), which are attributed to the reign of Alexander III. ('A. P.,' i. 44, 435). The Act 1424-25, c. 24 ('A. P.,' ii. 8), provides for the assignment of advocates to poor litigants; the Act 1429, c. 6 ('A. P.,' ii. 18), prescribes the form to be observed by an advocate when falsing a doom; and c. 16 of the same year ('A. P.,' ii. 19) directs that an advocate, before he pleads, shall take the oath of calumny. The Act 1455, c. 12 ('A. P.,' ii. 43), regulates the habit to be worn by "all men of lawe that ar forspekariis for the cost"—a designation which, according to Mackenzie ('Observations on the Eleventh Parliament of King James II.,' c. 47), distinguished the advocates from the friends who gave gratuitous assistance. The 'A. S.,' 27th May 1532, § 23, provides that "thair be ane certane nomer of advocatis and procuratouris to the nomer of tene personis that salbe callit Generale Procuratouris of the Counsall of best name, knowlege and experience admittit to procure in all actionis . . . ; and, giff ony vtheris cunniyne and able men will desyr to be admittit to the office of aduocatioun and procuratioun, thai salbe ressauit with the aviss of the saidis Lordis for completing of the said nomer, and that thir foresaidis procuratouris procure for euery man for thair waigis, bot giff thai have ressonable excuss." In the 'A. S.' eight persons are named as advocates. The number fixed was soon exceeded. In June 1587 there were fifty-four (see Shand, 'Practice of the Court of Session,' Edinburgh, 1848, i. 73). See note to p. 155, l. 27, as to agents.

157. 23. Chapter 1 is not in Skene's 'Forme.'

157. 24. Bisset is the source from which Pitmeddan derived this 'A. S.' The version printed in the 1811 edition of the 'Acts of Sederunt' differs from Bisset's version in many forms of expression.

157. 30. "Ovartis," probably written *per incuriam* for "over-touris" (see p. 158, l. 2).

159. 20. Chapter 2 is not in Skene's 'Forme.'
160. 7. The advocates' servants were their clerks, who were mostly young men training for the Bar (Shand, i. 76).
160. 8. 'A. S.,' 17th November 1610 (2).
160. 10. Chapter 3 is not in Skene's 'Forme.'
160. 24. 'A. S.,' 17th November 1610 (3).
161. 2. The paragraph, "Quhilkis . . . tyme to cum," forms the final paragraph of the 'A. S.,' 17th November 1610.
161. 18. The first sentence of the chapter is in Skene's 'Forme,' c. 9 (1).
161. 20. 'R. M.,' iii. 15. The sentence, "At the maist . . . deprivation," is adopted from Skene's MS. revision, where Skene refers to 'A. S.,' 1567.
161. 23. 'A. S.,' printed in the 1811 'Acts of Sederunt,' under date 1555.
161. 24. The 'A. S. S.' are in the Grant MS. 30, 74.
161. 25. The marginal reference is perhaps to C. ix. 8, 5 § 2.
161. 27. The reference seems to be to 1587, c. 16 ('A. P.,' iii. 443 b.).
162. 3. The 'A. S. S.' cited are in the Grant MS. 58, 65.
162. 14. The 'A. S.' cited is in the Grant MS. 30. The second reference is to 'A. S.,' 27th May 1532, § 24.
162. 16. This chapter is not in Skene.
162. 23. The 'A. S.' cited is in the Grant MS. 24.
163. 3. The 'A. S.' cited is in the Grant MS. 24.
163. 4. This chapter is not in Skene.
163. 17. The 'A. S.' cited is in the Grant MS. 46.
163. 26. The 'A. S.' cited is in the Grant MS. 36, under date 12th November 1567.
163. 28. This chapter is not in Skene.
164. 9. The 'A. S.' cited is in the Grant MS. 21.
164. 11. This chapter is not in Skene.
164. 21. 'A. S.,' 27th May 1532, § 25.
164. 22. This chapter is not in Skene.
164. 27. The 'A. S.' cited is in the Grant MS. 51.
164. 28. This chapter is not in Skene's 'Forme,' but is adopted from his MS. revision.
165. 2. The reference is to 'A. S.,' 11th January 1604.
165. 3. This chapter is not in Skene.
165. 9. See the 'A. S.' cited in the Grant MS. 61, under date 1st August 1690.
165. 10. This chapter is not in Skene.
165. 15. The 'A. S.' cited is in the Grant MS. 68.
165. 22. If the pursuer make a default, the defender may crave judgment regarding it, and be freed of attachment. But he can be attached again ('Q. A.,' c. 3). If the pursuer make default at the

fourth court "reputetur pro insequente" ('Q. A.,' c. 41). "Quhare ony personis callis utheris at his instance, and comperis nocht to folow his partij he sall pay the expensis of his partij and ane vnlaw of fortij schillingis to the lordes . . . or he be harde in jugement to folow his partij thareftir and nocht to abide the decrett to be gevin therappone" (1491, c. 18; 'A. P.,' ii. 227). The passage "Qui semel" (C. vii. 43, authent.) provides that the pursuer shall lose right of action if, after three citations, he do not pay the defender's expenses and pursue his action within a year. See Balfour, 'Practicks,' p. 311.

166. 7. 'Q. A.,' cc. 3, 41; 1491, c. 18 ('A. P.,' ii. 227); C. vii. 43, authent.; "Qui semel."

166. 24. 'Q. A.,' cc. 3, 41; Mod. tenend. cur., cc. 9, 24; 1491, c. 11 ('A. P.,' ii. 225); C. vii. 43. See 1427, c. 5 ('A. P.,' ii. 14).

167. 3. Chapters 1-5 of this title are founded on D. ii. 13, 1; C. ii. 1.

167. 26. This chapter is not in Skene.

168. 6. This case is reported in Balfour, 'Practicks,' p. 293.

168. 13. The 'A. S.' referred to has not been traced.

168. 18. "Edere actionem." Under the formulary system the formula was at once the expression of the pursuer's demand, and the form which he wished the final judgment to take. It was, however, only a general form, and, accordingly, it was necessary for the pursuer to consider what were the concrete facts upon which his claim was founded, and express the grounds and subject of his claim so precisely that there could be no doubt as to either of these points. On the other hand, the prætor in drawing up his formulas was careful to use terms so wide as to be capable of fitting every variety of case (see M. A. von Bethmann-Hollweg, 'Der Civilprocess des Gemeinen Rechts in geschichtlicher Entwicklung,' Bonn, 1864-68, ii. 211 f.). It was incumbent on the pursuer to announce the formula to the defender present *in jure* (*Id. ib.*, ii. 212). This announcement was the "actionis editio." "Edita actio speciem futuræ litis demonstrat" (C. ii. 1, 3; cp. C. iii. 9, 1). The announcement could be made in more ways than one. "Edere est etiam describendi copiam facere, vel in libello complecti et dare vel dictare. Eum quoque edere Labeo ait, qui producat adversarium ad album et demonstrat quod dictaturus est, vel id dicendo, quo uti velit" (D. ii. 13, 1 § 1). The aim of this "editio" was to inform the defender what was the pursuer's claim, so that he might decide whether he would concede or dispute it, and, in the latter case, prepare his defence. The "editio" might include the terms of the document upon which the pursuer founds his claim ("editio instrumentorum"), in cases in which the defender would not otherwise have sufficient notice (D. ii. 13, 1 § 3; Bethmann-Hollweg, ii. 213).

168. 20. D. ii. 13, 1; C. ii. 1.

169. 1. 'R. M.,' i. 10; C. 3 q. 3 per totum; c. 2 X. dilationibus, ii. 8. The passage cited from the 'Regiam' (i. 10) provides that the

pursuer may ask and obtain permission to leave the court, and take counsel as to his future course. See the case of John de Lyndesay ('A. P.,' i. 505) and the act 1429, c. 5 ('A. P.,' ii. 18).

169. 2. 'A. S.,' 11th January 1604.

169. 4. This chapter is not in Skene.

169. 14. The reference is to 'A. S.,' 11th January 1604.

169. 25. C. ii. 53 (52), 6; ii. 21 (20), 8; iii. 7; C. 3 q. 3. The reason given for not granting the privilege to the pursuer is derived from C. iii. 7:—"invitus agere vel accusare nemo cogitur," C. ii. 53 (52), 6, provides that the pursuer in an "actio in integrum restitutionis" cannot obtain the postponement which he craves unless it fall within the period for restitution recognised by law, C. ii. 21 (20), 8, provides that the "actio de dolo" must be raised and ended within two years from the commission of the fraud. The reference to C. 3 q. 3 is correct, but that to § ei vero is wrong, as these words do not appear in the question.

170. 9. C. ii. 1, 4.

170. 18. 1557, c. 5 ('A. P.,' ii. 502). The reference to the act of 1557 is Bisset's. He summarizes its provisions in Title 20, c. 2 (p. 185, l. 24 below), and in Title 25, c. 9 (p. 198, l. 5 below). See Mackenzie, 'Observations on the Seventh Parliament of Queen Mary,' c. 63.

170. 30. 'R. M.,' i. 15, 22, 24-27.

171. 10. The act cited is in the Grant MS. 40, under date 26th November 1579.

171. 16. "Dependence." An action is said to be in dependence from its commencement to its final disposal.

171. 23. C. viii. 45 (44), 8 and 29 gloss.; c. 7 X. de empt. et vendit. iii. 17; D. xxi. 2, 29, et ibi gloss. verb. "præfinitur," et 63 ejusdem tit. To these references Bisset adds references to 'Q. A.,' c. 78 (printed in 'A. P.,' as Ass. Will. c. 24); 'R. M.,' i. 21; ii. 62, of which the first seems to be erroneous. The purchaser must inform the seller of the suit ("litem denunciare," see D. xxi. 2, 53 § 1; C. viii. 45 (44), 8, 29), and the "denunciatio" must be timely so that the seller may be able to apply all the legal means at his disposal for the buyer's benefit (D. xxi. 2, 29 § 2; xxxii. 29 § 3). "Si venditori post institutum contra se judicium quis omiserit, ut rem sibi defenderet, nunciare, vel contumaciter abfuit tempore sententiæ promulgatæ, seu per injuriam sententia lata fuit, de evicione juxta legitimas sanctiones agere non valebit" (c. 7 X. de empt. et vendit. iii. 17).

171. 28. This chapter is not in Skene.

172. 18. "Merkis." This word is not in the 1811 edition of the 'Acts of Sederunt.'

172. 25. "Merkis of annuelrent." These words are not in the 1811 edition of the 'Acts of Sederunt.'

172. 28. 'A. S.,' 1st February 1610.

172. 30. With the treatment of exceptions in this Title, compare that in the 'Process of Perambulation,' cc. 11-20 (vol. i. pp. 292 ff.).

172. 33. See 'A. S.,' 18th July 1590 (Grant MS. 61).

173. 1. 'R. M.,' i. 4, 5, does not seem to be to the point.

173. 10. C. 11 X. de probationibus, ii. 19, gloss. verb. "exceptiones."

173. 20. C. viii. 36 (35), 13, gloss.; 'A. S.,' 27th May 1532, § 26. The passage from the Code states that "præscriptiones fori in principio a litigatoribus opponendas esse legum decrevit auctoritas." The gloss. adds, "Qui vult recusare judicem hoc faciat ante litis contestationem; postea non audietur."

173. 27. "Purgatioun." See c. 9 of this Title.

174. 12. 'Q. A.,' c. 101 (Skene's edition); C. iii. 13, 7; iii. 1, 18. The passage cited from the 'Quoniam Attachiamenta' provides that "all officiares, as justitiaris, chalmerlains, shirefs, provest and baillies," shall on demitting office remain for 40 days in the place where they exercised their office, that all men may have liberty to make their complaint against them. This provision is to be found only in Skene's version of the 'Q. A.,' and seems to be borrowed from C. i. 49.

174. 14. C. iii. 1, 16, and authentic, "Si vero," state the grounds of suspicion. Cp. C. 61 X. de appell. ii. 23; c. 15. C. iii. q. 5; and D. ii. 1, 10. See also the case of Patrick, Earl of Dunbar ('A. P.,' i. 391 f.).

174. 19. 'Q. A.,' cc. 9, 12; mod. ten. cūr. c. 33; 1469, c. 2 ('A. P.,' ii. 94).

174. 27. C. iii. 13, 7; C. vii. 48. See also D. ii. 1, 20; xlii. 1 53 (3).

174. 29. The judges took the oath, *de fidei administratione* ('A. S.,' 27th May 1532). The king's ratification, dated 10th June 1532 (see the 1811 edition of the 'Acts of Sederunt,' p. 6), provided that while he would refuse credence to those who accused judges of wrong-doing or dishonesty, he would make inquiry and punish the guilty. See Balfour, 'Practicks,' p. 284.

175. 6. "Partiall counsall" consisted in instigating the plea, giving positive advice in law, or being present at consultations in the cause (Stair, iv. 39, 14).

175. 14. 1594, c. 22 ('A. P.,' iv. 67); 1555, c. 12 *ad finem* ('A. P.,' ii. 494); C. iii. 1, 16, authentic, "Si vero," c. 61 X. de appellationibus, ii. 28. This last reference seems to be more appropriate to chapter 7 of this Title. Cp. D. ii. 1, 10. The Act 1555, c. 12 ('A. P.,' ii. 494), provides that "na advocatioun of causis be takin be the lordis fra the juge ordinar except it be for deidlie feid or the schiref principall or the juge ordinar be partie or the causis of the lordis of counsall and thair aduocattis scribis and members."

175. 17. As to these exceptions, see Balfour, 'Practicks,' p. 289. The act 1612, c. 3 ('A. P.,' iv. 471), is given at length at vol. i. 237, l. 30 below. It throws an interesting light on the position of the outlaw.

In September 1512, William Douglas of Drumlanrig, John Fergusson of Craigdarroch, Thomas Fergusson, his son, and their accomplices, accused as art and part of the slaughter of Robert Crichton of Kirkpatrick, were discharged because the said Robert was a rebel at the horn. Two of the accomplices were, however, excepted from the discharge (Pitcairn, 'Criminal Trials,' i. 79; 'Transcript of MS.,' "Curia Itineris Justiciarie," under date 24th September 1512, vol. iii. pp. 298 ff. (H.M. Register House, Edinburgh); Hume, 'Comm.,' i. 187 f., and note). This case shows—and there are other authorities to the same effect (Hume, *loc. cit.*)—that process could not be maintained for the slaughter of one at the horn, whether for civil or criminal cause. In 1587 the king, with the advice of parliament, consulted the lords of council and session "anent slauchter of partiis at the horne" (1587, c. 26; 'A. P.,' iii. 448), and in 1612 the act, remedying the mischief, was passed. See also 1649, c. 96, and 1661, c. 217 ('A. P.,' vi. pt. ii. 173; vii. 203). By the latter of these acts it was provided that homicide committed "in the persute of denounced or declared rebells for capitall crymes or of such who assist and defend the rebells and masterfull depradators by armes, and by force oppose the persute and apprehending of them which shall happin to fall out in tyme comeing, nor any of them, shall not be punished by death." Cp. Pollock and Maitland, ii., 449. As to the feud between the Douglasses of Drumlanrig and the Crichtons of Sanquhar, see "Some Documents relating to Glencairn," in the 'Transactions of the Dumfriesshire and Galloway Natural History and Antiquarian Society' (1916-18), Dumfries, 1918, pp. 206 ff.

175. 22. The references which are Bisset's are to 1579, c. 13 ('A. P.,' iii. 142); 1594, c. 37 ('A. P.,' iv. 71); 1572-73, c. 2 ('A. P.,' iii. 71).

175. 25. 1612, c. 3 ('A. P.,' iv. 471).

175. 27. The last paragraph of this chapter and the references are Bisset's.

176. 9. 1555, c. 16 ('A. P.,' ii. 495).

176. 12. 1617, c. 12 ('A. P.,' iv. 543).

176. 14. The final sentence and reference are Bisset's.

176. 22. 1429-30, c. 3 ('A. P.,' ii. 17).

176. 25. The reference has not been identified. The law was as stated (see Hume, 'Commentaries,' ii. 297 ff.).

176. 26. This chapter is not in Skene.

177. 1. 1496, c. 6 ('A. P.,' ii. 238); 1617, c. 13 ('A. P.,' iv., 544).

177. 6. Bisset omits "for" after "dettis."

177. 11. 1579, cc. 19, 20, 21 ('A. P.,' iii. 145).

177. 16. 1584, c. 6 ('A. P.,' iii. 349).

177. 17. 1469, c. 12 ('A. P.,' ii. 96); 'L. Q. B.,' cc. 89, 90; 'Q. A.,' c. 3 (this reference seems to be erroneous); 'Fragm. Coll.,' c. 6 ('A. P.,' i. 735); 1540-41, c. 24 ('A. P.,' ii. 375).

177. 23. 1469, c. 4 ('A. P.,' ii. 95).

177. 26. "Resignationis." Resignation was the form of law by which a vassal surrendered the feudal subjects to his superior. The ceremony might be performed by a procurator authorised by a procuratory of resignation—(see Stair, ii. 11, 1-9; Ersk., 'Inst.,' ii. 7, 17 *et seq.*).

"Clare constatt." On the death of a vassal, his heir might enter by obtaining a precept of seisin called a precept of *clare constat*, in which the superior acknowledged the holder of the precept to be the heir of the vassal who died last vested and seised in the lands, and commanded his bailie to infest him in them (Ersk., 'Inst.,' iii. 8, 71).

177. 28. 1594, c. 24 ('A. P.,' iv. 68).

177. 35. 1617, c. 12 ('A. P.,' iv. 543).

178. 16. The last sentence is adopted by Bisset from Skene's MS. revisal. See Balfour, 'Practicks,' p. 347, and the cases there cited.

179. 2. 'peremptourlie." Skene has "perpetualie."

179. 3. D. xlv. 1, 2, 3.

179. 13. D. xlv. 1, 2, 3.

180. 2. "absolutioun . . . ab illa instancia." "One is said to be absolved *from the instance*, when there is some defect or informality in the proceedings; for thereby that instance is ended until new citation . . . when a person is freed by sentence of a judge from any debt or demand, he is said to have obtained *absolvitur* from the pursuer's *claim*" (Spottiswoode's MS., 'Law Dictionary,' quoted by Jamieson, 'Dictionary of the Scottish Language,' *s.v.*, "absolvitor"). See Mackay, 'The Practice of the Court of Session,' i. 589. "*Absolvitor* is the term applied to a decision favourable to a defender; *condemnator* being the term formerly (but no longer) used to denote a decree in favour of the pursuer" (Green's 'Encyclopedia of the Law of Scotland,' *s.v.* "Absolvitor"). See p. 187, l. 19 below.

180. 4. D. xlv. 1, 2.

181. 7. 'A. S.,' 27th May 1532, § 26.

181. 11. The 'A. S.' cited has not been traced.

181. 12. C. iv. 19, 19.

181. 19. The 'A. S.' cited is in the Grant MS. 28. The act cited is 1579, c. 29 ('A. P.,' iii. 147).

181. 27. The reference to D. xlv. 1, 3, seems to be inapposite. It should be to D. v. 1, 70:—"peremptorium . . . quod inde hoc nomen sumsit, quod perimeret disceptationem, hoc est, ultra non pateretur adversarium tergiversari."

182. 1. See D. xlv. 1, 3.

182. 20. See Balfour, 'Practicks,' p. 345.

183. 3. D. xlv. 1, 22.

183. 5. This chapter is an amplified version of Skene's 'Forme,' c. 14 (6).

183. 13. D. xlv. 1, 2. The words of the Digest are "exceptio actorem excludit, replicatio reum. Sed et contra replicationem solet dari triplicatio, et contra triplicationem rursus."

183. 30. This chapter is an amplified version of Skene's 'Forme,' c. 15 (1), (2), (3). Under the formulary system "litis contestatio" was the final act in the process before the prætor. It was contemporaneous with the giving of the formula, and therefore presupposed the nomination of the judex, seeing that he who was to act as such was always named in the formula. To this procedure the "judicia extraordinaria" formed an exception. In their case there was neither formula nor judex, the whole proceedings from beginning to end being conducted before the magistrate. Consequently the point of time was adopted which bore the closest analogy to that of "litis contestatio" in the formulary process—*i.e.*, the point of time "cum judex (*i.e.*, 'magistratus') per narrationem negotii causam audire cœperit" (C. iii. 9, 1). In course of time this exceptional procedure became the ruling practice; and "litis contestatio" came to consist in the declarations of both parties regarding the existence of the dispute and its subject-matter in presence of the judicial authority. The canon law adopted the Roman conception of "litis contestatio," and provided that it should be brought about "non per positiones et responsiones ad eas, sed per petitionem in jure propositam et responsionem secutam" (see F. C. von Savigny, 'System des heutigen Römischen Rechts,' Berlin, 1840-49, vi. 9 f. 22, 36 f., and v. 67; c. 1 X. de litis contest., ii. 5; c. 54 X. de electione, 1, 6). In Scotland, in the time of Stair (iv. 39, 1), "litis contestatio" meant "a judicial act of process for proving such points by either party as the judge determines to be relevant." Stair (iv. 40, 8), following the Roman law (see R. von Ihering, 'Geist des Römischen Rechts,' Leipzig, 1878, i. 171), regarded it as a contract. See Balfour, 'Practicks,' p. 342; Ersk., 'Inst.,' iv. 1, 69.

184. 9. Bisset adds a reference to 1427, c. 5 ('A. P.,' ii. 14).

184. 10. Bisset adds a reference to 'A. S.,' 16th November 1579, which has not been traced.

184. 20. This chapter is not in Skene.

184. 24. "Nocht" is not in the Grant MS. 24, and seems to have been inserted by Bisset in error.

184. 28. "Juramentum malicie." See Title 22 below.

184. 33. The 'A. S.' cited is in the Grant MS. 24.

185. 20. D. xlv. 1, 1; st. 2 Rob. I., c. 23 (Skene's Latin Edition; c. 22 in the Scots version. This statute is not printed in the 'A. P.').

185. 22. Bisset amplifies Skene's statement, and adds the reference to D. xxii. 3, 2.

185. 24. The first sentence of this chapter is in Skene's 'Forme,' c. 16 (2). The remainder is adapted by Bisset from the authorities

cited by him. As to the statute of 1557, see note to p. 170, l. 18 above.

186. 8. 1557, c. 5 ('A. P.,' ii. 502). See note to p. 170, l. 18 above.

186. 9. The case of *Corstorphine v. Forrester*, reported by Balfour, 'Practicks,' p. 345, is added by Bisset.

186. 21. Bisset adds the reference to the case of *Charles Ross v. Kirkmichael*, reported by Balfour, 'Practicks,' p. 354, *sub nomine* *Charterhous v. Kirkmichael*.

187. 2. C. iv. 19, 10, et ibi Baldus, who observes—"si sunt duo talia quorum unum non est sine altero vel raro esse solet, uno probato probari et aliud."

187. 3. Bisset adds the reference to the case of the Bishop of Dunblane *v. Chisholm*, reported by Balfour, 'Practicks,' p. 354.

187. 19. "Condamnatoure." See note to 180, l. 2 above.

187. 25. This chapter is not in Skene's 'Forme,' but is adopted from his MS. revisal.

188. 8. 'R. M.,' iii. 6 seems inapposite. C. 5, X. de dolo et contumacia, ii. 14, gloss. in verb. "fundaverit." The gloss. states that the proof may be by witnesses or documents, or by admission or evidence of the fact, and refers to c. 15, X. de restitut. spol. ii. 13 s. f.; C. viii. 36 (35), 9; iv. 19, 16; c. 10, C. 16, q. 7; cc. 17, 23, C. 18, q. 2.

188. 20. 'R. M.,' i. 13; D. xvi. 3, 26 (Skene and Bisset cite "1. publica," in error for "1. Publia Mævia"), et ibi Bartolus; C. iv. 30, 13; D. xii. 2, 5; Ass. Dav. c. 22. Bartolus comments: "verba enunciativa non inducunt obligationem in contractibus sed probationem. . . ." Thus the statement in a letter by A. to B. notifying that the former has in his keeping ten pounds of gold more or less belonging to the latter does not create an obligation, but is the subject of proof.

188. 24. The first paragraph of this chapter and the first sentence of the second paragraph are in Skene's 'Forme,' c. 17 (3).

188. 27. C. iv. 21, 15; 'R. M.,' i. 26; iii. 8 (in Skene's ed., not printed in 'A. P.').

189. 2. C. iv. 21, 20, authent. "ad hæc"; vii. 52, 6.

189. 5. Bisset makes an addition as to the proof of testaments, &c.

190. 5. C. ii. 59 (58), 1.

190. 10. C. ii. 59 (58), 2.

190. 15. C. ii. 59 (58), 2, authent. "Principales personæ."

190. 24. 1429-30, c. 16 ('A. P.,' ii. 19); C. iii. 1, 14; C. ii. 59 (58), 2, authent. "Principales personæ." The verses quoted in the act cited are taken from Hostiensis, "which shews, amongst other arguments, that the acts of parliament, as we have them now printed, are not the same as they past in parliament" (Mackenzie, 'Observations

on the Ninth Parliament of King James I.,' c. 125). The verses are as follows—

" Illud juretur quod lis sibi justa videtur
Et si queretur verum non inficietur,
Nil promittetur nec falsa probacio detur
Ut lis tardetur dilacio nulla petetur."

191. 5. ii. 59 (58), 2.
 191. 7. See Balfour's 'Practicks,' pp. 359 f.
 191. 12. See Balfour, *loc. cit.*
 191. 22. "Personallie apprehendit." See note to p. 136, l. 26.
 191. 24. See Balfour, *loc. cit.*
 192. 6. C. ii. 59 (58), 2 § 6; c. 7, X. de juramento calumniæ, ii. 7.
 192. 17. C. ii. 59 (58), 2 § 9, gloss. "sin autem." The gloss deals with the case of the man who has sworn that he will not swear.
 193. 10. D., xii., 2, 1, 2; C. iv. 1.
 193. 20. Ass. David, i., c. 22; 'R. M.,' iii. 6; C. iv. 1, 9, et ibi Bartolus; D., xii., 2, 34 § 6, 38. Bartolus comments: "Reus cui defertur juramentum debet jurare, referre vel solve." *Re.*
 193. 27. C. iv. 1, 12.
 194. 4. C. iv. 1, 3, 8.
 194. 5. This chapter is not in Skene's 'Forme.'
 194. 27. The reference is as given.
 194. 31. Stair, i., 9, 4; iv. 44, 4, and More's Notes, p. ccccxv.; Ersk., 'Inst.,' iv. 2, 18.
 195. 3. C. v. 53, 1, 2.
 195. 30. D., xii. 3, 4 § 2; C. iii. 1, 15; C. iv. 1, 2; and Bartolus on the passage cited from the Digest.
 195. 33. "Temeraria." Skene has "inordinata."
 196. 10. 'R. M.,' i., 26; 'Q. A.,' c. 81 (Skene's ed.). The first paragraph of the 'Q. A.,' c. 81, has been identified with a passage in the 'Curia Quatuor Burgorum' ('A. P.,' i. 704 § 53). The remainder of the chapter is not printed in the 'A. P.'
 196. 16. 1557, c. 5 ('A. P.,' ii. 502); c. 9, X. de fide instrument, ii. 22. The Act cited is quoted below in c. 9 of this Title.
 196. 27. The incident diligence was a summons of exhibition against the havers (*i.e.*, the possessors or custodiers) of the writs required (Stair, iv. 33, 3; 41, 4; Ersk., 'Inst.,' iv. 1, 52).
 197. 5. 1557, c. 5 ('A. P.,' ii. 502). The act is quoted in c. 9 of this Title. See Balfour's 'Practicks,' p. 367.
 197. 30. As to the necessity for protest, see Stair, iv. 41, 4.
 198. 5. This chapter is not in Skene's 'Forme.'
 198. 18. 1557, c. 5 ('A. P.,' ii. 502). See note to p. 170, l. 18 above.
 199. 1. This chapter is not in Skene's 'Forme.'
 199. 5. 'A. S.,' 27th May 1532, § 4.

199. 10. C. iv. 20, 19 authent. "Sed et si"; c. 5 X. ut lite non contest., ii. 6; c. 41 X. de testibus et attest., ii. 20. The passage cited from the Code provides that where a party who has suffered injury or loss seeks to produce witnesses and to publish their depositions, he must give notice to his opponent.

199. 13. This chapter is not in Skene's 'Forme.'

199. 19. See 'A. S.,' 27th May 1532, § 11.

200. 9. D. xxii. 5, 12: 'R. M.,' i. 38 Skene's ed. in error for ii. 38 (in 'A. P.,' ii. 31); 1579, c. 18 ('A. P.,' iii. 145); c. 23 X. de testibus et attest., ii. 20; c. 2. C. 2 q. 4. The statute of 1579 refers to documentary witnesses. 'R. M.,' ii. 31, deals with testamentary witnesses.

200. 11. Bisset adds a reference to C. iv. 20, 9, et ibi Baldus. See also C. iv. 20, 4; c. 4 X. de testibus et attest., ii. 20.

200. 18. The 'A. S.' cited is in the Grant MS. 54. The other references are to cc. 2, 3, C. 2 q. 4; D. xxii. 5, 1 § 2. The passage from the canon law prescribes that "presul non dampnetur nisi cum lxxii testibus. Presbyter autem cardinalis nisi in lxiv testibus non deponatur; diaconus cardinalis urbis Romæ nisi in xxvii testibus non contempnabitur. Subdiaconus, acolitus, exorcista, lector, hostiarius nisi in septem testibus non contempnabitur. Testes autem et accusatores sine aliqua sint infamia." In c. 37 X. de testibus et attest., ii. 20, the number of witnesses is limited to forty. The passage from the Digest provides that the number of witnesses which the judges deem sufficient should not be exceeded.

200. 21. This chapter is not in Skene's 'Forme.'

200. 28. The 'A. S.' cited is in the Grant MS. 77.

201. 1. This chapter is not in Skene's 'Forme.'

201. 16. The judges referred to are Sir Robert Melville of Mordocairnie, Sir William Livingstone of Kilsyth, Sir David Lindsay of Edzell, Archibald Douglas younger of Whittinghame, the Advocate (Thomas Hamilton of Monkland, Binnie and Byres), Sir Andrew Hamilton of Redhouse, Alexander Hay of Fosterseat, Privy Seal (Sir Richard Cockburn of Clerkington), Sir Lewis Craig of Wrights Lands, the Secretary (Alexander Hay of Qubithburgh), William Melvill, Commendator of Tungland, and Sir Alexander Drummond of Medhope (see J. Brunton and Haig, 'An Historical Account of the Senators of the College of Justice,' Edinburgh, 1832).

201. 23. John Cockburn of Ormiston was justice-clerk (see 'Reg. Mag. Sig.,' vii. 1148).

201. 26. Before the Act, 1686, c. 30 ('A. P.,' viii. 599), which directed that witnesses should be examined in the presence of the parties or their advocates, and that copies of their depositions should be obtainable by the parties, and the Act, 1693, c. 42 ('A. P.,' ix. 305), which provided for the advising of causes with open doors, the examination of witnesses was conducted by the lord examiner,

“without the hearing of any but the judge and clerk” (Stair, iv. 43, 14). “Parties were not allowed to be present at the advising of the testimonies of witnesses, nor to see the testimonies; for when they were taken, none but every singular witness could be present; and when all had deponed, the Ordinary was to seal the testimonies with his own seal; and when they were opened, which was only at the time they were to be advised, so soon as decreet was pronounced they were sealed up again, never to be opened thereafter” (*Id.*, iv. 46, 17. See below c. 14 of this Title). According to the canon law, the witnesses were examined by the judge or a commissioner (cc. 8, 22 X. de testibus et attest., 11, 20), and their depositions were known only to him and the notary of the cause until they were published (*Formulariam Variarum Commissionum . . .* Venice, 1570, c. 10).

201. 33. ‘A. S.’ 17th November 1610, § 8.

202. 1. This chapter is not in Skene’s ‘Forme.’

202. 10. ‘A. S.’ 27th May 1532, § 11.

202. 12. This chapter is not in Skene’s ‘Forme.’

202. 16. The provision referred to has not been traced.

202. 23. The ‘A. S.’ cited is in the Grant MS. 39, under date 20th October 1575. The second reference is to c. 52 X. de testibus et attest., ii. 20. This passage refers to the sealing of the separate paper.

203. 6. The ‘A. S.’ cited is in the Grant MS. 29, under date 13th June 1532.

203. 7. This chapter is not in Skene’s ‘Forme.’

203. 21. The reference is as given.

203. 25. The reference should be to ‘R. M.’ iii. 8, in Skene’s edition. The passage is not printed in the ‘A. P.’

203. 27. See c. 2 X. de testibus et attest., ii. 20.

203. 34. ‘R. M.’ iii. 27.

204. 3. C. iv. 20, 19, authent. “sed et si.”

204. 9. C. I et tot. tit. X. de testibus cogendis, ii. 21; C. iv. 20, 19.

204. 11. This chapter reproduces with slight alterations Skene’s revision, which replaces c. 22 (8) of his ‘Forme.’

204. 13. These Letters of Four Forms were superseded by Letters of Horning “giving warrant to messengers-at-arms to charge any party in the King’s name to obey what is contained in the letters under the pain of rebellion; and if he obey not within the days of the charge, giving power to denounce him rebel by public proclamation at the market cross of the head burgh of the shire, stewartry, bailiary of royalty or regality within which the denounced dwells; and that by public reading of the letters of horning, and giving three blasts of a horn for the clear manifestation and notice thereof, from whence it is called *horning*; and, because of the certification, the party denounced is called rebel, a term too harsh. . . . The English do

more properly call this execution *outlawry* . . ." (Stair, iii. 3, 1; see iv. 41.9; 47.2; Ersk., 'Inst.,' iv. 3, 9).

204. 18. The 'A. S.' cited is in the Grant MS. 41, under date 26th November 1579.

204. 23. This chapter is not in Skene.

204. 27. "Exprementted." The 'A. S.' cited has "experimented."

205. 1. The 'A. S.' cited is in the Grant MS. 76. The reference to "c. 2 de testibus extra" seems to be wrong. The apposite reference is to c. 31 X. de simonia, v. 3. In the charge of simony there were stated certain exceptions on the ground of "conspirationes . . . et inimicitias capitales, furtum et adulterium," against two of the witnesses. "Super quibus utrinque fuit multipliciter disputatum, aliis asserentibus in crimine simoniae sicut [et] in crimine laesae majestatis, omnes indifferenter, tam infames quam criminosos, non solum ad accusandum sed etiam ad testificandum admittendos, quum ad instar publici criminis et laesae majestatis procedat accusatio simoniae. . . ." The other side sought to distinguish between treason and simony.

205. 3. As to the wife's oath in cases of prepositura, see the cases quoted in Fraser's 'Treatise on Husband and Wife,' 2nd ed., i. 628. It seems that in Stair's time domestic servants were admitted when necessary witnesses as to domestic affairs (iv. 43, 9; see Ersk., 'Inst.,' iv. 2, 26).

205. 10. C. v. 17, 8 § 6, provided for the admission of slaves where the adultery of their master or mistress was in issue and no other evidence was available.

205. 11. The reference to the admiral and sea laws is to vol. ii. 260 f.

205. 13. This chapter is not in Skene. See Mackenzie, 'Observations on the Sixth Parliament of King James VI.,' c. 94.

205. 20. 1579, c. 45 ('A. P.,' iii. 162).

205. 22. This chapter is not in Skene.

206. 31. In the 1811 edition of the 'Acts of Sederunt,' the date of the 'A. S.' is given as 16th November 1612.

207. 3. 1600, c. 15 ('A. P.,' iv. 228).

207. 8. See Balfour, 'Practicks,' p. 373.

207. 19. "At." Skene has "after." See the provisions of the canon law quoted in the next note.

207. 22. "First terme or secund." Skene has "first terme, second or third." Bisset cites c. 15 X. de testibus et attest., ii. 20, which provides that "in causis ecclesiasticis vel civilibus ultra tertiam productionem non debent testes produci, nisi adhibita quadam solemnitate, quæ in legibus invenitur expressa." Accordingly, he who demanded a fourth production was required to swear, "quod neque per se neque per alium testificata subtraxerit vel fuerit perunctatus, nec per dolum aut artem aliquam, quartam productionem

exposcat; sed quia quos desiderat de novo producere prius habere nequivit" (c. 55 ejusdem tit. See also cc. 36, 46). The gloss on 'productionem' (c. 15, ejusdem tit.) is as follows: "*i.e.*, dilationem, quia in una dilatione plures posset producere, quolibet die dilationis posset producere, hodie unum, cras alium, et sic usque ad ultimum diem dilationis. Finita prima dilatione justa causa allegata iudex secundam dilationem dabit et iterum tertiam. Quartam non dabit nisi cum juris solemnitate. . . ." This procedure is borrowed from the Roman law (C. iv. 19, 19, authent. "at qui").

208. 20. These references, which are Bisset's, are to 'R. M.' iii. 4; Stat. 2, Rob. 1, c. 23 (Skene's Latin ed.; c. 22 in his Scots version; see 'Fragm. Coll.,' c. 9 in 'A. P.,' 1, 735). The Latin quoted is taken from the gloss on "præstare debet," in C. iv. 19, 1.

208. 24. The last sentence of the chapter is an addition of Bisset's.

209. 23. D. xliv. 1, 2; C. viii. 36 (35), 10.

209. 29. As to the number of witnesses, see Title 26, c. 9 above, and note to p. 200, l. 18.

210. 9. "Circumductioun." "Where a party to whom a proof is granted brings none within the term allowed by the warrant, an interlocutor is pronounced *circumducing the term, i.e.*, declaring the time has elapsed without any proof brought by him who had demanded it, and precluding him from bringing further evidence" (Ersk., 'Inst.,' iv. 2, 32). Mod. tenend. cur, cc. 22, 23; St. 1, Rob. 1, c. 30 (Skene's Latin ed.; c. 29 in his Scots version; see 'Fragm. Coll.,' c. 2 in 'A. P.,' 1, 741); D. v. 1, 73 §§ 1, 2; Balfour, 'Practicks,' p. 358.

211. 3. 1557, c. 5 ('A. P.,' ii. 502). See note to p. 170, l. 18 above.

211. 10. "Desyre of the terme," means perhaps the date of the term assigned at the party's request.

211. 13. "Probationis." Skene has "probatorius."

211. 22. The 'A. S.' cited is in the Grant MS. 71. The second reference is to c. 11 X. de probationibus, ii. 19. This reference is apparently to a gloss on "conclusiones" in the chapter cited.

212. 1. The reference is to c. 9 X. de fide instrument, ii. 22, et ib. gloss. in verb. "conclusum." The gloss explains "conclusum." "Id est, renunciatum allegationibus et omnibus aliis probationibus" (c. 5 X. de causa possess., ii. 12; c. 8 X. de procurat., 1, 38).

212. 19. 1557, c. 5 ('A. P.,' ii. 502). See note to p. 170, l. 18 above.

212. 21. See note to p. 201, l. 26.

213. 4. The 'A. S.' cited is in the Grant MS. 52.

213. 5. This chapter is not in Skene. It reproduces a new section in his revisal.

213. 12. The 'A. S.' is in the Grant MS. 71.

213. 23. C. ix. 22, 11.

213. 25. See Stair, iv. 40, 39.

213. 30. The last three lines are Bisset's.
214. 8. C. ix. 22, 2.
214. 10. See Balfour, 'Practicks,' p. 382.
214. 14. C. 2 X. de crimine falsi, v. 20.
214. 23. 'A. S.,' 25th October 1577; 'A. S.,' 16th November 1579. The 'A. S.' first cited has not been traced. The second is in the Grant MS. 41, under date 26th November 1579, and is added by Skene in his revisal.
214. 25. This chapter is not in Skene.
215. 15. 1557, c. 4 ('A. P.,' ii. 502.) See the case of Walter Makesone v. the laird of Blebo, 15th December 1557, reported in Balfour, 'Practicks,' p. 381-2.
215. 29. C. 10 X. de fide instrument., ii. 22; 1593, c. 25 ('A. P.,' iv. 22). In the case cited from the Canon law, the evidence of the notary and that of one of the instrumentary witnesses was disregarded, and the evidence of four witnesses who were present when the contract of sale was entered into was preferred. The latter swore that the sale was made *sub conditione*, although the condition did not appear in the instrument. The statute of 1593 provides that the writer shall insert his name in the body of the instrument. See Balfour, 'Practicks,' p. 383.
215. 30. The last sentence is an addition of Bisset's. The change in the date of the commencement of the year was effected by an order of the king and privy council, dated 17th December 1599 ('Register of the Privy Council,' vi. 63, 67 note).
216. 18. See the reference to the Canon law in note to p. 200, l. 9.
216. 21. Bisset adds the references to messengers-at-arms, and to Title 36, c. 18 below (c. 11 below), to 'A. S.,' 23rd November 1613, there quoted, and to an anonymous case dated 27th April 1540, reported in Balfour, 'Practicks,' p. 383.
216. 25. See Balfour, 'Practicks,' p. 383.
217. 15. 'R. M.,' iii. 8 (7) (Skene's ed.); c. 6 X. de fide instrument., ii. 22; C. iv. 21, 20, cum. authent. seq. The passage cited from the 'Regiam' is not printed in the 'A. P.'
218. 10. 'Q. A.,' c. 34; C. iii. 32, 28; iv. 19, 2; ii. 1, 4; c. 1 X. ut ecclesiast. benef., iii. 12; c. 3 X. de caus. possess., ii. 12.
218. 12. Bisset adds a reference to 1621, c. 22 ('A. P.,' iv. 624), and proceeds to state its provisions firstly in a condensed form at lines 16-22, and then verbatim at line 27 to the end of the chapter.
218. 22. "Falsed," *i.e.*, as "committaris of falsett" (l. 32). See Mackenzie, 'The Laws and Customs of Scotland in Matters Criminal,' *s.v.* "Falshood" ('Works,' ii. 156).
218. 24. 1587, c. 34 ('A. P.,' iii. 451), provides that landed men convicted of common theft, reset, or stouth reiff, of which the last is said by Hume ('Commentaries,' i. 104) to include "every sort of masterful theft or depredation," shall incur the penalties of treason.

219. 4. 1621, c. 22 is repeated. (See note to p. 218, l. 12 above.)

219. 11. C. vii. 45, 3, 11.

219. 28. D. xlii. 1, 1.

220. 3. According to the Canon law the judge must be seated at the time of giving judgment. "Sententia quam scriptam edi a iudice litigatoribus, non recitari, vel quam ab ipso stando, non sedendo proferri contingit, nullius penitus est momenti" (c. 5, VI. de senten. et judic., ii. 14). King James III. affirmed the judgment of the dempster of parliament "loco tribunali sedens" ('A. P.,' ii. 117, cp. 114). See Balfour, 'Practicks,' p. 405, and the introduction to the second volume of the 'Acta Dominorum Concilii,' pp. xlix ff.

220. 7. 'Q. A.,' c. 12; Ass. David I., c. 4 (in Skene's ed., 'Q. A.,' c. 66).

220. 12. The 'A. S.' cited is in the Grant MS. 23. The Act cited is 1587, c. 27 ('A. P.,' iii., 448). The statute of 1587 provides for a quorum of nine lords. This provision, says Mackenzie ('Observations on the Eleventh Parliament of King James VI.,' c. 44), "is now observed, though by the 57 Act, 5 parl. Ja. V. ten lords, with the chancellor or president, at the first institution, were necessary to make a quorum." The statute of James I. cited by Mackenzie and Bisset is not an Act of Parliament but an 'A. S.' (27th May 1532, § 15).

220. 20. This chapter is not in Skene.

220. 25. The 'A. S.' cited is in the Grant MS. 20, under date 13th June 1532.

220. 28. See Title 31, c. 6 above.

221. 1. This chapter is not in Skene.

221. 10. 'A. S.,' 27th May 1532, § 14.

221. 12. This chapter is not in Skene.

221. 14. "Meittis thame," *i.e.*, "comes to their knowledge." Cp. the expression, "to meet the eye," *i.e.*, "to become visible" (see 'The New English Dictionary,' *s.v.*, "meet," 1, 2, 1.).

221. 25. The 'A. S.' cited is in the Grant MS. 55.

221. 27. This chapter is not in Skene.

222. 5. The 'A. S.' cited is in the Grant MS. 20.

222. 7. This chapter is not in Skene.

222. 19. "In the Inner house." These words are not in the original.

222. 25. The reference is as given.

222. 27. This chapter is not in Skene.

223. 8. The date of the 'A. S.' cited is 11th January 1604.

223. 10. This chapter is not in Skene.

223. 23. The date of the 'A. S.' cited is 11th January 1604.

223. 24. This chapter is not in Skene.

223. 26. "Lord." The word "clerk" seems to have been omitted after the word "lord," *per incuriam*.

224. 5. The reference is as given.

224. 9. The date of the 'A. S.' is 11th January 1604.
224. 12. This chapter is not in Skene.
226. 31. As to sentence money and the payment of fines to the judges, see note to pp. 152, l. 24 ; 228, l. 14.
227. 4. "Pena temere litigantium" was the penalty imposed on him who recklessly brought or defended an action (Gaius, iv. 174 ff. ; 'Inst.,' iv. 16).
227. 16. "Poinding was a term which anciently denoted any distress or diligence." Double distress arises "where diligence is used or threatened against a debtor at the suit of two or more different competitors, all claiming right to the same debt or subject." In such a case "the debtor may bring the different claimants into the field by an action of multiple or double poinding" (Ersk., 'Inst.,' iv. 3, 23).
228. 10. "Causis of advocatioun." Neither Skene nor Bisset treat of advocation.
228. 14. The 'A. S.' cited is in the Grant MS. 49. The Acts referred to are 1491, cc. 11, 18 ('A. P.,' ii. 225, 227). The former Act is not clearly expressed, but apparently the meaning is that the unsuccessful party shall pay the expenses and a fine of 40s. to the judge within twenty days (see the note to p. 226, l. 31). The latter Act provides that where the one party calls the other and does not compare, he shall pay the expenses of the party called, and a fine of 40s. to the lords, "or he be harde in jugement to folow his partij thareftir and nocht to abide the decrett to be givin tharappoun."
228. 16. This chapter is not in Skene.
228. 23. 1471, c. 11 ('A. P.,' ii. 100), which provides that the unsuccessful party shall pay a fine of 40s. to the lords (see note to p. 152, l. 24 above), "to be dispoit be the chancelar and the expens of the partij that wynnys the cause be the modificacione of the lordis."
228. 29. 1557, c. 6 ('A. P.,' ii. 502), which "ordanis condempnatour or absolutour of expensis to be maid at the decisioun of euerilk cause and the samin taxt to be soumit in the principall decrettis to be geuin heirefter."
228. 30. This chapter is not in Skene.
229. 4. The 'A. S.' cited is in the Grant MS. 54.
229. 5. This chapter is not in Skene.
229. 18. 1587, c. 24 ('A. P.,' iii. 447).
229. 22. 1491, c. 11 ('A. P.,' ii. 225), see note to p. 228, l. 14.
229. 28. 1491, c. 18 ('A. P.,' ii. 227, see note to p. 228, l. 14) ; 1592, c. 62 ('A. P.,' iii. 573).
230. 8. 1579, c. 29 ('A. P.,' iii. 147).
230. 17. D. xlii., i. 4 § 4, 47 ; C. vii. 53, 2.
230. 29. D. xlii. 1, 15 ; 'Q. A.,' c. 34 ; 1469, c. 12 ('A. P.,' ii. 96). "Before this Act," says Mackenzie ('Observations on the Fifth Parliament of King James III.,' c. 37), "the tenent might have been poinded by the Brief of Distress for all the personal debt owing by

his master; but by the first part of this Act, it is appointed that the tenents shall be pould only for as much as they owe their master, which did hold only in poulding for moveable debts." See Stair, iv. 23, 1; iv. 47, 24; Ersk., 'Inst.,' ii. 8, 33. By later practice the provision was extended to *debita fundi* ('Lady Pitfoddels,' 4th February 1674, 'Mor. Dict.,' 10,548). See W. Ross, *op. cit.* i. 394 ff., 411 ff.

231. 25. Bisset adds references to 1584, c. 15 ('A. P.,' iii. 300); 1606, c. 9 ('A. P.,' iv. 286). The former Act provides that letters of horning as well as poulding may be directed at the pleasure of the obtainer of the decree not only for liquid sums, but where the execution consists *in facto* (see Mackenzie, 'Observations on the Eighth Parliament of King James VI.,' c. 139). The latter Act appointed letters of horning to pass upon the decrees of sheriffs, stewarts and baillies without a decree conform (see Mackenzie, 'Observations on the Eighteenth Parliament of King James VI.,' c. 10). According to the older practice, the decree of an inferior court could not be executed beyond that court's jurisdiction until the authority of the Court of Session had been interponed to it by a decree of its own, which, because it was made out in the precise terms of the original decree, was called a "decree conform" (Ersk., 'Inst.,' iv. 3, 9; W. Ross, i. 270, 423 f.)

232. 9. Bisset adds references to 1469, c. 12 ('A. P.,' ii. 96), and 1540-41, c. 24 ('A. P.,' ii. 375). As to the former Act, see note to p. 230, l. 29. The latter Act provides a remedy by way of apprising against heirs who will not enter to their lands in fraud of their creditors.

232. 21. 1584, c. 15 ('A. P.,' iii. 300); C. vii. 53, 1, et tot. tit. Bisset adds a reference to 1606, c. 9 ('A. P.,' iv. 286). As to these Acts, see note to p. 231, l. 25.

233. 1. This chapter is not in Skene.

233. 12. 'A. S.,' 27th May 1532, § 17; 1491, c. 11 ('A. P.,' ii. 225); 1503-4, c. 10 ('A. P.,' ii. 250).

233. 15. This chapter is not in Skene.

233. 18. As to Letters of Four Forms, see c. 15 of this Title, and note to p. 204, l. 13 above. See also Introduction.

233. 26. The 'A. S.' cited has not been traced.

233. 28. The 'A. S.' cited is as cited.

234. 4. This chapter is not in Skene.

234. 14. The 'A. S.' as printed in the 1811 edition of the 'Acts of Sederunt' has "the" after "decreittis."

234. 27. The reference is as given.

234. 29. This chapter is not in Skene.

235. 9. "Apprehend." See note to p. 136, l. 26 above.

235. 24. The 'A. S.' cited is in the Grant MS. 77. The other references are to 1540, cc 9, 10, 18 ('A. P.,' ii. 359, 360); 1587, c. 54

('A. P.,' iii. 456); 1592, c. 28 ('A. P.,' iii. 554); 1594, c. 18 ('A. P.,' iv. 66). By c. 9 of 1540, all executions must bear the messenger's stamp. C. 10 of 1540 provides for the order of summoning persons in civil actions (see Mackenzie, 'Observations on the Sixth Parliament of King James V.,' cc. 74, 75). The citation of c. 18 of 1540 seems to be inapposite. It deals with "Lesing Makaris." The Act of 1587 provides, *inter alia*, for the finding of caution by messengers *de fideli administratione*. The Act of 1592 deals with the duties of sheriffs and other judges ordinary, and that of 1594 relates to sureties for officers of arms.

235. 28. This chapter is not in Skene.

236. 14. The references are to 1600, c. 38 ('A. P.,' iv. 239); 1612, c. 7 ('A. P.,' iv. 472); 1621, c. 20 ('A. P.,' iv. 623). Of the Act of 1600, Mackenzie says ('Observations on the Sixteenth Parliament of King James VI.,' c. 25) that it was found to extend only to actions before the Privy Council, and not to charges before any other court, owing to the terms of its narrative. The purpose of the Act of 1612 was to obviate the necessity of a decree conform, in the case of decrees of the Commissaries (see note to p. 231, l. 25). The Act of 1621, which is quoted below in chapter 14 of this Title, provided that where a debtor was put to the horn and denounced, interest was due thereafter on all the sums contained in the diligence.

236. 19. This chapter is not in Skene.

237. 27. See note to p. 175, l. 17 above.

238. 7. This chapter is not in Skene.

238. 16. As to Letters of Four Forms, see note to p. 233, l. 18 above.

239. 36. A shorter version of this 'A. S.' is given in the 1811 edition of the 'Acts of Sederunt.'

240. 1. This chapter is not in Skene.

240. 15. As to Letters of Four Forms see note to p. 233, l. 18 above.

240. 31. 1600, c. 22 ('A. P.,' iv. 230).

241. 6. 'A. S.' as cited. The second reference is to 1612, c. 7 ('A. P.,' iv. 472).

241. 8. This chapter is not in Skene.

241. 12. Regalities were feudal rights of lands granted to commoners who were called lords of regality. The civil jurisdiction of a lord of regality was equal to that of a sheriff, while his criminal jurisdiction was as ample as that of the justiciary, except as regarded treason. Where a criminal was amenable to a regality, the lord might repledge or reclaim him, on giving security ("culrach") that he would administer justice to him within a year (Ersk., 'Inst.,' i. 4, 7-9). As to replegiation, see Kames, 'Historical Law Tracts,' Edinburgh, 1758, i. 285 ff.; J. Stuart, "Notice of the Early System of Replegiation in Scotland," in the 'Proceedings of the Society of Antiquaries of Scotland,' 1874-75, xi. 163 ff.; Hume, 'Commen-

taries,' ii. 30; Stair, iv. 37, 4; Ersk., 'Inst.,' i. 4, 30; 'A. P.,' Index *s.v.* "Replegiation." See also the case of Jhonne Castellaw ('A. P.,' ii. 467). A lord of regality had his own chancery, whence he issued briefes to his bailie for service of heirs. He "might appoint deputies called stewards or bailies, not only during pleasure or for life but heritable, who had, by that deputation, all the profits incident to the jurisdiction made over *in perpetuum* to themselves and their heirs" (Ersk., 'Inst.,' i. 4, 7). "Steward, in a strict sense, signified a magistrate appointed by the king over special lands belonging to himself, having the same proper jurisdiction with that of a regality" (Ersk., 'Inst.,' i. 4, 10). Erskine inclines to the view that regalities belonging to subjects, on their falling to the crown became stewardries. Where lands fell to the king, which had not been erected into regalities, or which he did not intend to have regality powers, he appointed a bailie over them, whose jurisdiction, both civil and criminal, was in all respects equal to that of a sheriff (*Id.*).

241. 18. The reference is as given.

241. 20. This chapter is not in Skene.

241. 23. At a convention of estates held at Falkland on 31st July 1599, it was ordained that all instruments of sasine outwith burgh, reversions, bands for giving reversions, intimations of the same and discharges of reversions, should be inserted in the particular registers appointed for the purpose within 40 days under pain of nullity, the said registers to be called the "registeris of secretarie" ('Register of the Privy Council,' vi. 17, 132-33; see 'A. P.,' iv. 184). They were abolished by the Act 1609, c. 40 ('A. P.,' iv. 449).

241. 29. 1600, c. 36 ('A. P.,' iv. 237)

241. 33. 1609, c. 40 ('A. P.,' iv. 449), ratifying an act of the convention held at Edinburgh, 27th January 1609 ('A. P.,' iv. 407).

242. 6. 1617, c. 16 ('A. P.,' iv. 545).

242. 27. As to "shireffis in that parte," see note to p. 43, note 6.

243. 13. The words "contened . . . fie" are not in Skene. See c. 9 of this Title.

243. 14. "Schiref fie." See note to p. 246, l. 2 below.

243. 23. 1469, c. 12 ('A. P.,' ii. 96); 'Q. A.,' c. 34; D. xlii. 1, 15, 31; C. vii. 53, 9. See note to p. 230, l. 29 above.

244. 3. "And thrid" is an addition of Bisset's. According to Stair (iv. 47, 31), the goods must be appraised at the ground and thereafter at the cross.

244. 10. "Makis faith." See note to ii. 454.

244. 18. "Nomina debitorum." "Tituli debitorum *nomina* dicuntur praesertim in iis debitis, in quibus hominum nomina scripta sunt, quibus pecuniae commodatae sunt" (Ascon., ap. 2. Verr. i. 10; cp. Ross, i. 38). This chapter is not in Skene. As to arrestment, with which this chapter deals, see Ersk., 'Inst.,' iii. 6, 2, and 15.

245. 3. 1592, c. 63 ('A. P.,' iii. 573). This act provides that the

donees of escheats shall pay the debt contained in the horning upon which the gift proceeded.

245. 16. 1503, c. 45 ('A. P.,' ii. 254). See Mackenzie, 'Observations on the Sixth Parliament of King James IV.,' c. 98; Ersk., 'Inst.,' iii. 6, 22.

245. 17. This chapter is not in Skene. See note to p. 230, l. 29 above.

245. 25. The meaning of the concluding words is that, if the tenant's goods were poided for a year's rent, the lord might not exact that year's rent from him.

245. 27. 1469, c. 12 ('A. P.,' ii. 96).

245. 31. "Schireffis in that pairt." See p. 43, note 6 above.

246. 2. See chapter 2 of this Title.

246. 5. 1503-4, c. 10 ('A. P.,' ii. 250).

246. 15. As to the form of procedure, see Craig, iii. 2.16 ff.; Mackenzie, 'Observations on the Fifth Parliament of King James III.,' c. 37; Ersk., 'Inst.,' ii. 12, 3-5.

246. 32. The word "them" seems to have been omitted after the word "moving."

247. 6. 1469, c. 12 ('A. P.,' ii. 96).

248. 10. In Scotland, during the course of centuries, the solemnity of fencing the court formed, with few exceptions, the initial step in the holding of a secular court whether civil or criminal. Nowadays, where it survives as in the sheriff court of Lanarkshire at Glasgow, and in the proceedings following upon the election of the Town Council of Edinburgh (see D. Robertson, 'The Bailies of Leith,' Leith, 1915, pp. 163 ff.), it is little, if anything, more than an empty ceremony. In the baron court the formula used by the court officer was in the following terms: "I defend and biddis in our liege Lord the King's behalfe of Scotland, and in the behalfe of the Lord that this court aucht, and his Baillie, that here is, that na man distrouble this court unlawfullie, vnder the paine that may follow, or make him to speik for any, but leau asked and obtained" ('Forme and Maner of Baron Court,' c. 1 (4)). The formulæ used in fencing parliament are given in 'A. P.,' vii. 6; ix. 99; xi. 33. It was not necessary to fence the continuations of a "rynnand parliament" ('A. P.,' ii. 465, 467). When the record of the court proceedings is written in Latin, the expression used as equivalent for "to fence the court" is "affirmare curiam" or "confirmare placitum." For further details, and for the history of the solemnity in Germany and Scandinavia, see 'The Fencing of the Court' in 'The Scottish Historical Review,' 1923, xxi. 54 ff., and the authorities there cited. It may be added that an Icelandic formula of fencing, which belongs to the XVI. century, is to be found in J. Vigfusson and F. York Powell, 'Orignes Islandicæ . . .' Oxford, 1905, i. 330.

248. 20. This reference to 1503-4, c. 40 ('A. P.,' ii. 253), is an

addition of Bisset's. This act regulates the method to be observed for the compulsion of persons to serve upon the inquest.

248. 30. 1503-4, c. 10 ('A. P.,' ii. 250).

249. 23. 1469, c. 12 ('A. P.,' ii. 96).

250. 19. 1469, c. 12 ('A. P.,' ii. 96).

250. 21. The "annotatio" is Bisset's.

250. 31. As to Letters of Four Forms, see note to p. 233, l. 18 above.

251. 11. The words "Because . . . the samin," are not in the University MS.

251. 26. As to entry with the superior, see 1647, c. 482 ('A. P.,' vi. pt. 1, p. 823); Ersk., 'Inst.,' ii. 12, 25; Hope, 'Minor Practicks,' Edinburgh, 1726, pp. 108 ff.

252. 7. 1621, c. 8 ('A. P.,' iv. 611), provides that an extract of the debtor's infestment under the privy seal shall, in certain circumstances, be equivalent to infestment and confirmation under the great seal. As to the different seals, see Ersk., 'Inst.,' ii. 5, 82-86; Hope, 'Minor Practicks,' pp. 86 ff.

252. 10. The first nine lines of this chapter are in Skene's 'Forme,' c. 34 (10).

252. 17. 1469, c. 12 ('A. P.,' ii. 96); 1540, c. 24 ('A. P.,' ii. 375); 'L. Q. B.,' cc. 89, 90; Stat. Alexander II., c. 24 (in Skene's ed.; printed in 'A. P.,' i. 735; 'Fragm. Coll.,' c. 6). As to the Act of 1540, see note to p. 232, l. 9. The chapters of the 'L. Q. B.' cited provide for the case of the debtor or his heir who has no property other than his lands out of which to make payment. The statute attributed to Alexander II. provides for the sale of the debtor's lands when he has no distrainable moveables. See Ersk., 'Inst.,' ii. 12, 2; 'Fragm. Coll.,' c. 2 ('A. P.,' i. 734); D. xlii. 15 § 2.

252. 21. Bisset adds references to 1503-4, c. 21 ('A. P.,' ii. 251); 1621, cc. 6, 27 ('A. P.,' iv. 609, 627). The Act of 1503 provides that the creditor may pursue the heir for his ancestor's debts after a year from his death. As to the two Acts of 1621, see Mackenzie's 'Observations on the Twenty-third Parliament of King James VI.,' cc. 6, 27.

252. 25. "Act 4" seems to be a reference to 1621, c. 6 ('A. P.,' iv. 609), already cited. "Act 7" seems to refer to 1621, c. 7 ('A. P.,' iv. 611). The second of these acts deals with adjudications "contra hereditatem jacentem," *i.e.*, sentences of court adjudging a succession which a debtor deceased has not entered upon to the creditor pursuer (Ersk., 'Inst.,' ii. 12, 47 *et seq.*). As to adjudication in implement, see Ersk., 'Inst.,' ii. 12, 50 *et seq.*

253. 9. The reference is to 1621, c. 27 ('A. P.,' iv. 627).

253. 11. This chapter is not in Skene.

255. 35. Bisset's version of the 'A. S.' is much fuller than that printed in the 1811 edition of the 'Acts of Sederunt.'

256. 2. As to the history of suspension, see W. Ross, i. 362 ff.
256. 7. D. xlii. 1, 55.
256. 15. C. vii. 52, 1; 53, 2. See Bethmann-Hollweg, ii., 632, 780.
257. 4. This chapter is taken from Skene's revision, where it forms a new chapter, numbered 7.
257. 10. The reference is as given.
257. 12. This chapter quotes the 'A. S.' in full. Skene's 'Forme,' c. 34 (35), 12, is a short abridgment of it, and contains a reference to 1584, c. 15 ('A. P.,' iii. 300).
258. 11. The reference is as given.
258. 12. This title is not in Skene.
258. 22. 1594, c. 19 ('A. P.,' iv. 66).
258. 24. This chapter is not in Skene.
260. 25. The 'A. S.' cited is given in a shorter form in the 1811 edition of the 'Acts of Sederunt.' The other references are to 1584, c. 15 ('A. P.,' iii. 300); 1587, c. 24 ('A. P.,' iii. 447).
260. 28. This chapter is not in Skene.
261. 14. As to the judges named, see note to p. 201, l. 16.
261. 18. The 'A. S.' cited is merely noted in the 1811 edition of the 'Acts of Sederunt.'
261. 20. This chapter is not in Skene.
262. 10. The 'A. S.' cited is in the Grant MS. 43. The Acts cited are 1587, c. 24 ('A. P.,' iii. 447); 1592, c. 62 ('A. P.,' iii. 573).
262. 13. This chapter is not in Skene.
262. 23. The 'A. S.' is as cited. The Act referred to is 1584, c. 15 ('A. P.,' iii. 300).
262. 27. This chapter is taken from Skene's revision, in which he adds a new section, numbered 18.
263. 6. The reference is as given.
263. 7. This chapter is not in Skene.
263. 14. The 'A. S.' cited is in the Grant MS. 69.
263. 18. The words "for payment . . . bills" are taken from Skene's revision.
263. 26. The 'A. S.' cited is in the Grant MS. 40.
266. 4. This chapter is in Skene's 'Forme,' c. 34 (35), (14), as revised by him.
266. 24. Bisset adds references to 1491, c. 18 ('A. P.,' ii. 227); 1540-1, c. 29 ('A. P.,' ii. 375); 1557, c. 6 ('A. P.,' ii. 502); 1584, c. 15 ('A. P.,' iii. 300); 1587, c. 24 ('A. P.,' iii. 447); 'A. S.,' 23rd November 1613. The last is as given.
266. 28. This chapter is not in Skene.
268. 3. The 'A. S.' cited is in the Grant MS. 78.
268. 4. This chapter is not in Skene.
268. 33. The 'A. S.' cited is in the Grant MS. 79.
269. 1. The chapter is not in Skene.

269. 10. "Passing." The 1811 edition of the 'Acts of Sederunt' has "ressaveing."

269. 16. The 'A. S.' is as cited.

269. 17. This chapter is not in Skene.

270. 16. The reference is as given.

270. 24. The aim of the Act was to prohibit gratuitous alienations by insolvent debtors to friends and relatives. The term "conjunct" implies relationship.

270. 27. The 'A. S.' cited is dated 13th July 1620.

270. 37. The reference is to 1621, c. 18 ('A. P.,' iv. 615).

271. 10. This chapter is not in Skene.

271. 18. "Protectioun." Protections from diligence were granted sometimes by the court, sometimes by creditors. In the latter case they were called supersederes (Ersk., 'Inst.,' iv. 3, 24).

271. 23. 1621, c. 13 ('A. P.,' iv. 613). See Mackenzie, 'Observations on the Eleventh Parliament of King James VI.,' c. 47.

272. 1. C. vii. 50, 1; 45, 9; D., xlii. 1, 14, 55. As to the rescission of judgments in Roman law, see Bethmann-Hollweg, ii. 712 f. See also the passage of the canon law quoted in chapter 8 of this Title.

273. 4. This chapter is in Skene's 'Forme,' c. 36 (6), except the concluding words "quhilk . . . suspensionis."

273. 12. The first six lines of this chapter are in Skene's 'Forme,' c. 36 (7).

273. 21. Bisset adds references to 1496, c. 6 ('A. P.,' ii. 238); 1617, c. 13 ('A. P.,' iv. 544); 1592, cc. 52, 53 ('A. P.,' iii. 569-70); 1587, c. 35 ('A. P.,' iii. 451); 1584, c. 11 ('A. P.,' iii. 297); 1587, c. 8 ('A. P.,' iii. 431); 1581, c. 23 ('A. P.,' iii. 223).

273. 27. "Wedsettis." The wadset was originally a pledge of lands in security of debt. Later it became an absolute transfer through the development of the practice of engrossing the reversion, or right of the debtor to a reconveyance, in a separate deed (Green's 'Encyclopædia of the Law of Scotland,' s.v. "Wadset").

274. 1. The first nine lines are in Skene's 'Forme,' c. 36, (8).

274. 8. C. 18, X. de sent. et re judic., ii. 27. Both Skene and Bisset have "Bartholus" for "Bertholdus." The passage cited provides that "si citatus ad sententiam ex legitima causa judici ignota non comparuit, tenet sententia eo absente lata, sed retractatur eo probante legitimam absentia causam."

274. 9. The remainder of the chapter is Bisset's.

274. 12. 1584, c. 10 ('A. P.,' iii. 352). The Act does not contain any special provision regarding churchmen.

274. 17. The first seven lines of this chapter are in Skene's 'Forme,' c. 36 (9).

274. 23. The first reference is to C. vii., 43, 10.

274. 24. 1584, c. 10 ('A. P.,' iii. 352.) The reference "d[e], c. 8"

(c. 18 in the University MS.), seems to be to c. 18 X. de sent. et re judic., ii. 27.

274. 27. 1585, c. 9 ('A. P.,' iii. 378).

275. 3. The reference is to Bartolus' comment on D., xlii. 1, 62, which does not seem to be an authority for the statement in the text.

275. 32. D., xlv. 4, 1; C. iii. 1, 13.

276. 16. This chapter down to p. 277, l. 16, is an altered and amplified version of c. 36 (16), (17) of Skene's 'Forme.'

276. 21. The reference is to D., xii. 2, 31.

277. 13. C. 5, X. de jurament. calumn. ii. 7, "et ibi gloss.;" D., xxv. 4, 1; xxxvi. 4, 4; xi. 1, 11 § 8.

277. 17. 1557, c. 5 ('A. P.,' ii. 502).

277. 22. As to the 'A. S. S.' cited, see note to p. 214, l. 23 above.

277. 24. "23" is written in error for "32."

277. 32. "Non-entrie." A casualty which arises to the superior out of the rents of the feudal subject, through the heir's neglecting to get the investiture renewed after the death of his ancestor (Ersk., 'Inst.,' ii. 5, 29).

277. 35. "Few ferme." A tenure by which the vassal was bound to pay or deliver to the superior a fixed yearly rent either in money or grain. Sometimes he was also bound to perform certain services (Ersk., 'Inst.,' ii. 4, 5).

"Blanche ferme." A tenure in which the vassal pays a small duty to the superior in full of all services, as an acknowledgment of his right, either in money or in some other subject as a penny money, a pair of spurs, &c. (Ersk., 'Inst.,' ii. 4, 7).

278. 1. "Responde." "A book of record in the Chancery drawn off the precepts of seisin to all heirs, and mentioning such a sheriff or bailie where the lands lie, "respondere," that is, to count in Exchequer for the sums, which by the precepts of seisin directed to him, he is ordered to take security for . . ." (Stair, ii. 4, 28; Ersk., 'Inst.,' ii. 5, 50).

278. 15. The Acts referred to are 1606, cc. 13, 14 ('A. P.,' iv. 287, 288); 1540, c. 12 ('A. P.,' ii. 359).

279. 1. As to the process of Falsing Doods, see Introduction. Bisset's version follows the Monynet MS. (Adv. Library 25.5.6, fols. 342 ff.).

279. 15. 1429-30, c. 6 ('A. P.,' ii. 18); 1503-4, cc. 41, 46 ('A. P.,' ii. 254).

279. 23. 'Q. A.,' c. 9; Ass. Will., c. 10 (Skene's ed.), included in 'Fragmenta Collecta,' cc. 4, 6 ('A. P.,' i. 742); "Iter Justiciarie," c. 34, (Skene's ed.). This chapter is not included in the version of the "Iter" printed in the 'A. P.'

280. 10. Bisset has "soyttoure." The Monynet MS. has "soy-touris," and Bisset has the plural at line 14 below. As to the suitors, see Introduction.

280. 11. The falser was required to state at least one reason. He was permitted to state additional reasons in the court of review ('Q. A.,' c. 9).

280. 21. 1503-4, c. 41 ('A. P.,' ii. 254).

281. 16. The person summoned was not the holder of the judgment but the judge.

281. 19. "Maor," says C. Innes ('Lectures on Scotch Legal Antiquities,' pp. 78-9), "is a native Celtic word for an officer, equivalent to our sheriff's officer. We had numerous mairdoms or subdivisions of sheriffdoms, and several mairs of fee, that is, hereditary mairs"; and he cites a precept of clare constat for infesting the grantee, "de officio Sergiandriæ seu maiori tenandrie seu balliatus de Craignish." The hereditary office was not infrequently held by a great family (*Ib.*, p. 78, note 1; see 'A. P.,' Index, *s.v.* "Mair"); and the holder was permitted by a statute of James I. (1429-30, c. 1 ('A. P.,' ii. 17); see Mackenzie, 'Observations on the Ninth Parliament of King James I.,' c. 112) to appoint able and sufficient deputies (see Skene, 'De verborum significatione,' *s.v.* "Marus," "Recordum"). "The practice of appointing deputies appears at this time to have arrived at an extraordinary height, for in 1450 there were *three* mairs of the Quarter of Brechin" (Robertson, ii. 468 note, where 'Registrum Episcopatus Brechinensis,' Nos. 67, 74, 77, is cited). The macers of Session and Justiciary are the descendants of the mairs (W. Ross, i. 259). As to macers, see note to p. 153, l. 22 above.

282. 13. As to the mair, see note to p. 281, l. 19.

283. 2. As to taking to witness, see Introduction.

283. 25. As to taking to witness, see Introduction.

285. 24. "of the end." The MS. Adv. Library 25.5.6 has "to the end."

285. 30. "quyte at eird." The MS. Adv. Library 25.5.6, fol. 346, and the Drummond MS. (in the Register House, Edinburgh), have "at the erd." The phrase has not been traced elsewhere. It may be metaphorical, and mean that the action is as good as dead and buried, but possibly "eird" is written in error for "end."

286. 1. "New thingis." The MS. Adv. Library 25.5.6, fol. 246, has "newlingis," *i.e.*, "of new." The MS. Adv. Library 25.4.15, has "newlynis."

286. 10. The remaining portion of the chapter seems to deal with a case in which the original judgment was adverse to the pursuer.

286. 14. The five last lines of this chapter differ somewhat from MSS. Adv. Libr. 25.5.6, fol. 346; 25.4.15, fol. 186, and 25.5.9. The first gives the following version: "Ande the juge sall gar rase ane unlaw of viiii. s. of ilk soytour that said with the dom, and for thy (*sic*) that all thai soytouris of the barone courte representis bot a soytoure in the schiref courte, thai that said with the dom sall

among thame all pay bot ane unlaw alsua ("alsua" omitted in the other MSS.) of the schiref courte." The version of the Drummond MS. (H.M. Register House, Edinburgh) is to the same effect as those of the second and third MSS. cited above.

286. 20. "baith the pairties," *i.e.*, the falsar and the judge who pronounced the doom which has been falsed.

287. 9. As to the provisions of this chapter, see note to p. 286, l. 14 above.

287. 31. It may be noted that, until 1532, the justiciar exercised a civil as well as a criminal jurisdiction.

288. 1. The doom of the Burgh court was submitted to the court of the Four Burghs held at Haddington, where the question of its validity was determined "throw foure burges vvasaste and sufficiandest of ilk ane of thre burrowis, Berwik, Roxburgh, Edinburgh, Striueling, befor the chaumerlane withoutyne delay" ('Fragm. Coll.,' c. 8 ('A. P.,' i. 742)). See also the Act of 5th November 1454 ('A. P.,' Suppl., p. 23); and 'The Forme and Maner of Baron Courts,' c. 17). In 1369 it was enacted that when Berwick and Roxburgh were in the hands of the English, Lanark and Linlithgow should be substituted in their place ('A. P.,' i. 507).

288. 8. As to this section, see 'Q. A.,' c. 9; 'The Forme and Maner of Baron Courts,' cc. 15 (5), 33. Bisset's version omits the concluding portion of this chapter as given in the MS. Adv. Libr. 25.5.6. It is in Latin, and is as follows, certain references to other sections of the MS. being omitted: ". . . et sic consequenter procedendum est in omnibus forma pariter et effectu usque ad finem tocius predicti processus sive comparuerit dominus cum suis sectatoribus curie sive non. Et qualibet pars habebit consimile privilegium falsandi iudicium ut prius notatur. Caveat insuper iudex curie ubi iudicium falsatur in presencia sua in curia quod non omittat quin in presencia partis falsantis iudicium faciat ante exitum curie sue scribere rotulamentum curie tocius actus illius processus et ante donacionem iudicii legere rotulamentum in presencia partium et postquam iudicium datur et falsatur. Iterum legere in presencia partium et tunc claudere rotulamentum sub sigillo iudicis et sigillo falsantis iudicium, et si iudicium detur in ausencia partis non requiritur claudere rotulamentum sub sigillo aliquo nisi quod iudex summonitur ad comparendum prout dictum est in summonicione. . . . Et tunc debet claudi sub sigillo iudicis et sigillis quorundem sectatorum curie et presentari iudici seu ejus clerico ubi discucietur iudicium infra quadraginta dies immediate sequentes modo predicto. . . . Insuper debent scribere rationes eorum ad manutenendum iudicium et claudere eas consimili modo et presentare eas iudici . . . et istud rotulamentum debet continere totum processum illius actus et nomina sectatorum curie dicentium cum iudicio et de quo sunt sectatores et consimiliter nomina sectatorum dicentium contra iudicium. Quod

si non fecerint nec ut predicatur presentaverint quando comparuerint in curia ubi iudicium discucietur non possunt allegare aliquas rationes ad manutenendum iudicium nisi simpliciter replicare contra rationes partis adverse; et hoc non permittit pars adversa nisi presens infra terminum legalem dicto iudici presentaverit rotulamentum curie, quia deficiente presentacione illius rotulamenti ut predicatur ordo juris deficit; et ubi ordo juris deficit in parte lex deficit in toto. Igitur dicti sectatores non exaudiantur, et pro indefensione iudicium invenietur maledatum et bene contradictum." Then follow the words "Explicit totus processus circa falsacionem iudicii," and after them comes a long section entitled, "Thir are the ressonis agane a dome falsit be ony maner of man." The reasons given are that the judge has committed some illegality, or that the day or place or constitution of the court is illegal, or that the doom is not in legal form, or is incompetent in law.

289. 13. "and heirof . . . prolongis." The MS. Adv. Libr. 25.5.6 has "ande hereof ande of all uther my prolongis."

289. 26. Bisset's version follows the MS. Adv. Libr. 7.1.9, fols. 419 ff., which, however, does not contain his second and third chapters. Chapters four to twenty of Bisset's version differ but little from the version printed in Balfour, 'Practicks,' pp. 434-37. As to the forms used in the process, see MS. Adv. Libr. 25.5.9. See also Ass. Will., c. 24, where reference is made to a brieve of perambulation, and 'R. M.,' ii. 68.

289. 29. As to the contents of this chapter, see Balfour, 'Practicks,' pp. 434, 650.

290. 6. The form of the brieve is given by Balfour, 'Practicks,' p. 650, and Stair, iv. 3, 14.

290. 9. As to the "probi homines" of the inquest, see the Act 1579, c. 17 ('A. P.,' iii. 144), which provides that none should be assizers in a cause of perambulation "bot honest substantial men haveing heritage of thair awin and quha knawis best the meythis of the saidis landis and duellis maist ewest the samyne . . ." See 1587, c. 23 ('A. P.,' iii. 445).

290. 27. As to the form of the precept, see 'Ordo Justiciarie,' c. 7 ('A. P.,' i. 706).

293. 20. "Under cuir . . . furiositie," *i.e.*, under guardianship on account of weakness of mind or insanity.

293. 30. "That standis for." Balfour, 'Practicks,' p. 436, has "that compeiris," which is more intelligible.

294. 10. "Mair." See note to p. 281, l. 19 above.

294. 32. "Franktenement." Skene, in the index to his Latin edition of the 'Regiam,' *s.v.* "tenementum," observes that "tenementum communiter accipitur pro hæreditate vel feudo; sed liberum tenementum, idem est quod usufructus, life-rent or franktenement. Leg. Burg., c. 135, 9, sed sæpissime confunduntur, et hæc differentia

non observatur." See Craig, i. 11, 6; ii. 7, 28; 12, 16; 17, 42; iii. 3, 28.

296. 31. There are several versions of these verses. One is printed in 'A. P.,' i., 201 note, another in Balfour, 'Practicks,' p. 439. The former differs to some extent from Bisset's version; the latter is much the same, save that it contains two additional lines at the close:—

"Ane bord brokin in dennis deep
Sall hald the lyne, and plumming keip."

297. 3. Balfour's version has "Heid-roume is to the hill direct." "Heidroume" is, according to the 'New English Dictionary,' "a strip of land in a ploughed field left for convenience in turning the plough at the end of the furrows or near the border; in old times used as a boundary." Jamieson, 'Dictionary of the Scottish Language,' defines it as "the ground lying between a haugh or flat and the top of a hill."

297. 4. "3oure." The 'A. P.' version has "3our"; Balfour's version has "the."

"teilled." The 'A. P.' version has "telet"; Balfour's version has "callit."

297. 5. "and." The 'A. P.' version has "and"; Balfour's version has "ane."

297. 6. Balfour's version has "Divydis thay twa glennis; I stand for it."

297. 11. The version of this title given by Bisset and Balfour, 'Practicks,' pp. 440 ff., apparently follows MS. Adv. Libr. 7.1.9, fol. 428. At p. 650 Balfour gives the form of the Brieve of Division.

298. 23. 1587, c. 23 ('A. P.,' iii., 445).

299. 1. This title follows Adv. Libr. MS., 25.4.15, fol. 224.

299. 23. As to taking to witness, see Introduction.

299. 28. "Four half." Craig (ii. 17, 28), in explaining the phrase, "per probos et fideles homines patriæ fieri inquisitionem mandat," makes the following observation:—"neque *patria*, totum regnum significat, sed tantum viciniam, seu idem territorium; nec nisi in eorum defectu ad ulteriores recurrendum; itaque eligendi sunt *inquisitores ex vicinia*; si adhuc desint in vicinia, ad quatuor propria territoria confugere solemus, quæ *Four Halfe Quarters Adjacent* vulgo dicuntur." In the Act 1584, c. 24 ('A. P.,' iii. 359 a), "in foure halffis about" is explained as meaning "in the foure schirefdomes nixt adiacent."

299. 33. "Ilk thrid penny within the worth," means two-thirds of the value.

300. 11. Versions of this form of process are given in the Adv. Libr. MSS., 25.4.15, fol. 175; 25.5.6, fol. 365; and 25.5.9. The version given in the MS. first mentioned is printed in 'A Compilation of the Forms of Process in the Court of Session, &c.' [by Thomas Thomson],

Edinburgh, 1809. See 'Q. A.,' c. 18; Stat. 36 attributed to Robert III. by Skene is not printed in the 'A. P.' See Stair, ii. 11, 33; Ersk., 'Inst.,' ii. 5, 3. The process is mentioned in 1424, c. 9 ('A. P.,' ii. 4). A form of it is given in Balfour's 'Practicks,' pp. 479 ff., and an interesting example of it is preserved in the 'Registrum Episcopatus Aberdonensis,' i. pp. 143 ff.

302. 1. As to taking to witness, see Introduction.

302. 3. "Indorsation" was the officer's execution—*i.e.*, the written attestation signed by him that he had given a citation or charge on the warrant according to the ordinary solemnities. The execution was sometimes called an indorsation, because written on the back of the summons or letters of horning (Ersk., 'Inst.,' ii. 5, 55).

302. 8. In MS. Adv. Library 25.4.15, the date given is 20th May 1455. In MSS. Adv. Library 25.5.9 and 25.5.6, the date given is 2nd March 1480.

302. 25. As to taking to witness, see Introduction.

302. 31. In MS. Adv. Library 25.4.15, the date given is 7th July 1455. In MSS. Adv. Library 25.5.9 and 25.5.6, the date given is "sic a day of Januar 1480."

303. 18. "The greit aith"—*i.e.*, the oath sworn upon the gospels, or upon a crucifix or relics. The record of the parliament held at Scone in 1373 ('A. P.,' i. 549) bears that the lords of parliament "in engaging to maintain the Stewart sovereignty through the descendants of Robert II., by Elizabeth More . . . 'sacrosanctis evangeliiis per eorum quemlibet manutactis corporaliter juraverunt'" (Introduction to the second volume of the 'Acta Dominorum Concilii,' p. lxxvii). On the same occasion the clergy and people signified their consent "levata manu per modum fidei dacionis." As to "pledge of faith," see note to ii. 63, l. 20 below. The authors of the Introduction (p. lxxviii.) cited above regard the form with uplifted hand as an alternative form of oath. Ducange, *s.v.* "Juramentum," observes that "juramenta corporalia" were so called "quod tactis sive inspectis sacrosanctis Evangeliiis, Cruce dominica, vel Sanctorum reliquiis admotis, sublata aut protensa manu prae-stentur: ut distinguantur a juramentis, quæ fiunt instrumento." It is to be observed that Agnes de Morthingtoun, in a case in 1321, not only swore upon the gospels but pledged "fidem meam . . . corporalem" ('A. P.,' i. 478).

303. 19. As to taking to witness, see Introduction.

303. 37. "lat it to borgh"—*i.e.*, "Quhen ony controversie being for the possession of landes, the samin, after inquisition and tryall taken thereanent," are "given and committed to the last lauchfull possessour of the samin lands under borgh and caution that he sall restore the samin to him quha sall be found to have richt thereto" (Skene, 'De verborum significatione,' *s.v.* "Plegius"). See 'Highland Papers' (Scottish History Society), ed. by J. R. N. Macphail, K.C., Edinburgh, 1916, ii. 157.

304. 17. See note to p. 303, l. 37.
 304. 21. See note to p. 303, l. 37.
 305. 4. See note to p. 303, l. 37.
 305. 20. See note to p. 303, l. 37.
 306. 8. In MS. Adv. Library 25.4.15, the date given is 15th October 1455.
 306. 18. See note to p. 303, l. 37.
 307. 7. As to date, see note to p. 306, l. 8.
 307. 19. In MS. 25.4.15, the date is 15th October 1455.
 307. 32. As to taking to witness, see Introduction.
 308. 4. In MS. 25.4.15, the date is 3rd November 1455.
 308. 14. See note to p. 303, l. 37.
 309. 21. 'R. M.,' i. 5.
 309. 26. "gif [he] may . . . challanged." The MS. Adv. Library 25.5.6 has "gif apone causs he may fynde nane exceptionis quhy na he aw to schaw his halding he sal schaw his halding in this maner eftir that he be challansit." The versions in MSS. Adv. Library 25.5.9 and 25.4.15 are in the same terms.
 310. 18. Versions of this form of process are given in the MSS. Adv. Libr. 25.4.10: 25.5.9; 7.1.9, fols. 417 ff. Skene, 'De Verborum Significatione,' s.v. "Purpresture" defines the offence as "ane wrangeous usurpation, taking or occupation of ane uther man's landes." He mentions three forms—firstly, that of illegal occupation of the king's domain, of closing the king's highways, of diverting running waters, and of converting any part or street of the king's burgh to his own use; secondly, that of wrongous occupation of any lands by a vassal against his overlord; and thirdly, that of such occupation against any one other than the king or overlord—e.g., a neighbour. See 'R. M.,' i. 4; ii. 68; Balfour, 'Practicks,' pp. 442 ff.; Craig, i. 16, 10; ii. 8, 3; iii. 5, 6-9; Stair, ii. 11, 30; iv. 14, 1-6; Ersk., 'Inst.,' ii. 5, 52; Bankton, ii. 11, 26; 'A. P.,' ii. 133 b, 141 b.
 311. 26. As to taking to witness, see Introduction.
 312. 34. "greit aith," see note to p. 303, l. 18.
 312. 35. As to taking to witness, see Introduction.
 313. 26. The original of this form has not been traced.
 314. 23. "greit aith," see note to p. 303, l. 18.
 315. 5. "for the bruiking of his fame." The meaning seems to be that by the forfeiture resulting from the vassals "high insolence and ingratitude" (Bankton, ii. 11, 26) in taking possession of the lands of his superior, the latter is restored to the enjoyment of the honour and reputation which the former's act had injuriously affected. It is to be noted in this connection that in assessing damages where lands had been illegally withheld (see 'R. M.,' i. 9), and in cases of theft or robbery (Ass. David, c. 8, incorporated in 'R. M.,' iv. 12), and breaking of protection (see MS., 'Modus calumpniandi pro-

tectionem infrictam,' Adv. Libr. 25.5.6; 25.5.9), the injury done to the honour of the complainer or accuser, and the loss which he had suffered, were separately assessed. The laws of ancient Ireland gave effect to the same principle in cases of homicide. This "honour-price" was called "Log-enech" (E. O'Curry, 'Lectures on the Manners and Customs of the Ancient Irish,' i. p. cclxxv.; P. W. Joyce, 'A Social History of Ancient Ireland,' Dublin, 1913, i. 207). See above Introduction, p. 33.

315. 31. "Cognitionis and molestationis." An action of molestation was "a possessory action, calculated for continuing proprietors of land estates in the lawful possession of them, till the point of right be determined against all who shall attempt to disturb their possession," and was "chiefly used in questions of commony and controverted marches." The action was remitted to the sheriff to take cognition of the marches, and to submit the facts to the knowledge of an inquest (1587, c. 23 ('A. P.,' iii. 445)), whence the process was called an action of cognition (Ersk., 'Inst.,' iv. 1, 48; Stair, i. 9, 28; iv. 27).

315. 35. 1587, c. 23 ('A. P.,' iii. 445).

316. 36. "3our awin particularis"—*i.e.*, cases affecting yourselves.

NOTES TO VOLUME II.

1. 13. As to Boiamond, see note to p. 2, l. 17 below.
1. 15. 1471, c. 4 ('A. P.,' ii. 99), where "the ald taxacione of bagemonde" is mentioned.
2. 1. 1493, c. 9 ('A. P.,' ii. 233), where "the buke of Bagimontis" is mentioned.
2. 5. Professor R. K. Hannay has pointed out that Christesone is mentioned in the MS. Treasurer's Accounts, under date 18th February 1567-68, as then alive, and as having been provincial of the White Friars.
2. 17. Boiamond of Vicci was a canon of the cathedral of Asti in Piedmont (see 'Concilia Scotiæ' (Bannatyne Club), Edinburgh, 1866, i. p. lxxv; C. Innes, 'Lectures on Scotch Legal Antiquities,' pp. 189 f.). What follows, the editor owes to Professor Hannay. Boiamond's assessment in 1275, originally intended for the levy of a crusading tithe and technically known thereafter as the *verus valor*, became the basis of ecclesiastical contributions to the State, and served that purpose up to the Reformation. Surviving documents, for the most part, illustrate various *applications* of the assessment. When the spiritual estate voted a certain sum as its share of a subsidy to the Crown, the individual contributions were allotted in the *proportions* fixed by Bagimond. When the Pope imposed, say, a tithe upon the Scottish clergy, the individual liabilities were at once discovered by the simple process of dividing Bagimond's figure by ten.
- The present roll gives the actual figures for the payment of a tithe, but it excludes prelaties and livings below 40 merks (£26, 13s. 4d.). Joseph Robertson, in his very full note ('Concilia Scotiæ,' i. lxxvii ff.), placed this particular taxation between 1517 and 1550. There can be no doubt that it is a taxation imposed by Clement VII. The complicated circumstances have elsewhere been explained ('The Scottish Historical Review' (1918), xv. 30). It is sufficient here to state that, on 17th July 1531, Clement imposed a tithe on all Scottish benefices for three years: that some two months later he authorised a tax of £10,000 Scots upon the *prelaties*; and that, in consequence, the prelates incurred a double liability. There was some difficulty

of adjustment, and the prelates as a body dealt with their own share of the whole exaction. This explains why the roll is of benefices *preter prelacias*.

The identity of the taxation is fixed by comparison of the Lismore figures in Bisset's roll with those figures as they appear in the process relating to that diocese, still extant (Register House : Papal Bulls 53A). It will be observed that in Bisset's copy a marginal note added against Ardchattan Priory refers to the adjustment noticed above.

As Robertson noted, the roll excludes livings below 40 merks. The 'Diurnal of Occurrents' says that only benefices above £20 were liable. It is interesting to observe that no limit is specified in Clement's bull. In the case of the ecclesiastical contributions raised subsequently by the spiritual estate for national purposes, and recorded in a volume of 'Taxationes' (Register House), benefices below £40 were exempt.

There are one or two variations where this roll comes into contact with the figures given by Robertson (i. lxx.), and the discrepancies may be pointed out. Robertson puts the Provostry of Dalkeith and the Priors of Canonby and Blantyre at £40; Bisset's roll gives £33, £66, and £66 respectively. The Provostry of Dumbarton is given by Robertson as valued at £246; the two manuscripts of Bisset differ between £220 and £320. Robertson puts the Deanery of Moray at £233; Bisset at £213. The Provostry of Abernethy is given by Bisset as worth £40 instead of £53. In the case of the Archdeacons of Lismore the figures should be £5, 6s. 8d. (Papal Bulls, Reg. Ho., No. 53a).

2. 24. Skene's 'De verborum significatione,' s.v. "Bagimont," where Extrav. Joann., xxii. 2 is cited.

2. 31. The Earl of Fife was made Duke of Albany in 1398.

The reference on the margin appears to be to "A Brief Chronicle of all the Kings of Scotland," Aberdeen, 1623, reprinted in 'The Harleian Miscellany,' London, 1745, iii. 151 ff.

4. 17. The variants and corrections of the names of places within the diocese of St Andrews are mainly derived from the MS. Taxationes Super Scoticana Ecclesia, sec. xvi., in the Register House, Edinburgh. They are printed in italics, or noted at the foot of the pages in which they occur.

7. 20. St Giles' church was made a collegiate church in 1466 ('Registrum Cartarum Ecclesie Sancti Egidii de Edinburgh' (Bannatyne Club), Edinburgh, 1859, pp. vii. (note 1), xxx).

8. 12. "Archipresbyteratus." Jamieson ('Dictionary of the Scottish Language') defines "archiprestrie" as "a dignity in collegiate churches during the time of Popery." See R. Keith, 'Historical Catalogue of the Scottish Bishops down to the year 1688,' Edinburgh, 1824, p. 467. The arch-priest of Dunbar is mentioned

in three statutes—1641, cc. 297, 341; 'A. P.,' v. 522, 557; see also 'A. P.,' vii. 147*b*, 148*a*, 158*b*. He was next in rank to the dean and superior to all the canons (Jamieson).

9. 11. The legends regarding the transference of the relics of St Andrew from Patras, the scene of his martyrdom (see pp. 284, 323 below), to Scotland have been dealt with in detail by W. F. Skene ("Notice of the Early Ecclesiastical Settlements at St Andrews," 'Proceedings of the Society of Antiquaries of Scotland,' 1863, iv. 300 ff.; *Id.*, 'Celtic Scotland,' 2nd ed., Edinburgh, 1886-90, i. 296 ff., ii. 261 ff.). See also Bishop Dowden, "Notes on the Festival of St Regulus of St Andrews," 'Proceedings of the Society of Antiquaries of Scotland,' 3rd series, 1893, iii. 247 ff.; A. P. Forbes, 'Kalendars of Scottish Saints,' Edinburgh, 1872, pp. 436 ff.; J. M. Mackinlay, 'Ancient Church Dedications in Scotland — Non-Scriptural Dedications,' Edinburgh, 1914, pp. 473 f.; Boece (Bellenden's transl.), vi. 15. According to the Breviary of Aberdeen (see W. F. Skene, 'Chronicles of the Picts, Chronicles of the Scots . . .,' Edinburgh, 1867, p. 375), St Regulus or Rule, a Greek monk of Patras in Achaia, was the custodian of the relics of St Andrew. In the year 370, Constantius, son of Constantine the Great, came thither with the intention of avenging St Andrew, and of transporting his relics to Constantinople. St Regulus, warned by an angel, concealed part of them, and on the emperor's departure, in obedience to a second angelic monition, set out for the west, bearing the relics with him. After a voyage of two years he arrived in Scotland, and built a church in honour of St Andrew at the place appointed by the angel with the assistance of Hungus, king of the Picts, who was baptised with all his servants, and who granted lands for the erection and endowment of a church which was to be "mater ecclesiarum et sedes apostolica in omnium Scotorum provincia." The site of the church was Kilrimont, once called Muckros, and afterwards known as St Andrews (Skene, 'Celtic Scotland,' ii. 265). The name of the Pictish king is given by Bisset (vol. ii. 345) as Hungust, by Fordun (ii. 48; see Skene's ed. of Fordun, ii. lxxvii, 407 f., and his 'Chronicles of the Picts . . . and Scots,' pp. 186, 202) as Hurgust, and by Boece (Bellenden's translation, vi. 15) as Hergestus. St Regulus' days are 30th March and 17th October.

9. 14. As to Caractacus, see note to vol. i. 4, l. 12.

10. 17. Balrei. Is this "Balrimund," the lands of which lay in the "Cursus Apri"? See the charters in Lawrie, pp. 124, 126, and his note, p. 391.

11. 4. As to Balrei, see immediately preceding note.

11. 7. Cruthneus. See Fordun, iv. 10, and Skene's edition, ii. xxxvii, 141, 407, 425. Cruithne was the eponym of the Picts.

11. 9. As to the "Madin Castell," see note to p. 152, l. 35 below.

11. 16. St Modoc's day is 31st January. Modoc was the honorific

designation of St Aedh or Aedan of Fearn. He does not seem to have visited Scotland (Mackinlay, pp. 147 ff.). He is celebrated in the hagiology of Ireland and Wales (Forbes, pp. 403 ff.).

11. 24. The council of Chalcedon was assembled 451 A.D.

11. 29. St Ternan, Ternanus or Terenanus, whose day is 12th June, is said to have been baptised by St Palladius. Distinct traces of him are found in Ireland, but the chief sphere of his influence was in the shires of Kincardine and Aberdeen. Banchory-Ternan on the Dee bears his name (Forbes, pp. 450 ff.; Mackinlay, 106 ff.; Skene, 'Celtic Scotland,' ii. 30).

11. 31. St Palladius is said by Fordun (iii. 8, 9) to have been sent in 430 A.D. by Pope Celestinus into Scotia to be the first bishop thereof (Skene, 'Celtic Scotland,' ii. 26). He is supposed by Forbes (pp. 427 ff.) to have been a native of Gaul, and to have been connected with the mission sent to extirpate Pelagianism in Britain. His special mission was to the Scoti of Ireland. His day is 6th July. According to some accounts he suffered martyrdom at Fordoun. Skene ('Celtic Scotland,' ii. 27 ff.) doubts whether he was ever in Scotland, and thinks that St Ternan may have brought his relics from Galloway or Ireland to Fordoun. See Boece (Bellenden's translation), vii. 18. "In 1630 the church of Fordoun was known as the church of St Palladius, vulgarly called Pade Kirk in the Mearns." According to a Fordoun tradition, Archbishop Scheves, who occupied the see of St Andrews from 1447-8 (*sic l.* 1477-8) till 1496-7, discovered the relics of St Palladius in a dell below the church, and transferred them to a richly adorned shrine within the church itself. The saint's "memory is still kept alive in the parish by an annual market, known as Paldy or Pa'de Fair, on the third Friday of July, corresponding pretty much with 6th July (O.S.), the saint's festival" (Mackinlay, p. 106).

12. 3. St Serf, or Servanus, is said by Fordun (iii. 9) to have been a fellow-worker of St Palladius (see note to p. 11, l. 31), who ordained him bishop and appointed him his coadjutor. His day is 1st July. The evangelisation of the west of Fife and the district on either side of the Ochils is attributed to him. He is said to have lived for seven years on the island in Loch Leven which bears his name. His mission to the Orkneys rests upon the authority of such moderns as Boece (Bellenden's translation), vii. 18 (Forbes, p. 447). There may have been two saints of the name, of whom the earlier flourished about 500 A.D., and the later about 700 A.D. (Skene, 'Celtic Scotland,' ii. 31, 184, 255 ff.; *Id.*, 'Chronicles of the Picts, Chronicles of the Scots,' p. 412 ff.; Forbes, pp. 445 ff.; Mackinlay, pp. 179, 483 f.; Wyntoun, v. 5137 ff.).

12. 8. "The Merins." The Mearns—*i.e.*, Kincardineshire.

12. 14. St Patrick's day is 17th March. In Adam King's Kalendar (Forbes, p. 147) he is described as "bischope confessor and apostile

of Ireland send be pape celestinus ye 1 vnder king Eugenius 2, 435." He was born of Christian parents in Scotland, or, according to some authorities, in the south-west of England. At the age of sixteen he was captured by pirates and carried off to Ireland. After six years of slavery he escaped, and returned to Britain. Warned by a vision he went to preach the gospel to the Irish, and after many years of missionary labours was consecrated a bishop. His death is assigned by Forbes to the year 493, by Mackinlay to the year 461. (Fordun, iii. 9; Skene, 'Celtic Scotland,' ii. 14 ff.; 427 ff.; Forbes, pp. 431 ff.; Mackinlay, pp. 96 ff.; Whitley Stokes, 'Tripartite Life of St Patrick' (Rolls Series), 1887).

12. 18. St Adrian's day is 4th March. In Adam King's Kalendar (Forbes, p. 146) he is described as "bischope of S. Andrew martyred in Scotland be ye dannes vnder king Constantine ye 2, 874." He is said to have been a native of Hungary, and to have arrived in Fife with 6606 companions. After driving out the demons and wild beasts which infested the Isle of May, he and those with him took up their residence there, until they were killed by a band of Danes (Skene, 'Chronicles of the Picts, Chronicles of the Scots,' pp. 424 f.; *Id.*, 'Celtic Scotland,' ii. 311 f.; *Id.*, 'Proceedings of the Society of Antiquaries of Scotland,' 1863, iv. 316 ff.; Forbes, pp. 266 ff.; Mackinlay, pp. 490 f.; Wyntoun, vi. 601 ff.; Boece (Bellenden's translation), x. 16). St Adrian is mentioned in some lists as the first bishop of St Andrews (Keith, p. 5).

12. 26. The variants and corrections of names of places within the diocese of Glasgow are mainly derived from the 'Registrum Episcopatus Glasguensis' (Bannatyne Club), 1843.

13. 1. "Archidiocanatus." See note to vol i. 100, l. 30.

18. 20. Mungo was the "honorific and affectionate appellation . . . (the gracious or graceful one)" given to St Kentigern (Forbes, p. 372), the Apostle of Strathclyde. He is said to have been born in 518. He was consecrated bishop by an Irish bishop and established his see at Glasgow. "There was, of course, no diocesan episcopacy till King David's time (1124-1153). Before that the bishops were either attached as inferior to the abbot in the Columbite monasteries, or they presided over clans or septs" (*Id.*, p. 366). He is said to have died on 13th January 603. See Forbes, pp. 362 ff.; Mackinlay, pp. 178 ff.; Skene, 'Celtic Scotland,' ii. 179 ff.; 'Dictionary of National Biography,' xxxi. 26 f.

19. 3. "Rentelled." "A rental is a particular species of tack, now seldom used, granted by the landlord for a low or favourable tack-duty to those who are either presumed to be lineal successors to the ancient possessors of the land, or whom the proprietor designs to gratify as such. And the lessees are usually styled *rentallers* or *kindly tenants*" (Ersk., 'Inst.,' ii. 6, 37. See W. Ross, ii. 478 ff.).

19. 17. As to St Mungo's rental, see Balfour, 'Practicks,' p. 205.

19. 22. St Baldred's day is 6th March. According to Skene ('Celtic Scotland,' ii. 223) he was not a disciple of St Kentigern but an anchorite who lived a century later than that saint, and was connected with the see of Lindisfarne. He is said to have preached the faith in Aldhame, Tynnyngame, and Prestoune (Boece (Bellenden's translation), ix. 17. See Forbes, pp. 273 ff.; Mackinlay, pp. 18 ff.).

19. 26. The original structure of Glasgow Cathedral was ready for consecration in 1136. It was destroyed by fire. In 1181 Bishop Jocelyn began to build (Mackinlay, p. 184).

19. 28. St Rumoldus or Rummaldus was, according to some authorities, born in Ireland. According to others he was an English Saxon. In some of the Scottish Kalendars he is said to have been a Scotsman, born at Berwick. He was made bishop in Gallia, and was martyred at Machlenia (Mechlin). His day is 1st July (Forbes, p. 242 f.; T. Dempster, 'Historia Ecclesiastica Gentis Scotorum' (Bannatyne Club), Edinburgh, 1829, ii. 556 ff.).

19. 33. Constantine IV. was Emperor in 670 A.D.

20. 2. St Convall's day is 28th September. He is said to have crossed from Ireland in the latter half of the sixth century, to have been St Kentigern's disciple, and to have aided in the evangelisation of Strathclyde. His relics were honoured in Boece's time (Bellenden's translation, ix. 17). See Forbes, p. 315; Mackinlay, pp. 188 f.

20. 4. The variants and corrections of names of places, &c., within the diocese of Dunkeld, printed in italics or at the foot of the page, are mainly derived from the MS. Taxationes Super Scoticana Ecclesia, sec. xvi., in the Register House, Edinburgh.

21. 25. The chief sources of the variants and corrections which are printed in italics or noted at the foot of the pages are the 'Registrum Episcopatus Aberdonensis' (Spalding Club), Edinburgh, 1845, and the text of the roll as printed in 'Collections for a History of the Shires of Aberdeen and Banff' (Spalding Club), Aberdeen, 1843.

21. 31. "Archidecanatus." See note to vol. i. 100, l. 30.

23. 12. St Machar, Macharius, Mauritius or Mocomma, was born in Ireland and accompanied St Columba to Iona. He was sent into Pictavia with twelve companions and founded many churches, of which one was situated on the Don near Aberdeen. He visited Rome with St Columba, and became Bishop of Tours, where he died. His day is 12th November. In Adam King's Kalendar (Forbes, p. 167) 887 A.D. is given as his date; see Forbes, pp. 393 ff.; Mackinlay, pp. 43, 94; 'Collections for a History of the Shires of Aberdeen and Banff' (Spalding Club), Aberdeen, 1843, pp. 137 ff.; Boece (Bellenden's translation), ix. 30.

24. 7. This charter is printed and commented upon by Lawrie, pp. 4, 230, and is regarded as spurious.

24. 21. Bishop Beyne or Bean was, according to Fordun (iv. 40), made Bishop of Mortlach by Benedict VIII. at the instance of Malcolm Canmore. Forbes gives 16th December, Adam King (Forbes, p. 165) 26th October, as his day; see Forbes, p. 277; Mackinlay, pp. 139 ff.; H. Boece, 'Murthlacensium et Aberdonensium Episcoporum Vitæ' (New Spalding Club), edited and translated by J. Moir, Aberdeen, 1894, pp. 6, 7, 130.

24. 22. Boece, at p. 7 of his work last cited, mentions Donortius and Cormachus as bishops of Aberdeen.

24. 23. The translation from Mortlach to Aberdeen was made in the time of Nectan, the fourth bishop, in 1125 ('Registrum Episcopatus Aberdonensis,' i. xix.; ii. 125, 246 f.).

25. 3. This charter is printed and commented upon by Lawrie, pp. 89, 354 f.

25. 12. "The word 'can' was used not only for a duty on land produce, but also for duties on ship-borne merchandise" (see Lawrie, p. 296).

25. 30. The bull of Adrian is printed in the 'Registrum Episcopatus Aberdonensis,' i. 5.

25. 31. As to the list of bishops, see Keith, pp. 101 ff.; Dowden, 'The Bishops of Scotland,' Glasgow, 1912, pp. 97 ff.; Preface by Cosmo Innes to 'Registrum Episcopatus Aberdonensis'; H. Boece, 'Murthlacensium et Aberdonensium Episcoporum Vitæ' (New Spalding Club).

30. 19. King William founded and endowed the Abbey, and dedicated it to St Thomas the Martyr in 1178 (Preface to 'Liber S. Thome de Aberbrothoc' (Bannatyne Club), Edinburgh, 1848, pt. i. xi.

31. 26. "In pur and perpetuall almouse." The word "almouse" ("alms") means charitable relief of the poor. Here the phrase quoted represents "in puram eleemosynam," where the gift was made merely "in consideration of the prayers and masses to be performed by the donees for the souls of the granter and his departed friends" (Ersk., 'Inst.,' ii. 4, 10). See Pollock and Maitland, i. 240 ff.

32. 9. "Natyves." Of the inhabitants of the farmstead of the abbey "the lowest in the scale was the *nativus*, carle, bond, serf or villein . . . who was transferred like the land on which he laboured" ('Liber S. Marie de Calchou,' i. pp. xxxv., xxxvi., and notes). See 'Liber S. Marie de Melros,' ii. Nos. 418, 486.

32. 26. The words "The 3eir of God . . . ten 3eirs" are not in the 'Registrum Episcopatus Aberdonensis.'

33. 9. The words and figures "anno . . . lxxv." are not in the said 'Registrum.'

33. 24. The words and figures "Anno Domini . . . xix." are not in the said 'Registrum.'

34. 16. The words and figures "Et anno . . . 3eiris" are not in the said 'Registrum.'

35. 2. The words and figures "Anno Domini . . . xxvi." are not in the said 'Registrum.'

35. 14. The words and figures "Et anno . . . 1242" are not in the said 'Registrum.'

35. 16. The ratification is printed in the said 'Registrum,' i. 44, and in 'A. P.,' i. 477.

36. 10. Five documents are mentioned. Of these four are printed in the 'Registrum Episcopatus Aberdonensis' (i. 50, 72, 69, 86). See 'A. P.,' i. 525. The date of the third is not given. It may be the document printed in the 'Registrum,' i. 74, and in the 'A. P.,' i. 514.

37. 5. The author of the letter of grace referred to was King Robert II. Its date is 29th November 1382. It is printed in the 'Registrum Episcopatus Aberdonensis,' i. 157 ff.

38. 3. As to Alexander Garden, see note to vol. i. 22, l. 24. The reference seems to be to 'The Theatre of Scottish Worthies,' which has not been preserved.

38. 19. The chief source of the variants and corrections of names of places within the dioceses of Moray, Ross, Whithorn, Dunblane, Caithness, Brechin, and Lismore is the MS. *Taxationes Super Scoticana Ecclesia*, sec. xvi., in the Register House, Edinburgh.

39. 26. Under 8th November we find in Adam King's *Kalendar* (Forbes, p. 167) the entry "S. Geruade confessor and bischop of murray vnder king Achaius, 812." St Gervadius or Gernadius crossed from Ireland to Scotland and built a cell at Kenedor in the province of Moray, where he lived the life of an anchorite. His date is fixed to the year 934 by an allusion in his legend to the invasion of the north by Athelstane, which took place in that year (Forbes, pp. 354-5; Mackinlay, p. 214; Skene, 'Celtic Scotland,' ii. 369.

40. 27. St Duthac or Dubtach, a Scotsman, is called inaccurately bishop of Ross. The main sphere of his activities was the district now called Ross-shire. He was greatly honoured in the church of Tain. His day is 8th March. Forbes gives 1068 as his date; Adam King (Forbes, p. 146) gives 1249 (see Forbes, pp. 328 f.); Mackinlay, pp. 223 f.

41. 7. Legend erroneously identifies St Boniface, whom Bisset calls bishop of Ross, with one of the Bonifaces who occupied the papal throne in the seventh century (Skene, 'Celtic Scotland,' ii. 231). According to the Aberdeen breviary, St Boniface was an Israelite, born at Bethsaida. He was ordained priest by the bishop of Jerusalem, and proceeded to Rome, where he was consecrated bishop and cardinal, and was elected pope. He set out on a mission to the northern nations accompanied by six bishops, two abbesses, and a band of ecclesiastics and devout persons, and, on his arrival in Scotland at a place near Restineth, baptised Nectan, king of the Picts, with all his nobles and officers. He died in the eighty-fourth

year of his age at Rosemarkie, and was buried there. Another form of the legend gives his name as Albanus Kiritinus, surnamed Bonifacius, and states that he founded a church on the river Gobriat or Gowry, in Pictavia (Skene, 'Chronicles of the Picts, Chronicles of the Scots,' pp. 421 ff.; 'Celtic Scotland,' ii. 230). His day is 16th March. As to the historical basis of the legends, see Skene, 'Celtic Scotland,' i. 277 ff.; ii. 229 ff.; Forbes, pp. 281 ff.; Mackinlay, pp. 480 ff. See also Boece (Bellenden's translation), ix. 18; Dempster, i. 71. Skene, 'Celtic Scotland' (i. 277; ii. 231), identifies him with Curitan, bishop and abbot of Rossmeinn.

41. 33. "Tullyne"—*i.e.*, Tealing.

42. 1. "Anguse" included Forfarshire and part of Perthshire.

42. 8. St Molocus or Moluoc—his name appears in many forms—crossed from Ireland to Lismore, which became the main seat of his labours. Eventually he went to Ross, and is said to have been buried at Rosemarkie (Forbes, pp. 409 ff.; Mackinlay, p. 157). His day is 25th June.

42. 10. The statement regarding Guillian and St Columban is taken from Boece (Bellenden's translation), ix. 18.

42. 16. Boece's reference has not been traced in Bede's works. See note to p. 43, l. 27 below.

43. 27. St Ninian was born at Whithern in Galloway. He went to Rome and devoted many years to study. He was consecrated bishop, and sent on a mission to the western parts of Britain. On his way home he visited St Martin of Tours. He was, says Bede ('Hist. Eccles.,' iii. 4), "a most reverend and holy man . . . whose episcopal see, named after the bishop, and famous for a stately church (wherein he and many other saints rest in the body), is still in existence among the English nation. The place belongs to the province of the Bernicians, and is generally called the White House, because he built there a church of stone, which was not usual among the Britons." St Martin died about 397. Boece (Bellenden's translation), ix. 26, refers to a passage in Bede in which he calls Whithern "Pithynnia," and states that Octa was St Ninian's successor. The passage has not been traced. St Ninian's day is 16th September (Forbes, pp. 421 ff.; Mackinlay, pp. 22 ff., 309; Skene, 'Celtic Scotland,' ii. 2 ff., 46 ff.; "Life of Ninian," by St Ailred in 'Historians of Scotland,' Edinburgh, 1874, vol. v., pp. iv, xi, xli, 268; Lawrie, pp. 226; and see Chalmers, 'Caledonia,' v. 410). After the death of bishop Badulph, who was alive in 803, the church and monastery fell into ruin. The bishopric was revived by Fergus of Galloway in the reign of David I. (Lawrie, pp. 53-54, 227, 314).

45. 3. "Archidecanatus." See note to vol. i. 100, l. 30.

45. 26. St Blane's day is 10th August. He was the nephew of St Catan (see note to p. 122, l. 6 below). Forbes gives 590 as his date, and

710 as that of St Catan. In Adam King's Kalendar (Forbes, p. 159) 1000 is given as St Blane's date. The see of Dunblane was created by Gilbert, earl of Stratherne, about the middle of the twelfth century. See Forbes, pp. 280 ff.; Mackinlay, pp. 111 ff.; Introduction to 'Liber Insule Missarum' (Bannatyne Club), Edinburgh, 1847.

46. 8. "Archideconatus." See note to vol. i. 100, l. 30.

46. 16. St Barr's day is 25th September. He is known to hagiologists as St Finbar, patron of Cork. His cultus was very prevalent in Scotland (Forbes, pp. 275 f.). He gave his name to the island of Barra; and a church was erected in his honour at Dornoch, where a fair called St Barr's name was celebrated (Mackinlay, pp. 141 f.).

46. 23. In Adam King's Kalendar (Forbes, p. 148), under the date 1st April, St Gilbert is said to have been bishop of Caithness in 1170. Forbes (p. 356) says that he held that office from 1223 to 1245, and gives 1st April as his day. See Dowden, pp. 234 f.; Boece (Bellenden's translation), xiii. 5.

47. 6. "Archidecanatus." See note to vol. i. 100, l. 30.

47. 30. As to bishop Edward, see Keith, p. 160. As to the establishment of the see of Brechin, see Skene, 'Celtic Scotland,' ii. 395 ff.

48. 23. In Adam King's Kalendar (Forbes, p. 150), under date 15th April, we find entered "St Munde, abbot and confessor in argyle vnder king kennede 2, 962." Bisset seems to identify him with St Mundus or Fintan Munnu, an Irish saint and a famous contemporary of St Columba. St Mundus is said to have founded a monastery at Kilmun on the Holy Loch in Argyllshire, where he died and was buried. His day is 21st October. See Forbes, pp. 414 ff.; Mackinlay, 71 f.; Skene, 'Celtic Scotland,' iii. 92 f.

48. 25. Lismore. "The districts belonging to the bishopric of Dunkeld, which lay to the west of the great range of Drumalban, were, about the year 1200, separated from it and formed into a new bishopric termed first that of Argyll and afterwards that of Lismore" (Skene 'Celtic Scotland,' ii. 408, where an account of the formation of the diocese is given).

49. 12. "Archidecanatus." See note to vol. i. 100, l. 30.

49. 20. As to St Serf, see note to p. 12, l. 3 above.

49. 26. St Magnus, whose day is 16th April, was the son of the Earl of Orkney. He was a man of noble presence and of blameless life. For some years he shared the Earldom with his cousin Haco. But, on his return from a visit to the English Court, he found that Haco had seized the whole of Orkney, as well as Caithness. A conference to settle the rival claims of the cousins was arranged, two vessels being allowed to each. Haco, however, arrived with eight vessels, and Magnus, who refused to resort to arms, was slain. His relics were transported to Kirkwall, where in 1138 Earl Rognvald com-

menced to build the Cathedral (Forbes, pp. 384 f.; Mackinlay, pp. 296 ff.).

50. 14. "The ancient Scandinavian diocese of the kingdom of Man and the western isles of Scotland was called Sodor only, not Sodor and Man. This name of Sodor (Suðr-eyjar), or the South Isles, was given in contradistinction to Nordr (Nordr-eyjar), or the North Isles—*i.e.*, the Orkneys and Shetlands, and it included the Hebrides, all the smaller western islands of Scotland, and Man" (A. W. Moore, 'A History of the Isle of Man,' London, 1900, i. 167).

50. 16. Various names have been applied to the Isle of Man. It was called Eubonia by Nennius and various Latin writers belonging to Ireland (Moore, i. 45). See note to p. 51, l. 7 below.

50. 20. The Isle of Wight is mentioned by Bede ('Hist. Eccles.,' i. 3; iv. 13, 16). See note to p. 51, l. 7 below.

51. 1. "Cantred" means "a hundred; a district containing a hundred townships" (see 'New English Dictionary'). Bisset's statements regarding the islands and cantreds are taken from Higden's 'Polychronicon,' i. c. 44.

51. 6. As to Eubonia, see note to p. 50, l. 16.

51. 7. The "Meuanix insulæ" mentioned by Bede ('Hist. Eccles.,' ii. 9) were Man and Anglesey, of which the latter is rather the larger.

51. 10. This reference to Bede has not been traced.

51. 22. The Isle of Man is 33 miles long by about 12 miles in breadth at its broadest part (Moore, i. 8).

51. 24. As to the Druids, see the art. "Druids" in Hastings' 'Encyclopedia of Religion and Ethics.'

51. 28. "Ane of the twa Estaittis." See note to p. 111, l. 1 below.

52. 10. A bishop of St Andrews first appears in the year 908 (Skene, 'Celtic Scotland,' ii. 311). The bishop of St Andrews was made Archbishop in 1474. Seventeen years later the Church of St Kentigern at Glasgow became the see of an archbishop (C. Innes, 'Lectures on Scotch Legal Antiquities,' pp. 173, 176). The date of the foundation of the bishopric of Dunkeld is uncertain. Cormac, bishop of that see, is a witness to two of King David's charters, and is named in a charter in the Book of Deer, dated the eighth year of David's reign—*i.e.*, 1131-32 (Lawrie, pp. 63, 76, 78, 283). The bishopric of Aberdeen was founded about 1125 (Preface to 'Registrum Episc. Aberdon.,' p. xix.). Gregory, bishop of Moray, is a witness to a charter of Alexander I., and to a charter to Dunfermline, *circa* 1128. The date of the foundation of the bishopric is uncertain (Lawrie, pp. 282-83). The bishopric of Ross was founded or restored by David I. early in the twelfth century (Innes, 'Lectures,' p. 175). As to the bishopric of Galloway, see note to p. 43, l. 27 above. The bishopric of Dunblane was created about the middle of the twelfth century (Mackinlay, p. 113). The bishopric of Caithness was founded between 1146 and 1150 (Lawrie,

pp. 408 f.). Samson, bishop of Brechin, is a witness to a document of doubtful authenticity purporting to have been granted by David I. (Lawrie, pp. 180, 425). The bishopric of Argyle "was cut out of the ancient diocese of Dunkeld in the end of the twelfth century, the Bishop of Dunkeld reserving to himself his episcopal connexion with the island of Iona alone" (Innes, 'Lectures,' p. 176). The bishopric of Orkney and Shetland, originally a Norwegian diocese, continued subject to the archbishops of Drontheim until 1468 (*Id. ib.*, p. 175). The kingdom of Man, the Hebrides, and all the smaller western isles of Scotland were included in the Scandinavian diocese of Sodor (see note to p. 50, l. 14 above). Eventually the western isles, including Bute and Arran, formed a diocese by themselves (Innes, 'Lectures,' p. 177).

53. 16. "Quottis." "In every confirmation of a testament, besides the other fees of court, the twentieth part of the moveables fell to the bishop of the diocese, which was called the *quot* of the testament, because it was the proportion or quota to which the bishop was entitled at confirming" (Ersk., 'Inst.,' iii. 9, 28). See p. 68, l. 14 below. As to the later history of the quot, see Ersk., 'Inst.,' *ut supra cit.*, and i. 5, 27.

53. 20. By the Act 1560, c. 2, confirmed by the Act 1567, c. 3 ('A. P.,' ii. 534; iii. 14), it was provided that no bishop or other prelate should exercise any jurisdiction by virtue of the pope's authority. As from the date of the first of these enactments judicial proceedings in the consistorial courts ceased (see 'Reg. of the Privy Council,' i. 252), and jurisdiction in spiritual causes was exercised by the court of session (see *Chalmer v. Lumisdene*, 19th December 1560, Balfour, 'Practicks,' p. 269), until 8th February 1563-64, when Queen Mary erected a new consistorial court at Edinburgh (see Ersk., 'Inst.,' i. 5, 26). The commissariots differed greatly in extent; and, in some cases, a commissariot's jurisdiction extended over small patches in different counties (J. G. Currie, 'The Confirmation of Executors in Scotland,' 3rd ed., Edinburgh, 1902, p. 3). An alphabetical list of the parishes with the name of the commissariot to which each belonged is given by Keith.

54. 3. The statutes referred to are 1606, c. 2, 1609, cc. 8 and 18 ('A. P.,' iv. 281, 430, 437).

55. 4. "Skeney" in both MSS. is probably intended for a genitive (see p. 115, l. 24 below).

55. 5. As to the "annual" of Norway, see note to vol. i. 150, l. 8.

55. 19. The Act, 1609, c. 8 ('A. P.,' iv. 430), enacted that its provisions should not prejudice the earl's "heretable richt of the commissariat within the boundis of Argyle."

55. 26. Lord Robert Stewart, natural son of James V., was made commendator of the Abbey of Holyrood while still a child. In 1569 he exchanged the abbacy with Adam Bothwell, bishop of Orkney, for

the temporalities of that bishopric ('Liber Cartarum Sancte Crucis (Bannatyne Club), Edinburgh, 1840, pp. xxxv. ff.). As to Lord Robert Stewart, see 'The Dictionary of National Biography,' liv. 342 ff.; as to the bishop, see *Ib.*, v. 444 ff.; as to Sir John Bellenden of Auchnoul or Auchinoul and his son Sir Lewis, see *Ib.*, iv. 187 ff.

56. 19. 1592, c. 111 ('A. P.,' iii. 600); 1581, c. 72 ('A. P.,' iii. 254); 1585, c. 20 ('A. P.,' iii. 382); 1587, c. 92 ('A. P.,' iii. 489); 1592, c. 94 ('A. P.,' iii. 589); 1606, c. 66 ('A. P.,' iv. 320).

57. 3. 1592, c. 16 ('A. P.,' iii. 547); 1594, c. 58 ('A. P.,' iv. 80).

57. 11. These instructions are printed in Balfour, 'Practicks,' pp. 655 ff. Bisset's version differs slightly from that of Balfour.

58. 13. For the words "with M.R. . . . the place," Balfour, 'Practicks,' p. 656, has "with M.R. and in the circumscription, S. OFFICII COMMISSARIATUS, with the name of the place."

59. 6. "Commissar." Before the Reformation the bishops frequently entrusted the exercise of their jurisdiction to delegates called officials or commissaries. After that event Queen Mary made a new nomination of commissaries, one in every diocese, who were to act under the royal authority, and erected a new commissary court in Edinburgh, consisting of four commissaries (Ersk., 'Inst.,' i. 5, 25-6).

59. 8. Balfour has "he" after "executioun."

62. 21. As to Letters of Four Forms, see p. 26 and p. 27 and note 1 above.

62. 23. "Lay fourtie dayis under cursing." See the references in the immediately preceding note.

62. 27. For the words "The parties to call to heir," Balfour ('Practicks,' p. 658) has "the partie to call his adversar to heir."

63. 12. As to submission to the commissaries' jurisdiction, see next note.

63. 20. Before the Reformation the church courts "claimed to enforce—at the very least by spiritual censures—all promises made by oath, or by 'pledge of faith.' The man who pledges his faith, pawns his Christianity, puts his hopes of salvation in the hands of another" (Pollock and Maitland, i. 128). This "may look like an oath; we may think that it implicitly contains all the essentials of an oath; but no relic or book or other thing is sworn upon, and no express words of imprecation are used." (*Id.*, ii. 190, 197 ff., 202 f.). It is interesting to note that by an old law, ascribed by Hector Boece to Gregorie, King of Scotland, the bishops were authorised to decide all actions pertaining to faith of body, with power to cause the people to keep their faith promised to their neighbours, and to punish them for its violation (see vol. i. 47, l. 12); and the practice is recognised in an article dated 27th September 1639, which provided that *interpositio fidei* should not be a sufficient cause to make the commissaries judges in actions not merely consistorial ("Minutes done in the Articles," 'A. P.,' v. 603a). Bisset (i. 244, l. 10) uses the expression "makis

faith" as equivalent to "swears." Notaries were in the custom of inserting in obligations and contracts an oath of the party to perform the stipulation undertaken by him, or of making him swear so to do. In the latter case a separate instrument was taken upon the oath—a breach of contract was thus brought under the ecclesiastical jurisdiction, and the defaulting debtor was excommunicated until he paid or performed. Eventually, debtors granted consent to excommunication on failure to fulfil their obligation (W. Ross, i. 98; see p. 461; 'R. M.,' ii. 54; iii. 6; Craig, 'Jus Feudale,' i. 3, 18; Mackenzie, 'Observations on the Fourth Parliament of King James V.,' c. 9; 1535, c. 3 ('A. P.,' ii. 342)). The same result followed from the debtor's prorogation of the spiritual jurisdiction (Ersk., 'Inst.,' i. 5, 30, and see 'A. P.,' i. 409*b*), which might be implied by the mere fact of recording the deed in the register of the church court ('Liber Officialis Sancti Andree' (Abbotsford Club), Edinburgh, 1845, p. x).

65. 27. As to the form of process here prescribed, see pp. 73 ff. and relative notes.

66. 25. "lymed." Balfour, 'Practicks,' p. 660, has "limited."

68. 14. "quottis." See note to p. 53, l. 16 above.

68. 21. "testamentis." Balfour, 'Practicks,' p. 661, has "confirmatounis."

71. 17. Balfour, 'Practicks,' p. 662, has "12th day of March."

71. 23. "Sir James Balfour's colleagues—Dr Edward Henryson, Clement Little, and Robert Maitland—were, like himself, men of learning and mark. Henryson, who had taught civil law at Bourges, and Maitland, who became dean of Aberdeen, rose to the bench of the Supreme Civil Court. Little took an active part in the foundation of the University of Edinburgh, and was one of the earliest benefactors of its library" ('Concilia Scotiæ,' i. clxxviii., note 1). As to Henryson, see note to vol. i. 82, l. 2.

71. 27. 1592, c. 64 ('A. P.,' iii. 574).

72. 5. 1621, c. 19 ('A. P.,' iv. 616).

72. 15. "Apud Acta." The expression means "in the course of procedure," and refers to orders judicially pronounced in the presence of parties (J. Trayner, 'Latin Maxims and Phrases,' 4th ed., Edinburgh, 1894, p. 51).

73. 1. This brief form of process is so far as it goes very similar to the later forms of Skene and Bisset.

73. 7. With the regulations as to induciæ, cp. Bisset's 'Forme,' Title 7, cc. 9, 10.

73. 15. As to privileged causes, see Bisset's 'Forme,' Title 4, c. 2, and the relative note.

73. 19. As to the production of the pursuer's title, see Bisset's 'Forme,' Title 13, c. 3.

73. 22. As to the defender's compareance and the proponing of defences and exceptions, see Bisset's 'Forme,' Title 15, cc. 2, 3;

Title 17, cc. 4, 5; Title 18, c. 4. Some differences between the earlier and the later 'Forme' as to the proponing of exceptions will be observed.

73. 27. As to calling a warrant, see Bisset's 'Forme,' Title 14.

74. 5. As to the terms of probation allowed to the pursuer, see Bisset's 'Forme,' Title 27, cc. 1, 2.

74. 12. Bisset's 'Forme' does not provide for proving objections to the person of the witnesses (see Stair, iv. 43, 11).

74. 19. As to circumduction of the term and conclusion of the cause, see Bisset's 'Forme,' Title 30, cc. 3, 4; Title 31, cc. 1, 2, 6.

As to the expression "apud acta," see note to p. 72, l. 15.

74. 26. As to calling a warrant, see Bisset's 'Forme,' Title 14.

75. 5. As to the proof of a peremptory exception, see Bisset's 'Forme,' Title 12, c. 2; Title 20, cc. 7, 8.

75. 11. As to the effect of the defender's non-appearance, see Bisset's 'Forme,' Title 12, cc. 1, 2.

75. 20. As to the meaning of the expression "apud acta," see note to p. 72, l. 15 above.

75. 22. As to the oath of calumny, see Bisset's 'Forme,' Title 22.

75. 25. As to privileged causes, see Bisset's 'Forme,' Title 4, c. 2, and the relative notes.

75. 28. As to litiscontestation, see Bisset's 'Forme,' Titles 15, 16, 19.

75. 30. As to summoning witnesses, see Bisset's 'Forme,' Title 27.

76. 3. As to the procedure when the defender fails to compare the first day and compares at a later stage, see Bisset's 'Forme,' Title 12, cc. 1, 2; Title 15, c. 2.

76. 10. As to the witness's failure to compare, see Bisset's 'Forme,' Title 27, cc. 3, 4.

76. 26. As to caution in improbation of writs, see Bisset's 'Forme,' Title 32, c. 6.

76. 30. As to the oath of calumny, see Bisset's 'Forme,' Title 22.

76. 34. As to the proof of a reply and exception, see Bisset's 'Forme,' Title 29, c. 1.

77. 17. The original of these statutes and ordinances has not been traced. They contain some provisions identical with those dated 26th March 1557, printed in Balfour, 'Practicks,' pp. 662 ff.

78. 19. "Reidare." After the Reformation lay readers were appointed in the churches of Scotland to read the Scriptures and perform some light duties in parishes where there was no settled minister. Further appointments were forbidden by an act of assembly in 1581 ('New Engl. Dict.').

79. 9. "Procuratour fyschall." It was the duty of the bishop's procurator-fiscal to see that all testaments were confirmed, and all inventories brought in so that the quot could be ascertained. He

made a circuit twice a year through his commissariot in order to obtain information of the deaths which had occurred during the preceding period, and charged all whom he knew or suspected to be acquainted with the defuncts' estates to appear before the commissaries. If the summons was not obeyed, the commissaries confirmed the testament in name of the procurator-fiscal. The Act 1690, c. 56 ('A. P.,' ix. 198), forbade the commissaries and their officers to pursue or require any person to confirm to the testament or give up the inventory of the goods of any defunct except at the instance of the relict, bairns, nearest of kin and their tutors and curators, or of a creditor (see 'Third and Fourth Reports of the Commissioners on the Courts of Justice in Scotland,' 1815). See also Stair, iii. 8, 54; Ersk., 'Inst.,' iii. 9, 33; Bankton, iii. 8, 118.

80. 29. This enactment (1617, c. 14 ('A. P.,' iv. 545)) limits the amount to be retained by the executor for his trouble to a third part of the dead's part. If the executor were entitled to a legacy which exceeded the third part in amount, he was debarred from taking any part of the third part. If the legacy were less than the third part, it was to be imputed thereto.

81. 6. As to the Act referred to, see immediately preceding note.

81. 30. 1578, c. 17, and 1581, c. 65 ('A. P.,' iii. 105, 240).

82. 11. This chapter is printed in Balfour, 'Practicks,' p. 216.

82. 14. 'R. M.,' ii. 29; 'De Judicibus,' c. 120. (The chapter is numbered 116 in MS. Adv. Libr., 25.5.9.)

82. 19. 'R. M.,' ii. 30.

82. 20. This chapter is printed in Balfour, 'Practicks,' p. 216.

82. 23. 'R. M.,' ii. 29.

83. 3. The references are the same as at p. 82, l. 14.

83. 9. 'R. M.,' ii. 29.

83. 10. This chapter is printed in Balfour, 'Practicks,' p. 216.

83. 15. Balfour cites this case *sub nom.* *Thomas Archibald contra James Clerk.*

83. 20. This chapter is printed in Balfour, 'Practicks,' p. 217.

83. 31. 'R. M.,' ii. 31.

84. 1. This chapter is printed in Balfour, 'Practicks,' p. 217.

84. 11. Balfour has "generalii." This provincial synod and council was held on 16th July 1420 (see 'Concilia Scotiæ,' ii. 77; 'Registrum Episcopatus Brechinensis,' i. pp. 38-40).

84. 12. This chapter is printed in Balfour, 'Practicks,' p. 217.

84. 16. "airschip guidis." See note to p. 92, l. 9 below.

84. 23. "Barnispairt." See note to p. 92, l. 10 below.

84. 27. 'R. M.,' ii. 29, 30; 1617, c. 14 ('A. P.,' iv. 545).

85. 1. This chapter as printed in Balfour, 'Practicks,' p. 217, differs slightly from Bisset's version.

85. 15. This chapter is printed in Balfour, 'Practicks,' p. 218.

85. 26. This chapter is printed in Balfour, 'Practicks,' p. 218.

86. 8. 'R. M.,' ii. 27. Balfour refers to 'R. M.,' ii. 35 (c. 29 in the 'A. P.').

86. 15. This chapter is printed in Balfour, 'Practicks,' p. 218. He gives the date of the case cited as 8th March 1554.

86. 27. This reference to the 'Leges Forrestarum' is to the version contained in three MSS. in the Adv. Libr. 25.5.6, 25.5.9, and 25.4.12, and in the Drummond MS. (in the Register House, Edinburgh). The provision is not contained in the versions of Skene or of the 'A. P.' A very similar provision is printed by Skene as the twenty-second statute of King William. See Skene's observations as to these laws quoted in 'A. P.,' i. 209. See also 'R. M.,' ii. 31.

86. 30. 1540, c. 40 ('A. P.,' ii. 377).

87. 1. This chapter is printed in Balfour, 'Practicks,' p. 218. He gives the date of the case cited as 11th May 1574.

87. 7. This chapter is not printed in Balfour's 'Practicks.'

87. 15. 1427, c. 8 ('A. P.,' ii. 14).

87. 17. This chapter is printed in Balfour, 'Practicks,' p. 219.

87. 25. 'R. M.,' ii. 31; 1540, c. 40 ('A. P.,' ii. 377).

88. 1. This chapter is printed in Balfour, 'Practicks,' p. 219.

88. 3. The confirmation of an executor is "a sentence of the judge competent, authorizing an executor, one or more, upon making inventory of the moveable estate and debts due to the deceased, to sue for, recover, possess, and administer the whole, either for the behoof of themselves or of others interested therein. Where an executor named by the deceased is authorized by the judge, it is called the *confirmation of a testament-testamentary*; and when the judge confers the office of executor upon a person of his own nomination, it is styled the *confirmation of a testament-dative*" (Ersk., 'Inst.,' iii. 9, 27). The substantive "dative" means "a power legally granted to one to act as executor of a latter will when it is not confirmed by the proper heirs" (Jamieson, 'Scott. Dict.,' who cites A. S., 24th July 1564).

88. 12. This chapter is printed in Balfour, 'Practicks,' p. 219.

88. 21. The case cited by Bisset seems to be the case reported in the 'Maitland Collection' (MS. Adv. Libr. 24.1.4), p. 26, and in 'Mor. Dict.,' 5201, *sub nom.*, *Laird of Collington v. George Johnston*.

88. 23. The first part of the chapter is printed in Balfour, 'Practicks,' pp. 219 f.

89. 1. For "16 June 1550" Balfour has "16 Jan. 1532."

89. 10. This report of the case of *Loch* differs from Balfour's version ('Practicks,' p. 220). Bisset has 'Annatt' for Balfour's 'Annuall.' The case has not been traced. Balfour's reference is 7th December 1501, *M. Alexander Loch contra Johne Gordoun*. In Bisset's time the 'Annatt' or 'Ann' had become, on a recommendation by James VI. to the bishops, the payment of half the year's benefice next ensuing the incumbent's death to his widow and children (Ersk., 'Inst.,' ii. 10, 65, *et seq.*).

89. 11. This chapter is printed in Balfour, 'Practicks,' p. 220.
89. 19. The case cited is in the 'Maitland Collection' (MSS. Adv. Libr. 24.1.4), p. 28.
89. 20. This chapter is printed in Balfour, 'Practicks,' p. 220.
89. 28. The case cited is reported in the 'Maitland Collection' (MS. Adv. Libr. 24.1.4), p. 26, and in 'Mor. Dict.,' 14,685.
90. 3. The case is reported in 'Mor. Dict.,' 14,686.
90. 4. This chapter is printed in Balfour, 'Practicks,' p. 220.
90. 12. Balfour has 26th June 1542 as the date of the case of *Innes of that Ilk v. Gadderer*. He does not cite *Elphingstoun's* case until the close of the chapter.
90. 15. *Elphingstoun's* case is reported in 'Mor. Dict.,' 5204.
90. 17. This chapter is printed in Balfour, 'Practicks,' p. 220.
90. 22. The Act cited is 1617, c. 14 ('A. P.,' iv. 545).
90. 23. Balfour's version ('Practicks,' p. 221) of this chapter is much fuller than Bisset's.
91. 1. Balfour dates the case cited 19th January 1487. That date is also given in 'Mor. Dict.,' 5203, *sub nom.*, *Sempill v. Fordel*.
91. 3. This chapter is printed in Balfour, 'Practicks,' p. 221.
91. 9. Balfour gives the date of the case cited as 27th January 1507. The same date is given in 'Mor. Dict.,' 3851.
91. 11. This chapter is printed in Balfour, 'Practicks,' p. 221.
91. 16. The case of the *Prior of Pluscarden* is reported in 'Mor. Dict.,' p. 5204.
91. 17. This case is reported in the Grant MS. (Adv. Libr. MS. 31.2.2), Vol. I., case cxlv.
91. 19. This chapter is printed in Balfour, 'Practicks,' p. 221.
91. 24. This decision has not been traced.
92. 5. Balfour has "Culros" for "Kynrose," and rightly. The case is reported in 'Mor. Dict.,' 3877.
92. 8. As to *Lord Lovat's* case, see note to p. 101, l. 15 below.
92. 9. "Airschip geir." The heir of a prelate, baron, or burgess who was at his death vest and seised in lands, houses, or annual rents furth of land, had right to the best of certain moveables (Ersk., 'Inst.,' iii. 8, 17; Balfour, 'Practicks,' pp. 234 ff.).
92. 10. "Barnispairt," or legitim, is "a right of succession to a share of the father's moveable estate vesting in the children, *ipso jure*, on their father's death, but expiring with the predecease of the children, and not transmissible in that event to their heirs" (Bell, 'Prin.,' § 1582). It amounted to a third of the deceased's free moveable estate if he were survived by a widow and children, and to a half if he were survived by children only. "Wemennis thrid" is the third of a deceased's moveable estate, to which, if he be survived by a widow and children, the former is entitled.
92. 16. This decision has not been traced.
92. 23. "Deidis pairt" is the portion of his moveable estate of

which the deceased may dispose of by will. If he die unmarried and childless it extends to his whole estate. If he be survived by widow or issue, it extends to half his estate. If he be survived by widow and issue it extends to a third of his estate (Ersk., 'Inst.,' iii. 9, 18).

93. 3. This decision has not been traced.

93. 23. This decision, sub nom., *The Laird of Collington v. George Johnston*, is reported in the 'Maitland Collection' (MS. Adv. Libr. 24.1.4), p. 26; and in 'Mor. Dict.,' 5201.

94. 9. This decision is reported in the Grant MS., Vol. I., case clxii.

94. 31. This decision has not been traced.

95. 21. This decision has not been traced.

96. 18. This decision is reported in the 'Maitland Collection' (MS. Adv. Libr. 24.1.4), p. 114.

97. 4. The report of a case between these parties (Comm. Edinburgh Decreets, 26th March and 30th June 1565) does not deal with the point with which Bisset is here concerned.

97. 27. This decision has not been traced.

98. 5. This decision is reported in the 'Maitland Collection' (MS. Adv. Libr. 24.1.4), p. 116. The MS. has "Balmacalach."

98. 24. This decision is reported in 'Mor. Dict.,' 14,686.

99. 12. This decision has not been traced.

99. 18. The reference is to D. xvi. 1; C. iv. 29.

99. 25. This decision has not been traced.

100. 17. This decision is reported in 'Mor. Dict.,' 14,686.

101. 3. This decision has not been traced.

101. 15. This decision is reported in 'Mor. Dict.,' 2189, 5877; 'Maitland Collection' (Adv. Libr. MS. 24.1.4), p. 97.

102. 1-10. The source of these chapters has not been traced.

102. 8. "Fall" is used as here in the sense of "be entitled to" in the Act, 1617, c. 14 ('A. P.,' iv. 545).

102. 24. This decision is reported in 'Mor. Dict.,' 7936.

103. 20. This decision is reported in the 'Maitland Collection' (Adv. Libr. MS. 24.1.4), p. 102.

104. 5. This decision is reported in 'Mor. Dict.,' 14,686; 'Colvil Collection' (Adv. Libr. MS. 24.1.4), p. 26.

104. 25. This case is reported in the 'Colvil Collection' (Adv. Libr. MS. 24.1.4), p. 31.

105. 9. This case is reported in the 'Maitland Collection' (Adv. Libr. MS. 24.1.4), p. 28.

105. 28. The account of the hermits which follows is taken from Polydore Vergil, 'De Rerum Inventoribus,' vii. 1.

106. 2. "herome" for "Jerome."

106. 11. "Thebiane." Paul was a hermit of the Thebaid in Egypt.

106. 17. "Essianis" for "Essenes."

106. 22. Eusebius, 'Evangelicæ Preparationis Libri Quindecim,' viii. 11.

106. 23. Polydore Vergil, *ut supra cit.* (p. 105, l. 28 above).

106. 34. "Hilarius" for "hilarion."

108. 6. "Nursi," *i.e.* "Nursia."

108. 8. Sublacum, the modern Subiaco. It is a small town about forty miles from Rome. Polydore Vergil, 'De Rerum Inventoribus,' vii. 2, calls it "Latinorum præclarum oppidum."

108. 12. "Cassium" written in error for "Casinum."

108. 26. The references are as given.

108. 34. St Columba or Colum Cille was born at Gartan in Donegal in 521. He left Ireland in his forty-second year, and landed on the island of Iona or Hy. There he founded his monastery, which became the starting-point of the evangelisation of the surrounding districts. He died in 597, on 9th June, which is the day of his cultus. See W. Reeves, 'The Life of St Columba written by Adamnan,' Dublin, 1857, reissued in the Scottish Historians Series, 1874; Skene, 'Celtic Scotland,' ii. 85 ff., 'Dictionary of National Biography,' xi. 409 ff.; Forbes, pp. 306 f.; Mackinlay, pp. 36 ff.

109. 9. The reign of Eugenius IV., the son of Dongardus, commenced in 674 (Skene's ed. of Fordun, ii. 400). Eugenius III. was the son of Aydanus. He began to reign in 606, and reigned sixteen years (*Id. ib.*, ii. 399).

109. 14. As to the buildings on Iona, see W. Reeves, 'The Life of Columba by Adamnan,' pp. cxix. ff.; W. F. Skene, "Notes on the Early Establishments at Iona," in 'Proceedings of the Society of Antiquaries of Scotland' (1876), xi. 330; W. F. Skene's ed. of Fordun, ii. 388.

109. 18. In the preface to his work Boece refers to Veremundus as "archidiaconus S. Andree natione Hispanus qui ab exordio gentis historiam latine usque ad Malcolmi tertii cognomento Canmoir tempora . . . contexit" (see Skene's ed. of Fordun, i. xxxviii, note 1). Boece also refers in his preface to the works of Colin Campbell, Earl of Argyle, and his brother John. Dempster (i. 159) gives the latter's date as 1260 A.D.

109. 28. Boece (Bellenden's transl., vi. 18; cp. vii. 8) says that Iona became the burial-place of the kings many years after the exile of certain Scotsmen in 379 A.D. See below, p. 151, l. 5.

111. 1. *I.e.*, Gaul was one of the two countries in which the religion of the Druids was in observance. See p. 51, l. 28 above.

111. 3. Monipennie's work is entitled 'The Abridgement or Sunmarie of the Scots Chronicles,' 1612.

111. 4. Saddle was founded by Reginald, son of Somerled, lord of the Isles, who was slain in 1164. Sorli Maclardy seems to be a corruption of Soirle Mackilvrid or Somerled, the son of Gilbrid, who was father of Reginald (Keith, 'Historical Catalogue of the Scottish Bishops down to the Year 1688,' Edinburgh, 1824, p. 421; Skene, 'Celtic Scotland,' ii. 415). See "Notice of Saddell Abbey

in Kintyre . . . ,” by T. P. White, in ‘Proceedings of the Society of Antiquaries of Scotland’ (1871), viii. pp. 122 ff.

111. 7. The order of the Cistercians, so called from Cistercium (Citeaux) in Burgundy, was founded by Robert, abbot of Molesme in the diocese of Langres in 1098 (Keith, p. 415). See Laurie, pp. 375 ff.

111. 15. Glenluce was founded in 1190 by Rolland, lord of Galloway (Keith, p. 421).

111. 18. Souleseat was founded in 1160 by Fergus, lord of Galloway, (Keith, p. 398).

111. 22. Sweetheart was founded in 1273 (Laing, “Charters,” No. 46) by Devorgilla.

111. 31. Under date 12th May we find in Adam King’s Kalendar (Forbes, p. 152) the entry “S. Congall abot of haliwode and confessor in scotland vnder king Malcolm 2, 1013.” The saint was born in Ireland in 517. He became abbot of Bangor in County Down, where he ruled over 3000 monks. After seven years’ rule he crossed to Scotland in 598 and founded a church in Tیره. He is said to have taken part in the conversion of King Brude at Inverness, and to have died *circa* 600 (Forbes, pp. 308 ff.; Mackinlay, pp. 61, 63 f.). See note to p. 112, l. 21 below.

112. 4. Dundrennane was founded in 1142 by Fergus, lord of Galloway (Keith, p. 417).

112. 12. Tongland was founded in the twelfth century by Fergus, lord of Galloway (Keith, p. 400).

112. 15. The Premonstratensians were so called because the site of their principal monastery was “divina revelacione præmonstratum,” and thereafter named Prémontré (“Pratum Monstratum”). It was founded about 1120 by Norbert, a canon of Cleves, who followed mainly the rule of St Augustine (Keith, p. 398).

112. 21. Holywood was called “monasterium sacri nemoris,” and in papal bulls “Dercongall” (“the oakwood of Congall”), and its foundation has been attributed by some to John, lord of Kirkconnel, by others to Devorgilla, daughter of Alan, lord of Galloway. Forbes observes (p. 309 f.) that the Martyrology of Aberdeen assigns as the site of St Congall’s cultus “the monastery of Drum Congal, by which Dercongall is probably meant, but Dercongall is attached in our Kalendars to S. Drostan, and not to S. Comgall, and Mr Skene thinks that the Congal in *Dercongall* has probably nothing to do with the name *Comgall*, but is a corruption of Congbhael, in its primary sense a habitation, but in its secondary sense a monastery or ecclesiastical establishment.” As to St Congall, see note to p. 111, l. 31 above.

112. 30. Corsraguel was founded by Duncan, son of Gilbert, Earl of Carrick, in 1244 (Keith, pp. 413 ff.). It was of the Clugniac order, which was so called from the Abbey of Clugny in Burgundy, founded by Abbot Berno in 940. He was succeeded by Odo (Forbes, p. 397).

113. 3. Kilwinning was founded in 1140 by Hugo de Morville, a Northampton baron. About the middle of the twelfth century he was constable of Scotland. He founded and endowed the abbeys of Kilwinning and Dryburgh. One of the murderers of Thomas à Becket was his grand-nephew (Lawrie, pp. 273-74). The monks belonged to the order of Tyronenses, taking their name from the Abbey of Tiron ("Tironium"), founded by St Bernard, *circa* 1109 (Keith, pp. 405, 407 ff.; Lawrie, pp. 372, 451).

113. 7. Paisley was founded by Walter Fitz-Allan, High Steward of Scotland, about 1163 (Keith, pp. 412 f.; see 'Registrum Monasterii de Passelet' (Maitland Club), Edinburgh, 1832).

113. 20. St Mirren or Merinus or Meadran was given by his parents to St Congall (see note to page 111, l. 31 above) to be trained in the monastery of Bangor, of which he eventually became prior. He settled at Paisley about 560, and died there. His day is 15th September (Forbes, pp. 397 f.; Mackinlay, p. 64 f.).

113. 28. As to the Clugniac order, see note to p. 112, l. 30 above.

113. 29. "Masticense." Matisco is the modern Mâcon.

114. 10. Jedburgh was founded by David I. (Keith, p. 392).

114. 14. The Canons-Regular of St Augustine were brought first to Scotland and established at Scone in 1114. They had twenty-eight houses in Scotland (Keith, p. 385). The Hermits of St Augustine were also known as the Austin Friars. St Augustine's rule was probably deduced from his writings rather than framed by himself.

114. 15. This passage is confused, and little light is thrown upon it by the citation from Polydore Vergil (vii. 3). He says that the canons affirmed that St Augustine imposed the rule which they followed on being made bishop of Hippo, and adds that there were other congregations of canons, of which one was instituted by two men of Sienna remarkable for their piety, and was approved by Pope Gregory XI.

114. 22. Kelso was founded by David I. in 1128 (Keith, pp. 405 ff.). See 'Liber Sancte Marie de Calchou' (Bannatyne Club), Edinburgh, 1846.

114. 23. As to the monks of Tiron, see note to p. 113, l. 3 above.

114. 25. Melrose was founded by David I. in 1136 (Keith, pp. 415 ff.). See Lawrie, pp. 375 ff.; 'Liber Sancte Marie de Melros' (Bannatyne Club), Edinburgh, 1837; 'Chronica de Mailros,' (Bannatyne Club), Edinburgh, 1835.

114. 28. Dryburgh was founded in the reign of David I. by Hugo de Morville (Lawrie, p. 436). See 'Liber S. Marie de Dryburgh' (Bannatyne Club), Edinburgh, 1847. As to Hugo de Morville, see p. 113, l. 3 above.

115. 1. Holyroodhouse was founded by David I. (Keith, p. 389). See 'Liber Cartarum Sancte Crucis' (Bannatyne Club), Edinburgh, 1840; Lawrie, pp. 383 f.

115. 5. Newbattle was founded in 1140 by King David (Keith, p. 417). See 'Registrum S. Marie de Neubotle' (Bannatyne Club), Edinburgh, 1849; Lawrie, pp. 378 f.

115. 8. Cambuskenneth was founded in 1147 by King David (Keith, p. 390). See 'Registrum Monasterii S. Marie de Cambuskenneth' (Grampian Club), Edinburgh, 1872.

115. 11. As to reference to Skene, see note l. 24 below.

115. 13. Culross was founded by Malcolm, earl of Fife, in 1217, and was dedicated not only to the Blessed Virgin but to St Serf (Keith, p. 422).

115. 16. As to St Serf, see note to p. 12, l. 3 above.

115. 22. Dunfermline was begun by Malcolm III. and finished by Alexander I. (Keith, pp. 402 f.). See 'Registrum de Dunfermelyn' (Bannatyne Club), Edinburgh, 1842.

115. 24. The reference is to Skene's 'Chronology' (see note to vol. i. 5, l. 20). "Skeney," see note to p. 55, l. 4 above.

115. 28. Inchcolm—Æmonia insula—was founded by Alexander I., *circa* 1123 (Keith, p. 386).

116. 6. Lindores was founded by David, Earl of Huntingdon, brother of William the Lion, *circa* 1190. 'Chartulary of the Abbey of Lindores' (Scottish History Society), Edinburgh, 1903, p. xvi., note). See 'The Chartularies of Balmerino and Lindores' (Abbotsford Club), 1841.

116. 10. Balmerinoch was begun by Alexander II. and his mother, Emergarda, daughter of the Earl of Beaumont (Keith, pp. 423 ff.). As to its Chartulary, see above.

116. 21. Boece (xiii. 10) says that King William gave his royal palace in Aberdeen to two of "the monkis of the Trinite callit the redemptioun of captivis . . . to big thair abbay."

116. 24. The date of the foundation of Scone is unknown. The monastery was reformed by Alexander I. See Lawrie, p. 286, and *Liber Ecclesie de Scon'* (Maitland Club), Edinburgh, 1843; also, edition of Bannatyne Club, 1843.

116. 27. Cupar in Angus was founded by Malcolm IV. (Keith, p. 419). See C. Rogers, 'Rental Book of the Cistercian Abbey of Cupar-Angus, with the breviary of the Register' (Grampian Club), 1879-80.

117. 3. Abirbrothok was founded by King William in 1178 (Keith, pp. 408 ff.). Reginald, a monk of Kelso, was the first abbot. See 'Liber S. Thome de Aberbrothoc' (Bannatyne Club), Edinburgh, 1848-56.

117. 10. Bisset's statement as to Eustacius is erroneous. See the preceding note.

117. 13. Deir was founded by William Cuming, earl of Buchan, in 1218 (Keith, p. 422).

117. 16. Kinloss was founded in 1150 by King David (Keith, p. 418).

117. 20. Ferne was founded by Ferquhard, first earl of Ross, in the reign of Alexander II. (Keith, p. 400).

117. 23. Holm Cultram was founded by earl Henry for Cistercians in 1150. The Register of the Abbey is printed in Dugdale's 'Monasticon' (Lawrie, pp. 196-98, 436-38).

118. 10. The attribution of the foundation of the Cathedral of Durham to Malcolm is to be found in Fordun (v. 20) and Boece ((Bellenden's transl.), xii. 12). Fordun's account is probably derived from Simeon of Durham, who, in his 'Historiæ Regum,' writes, "anno MXCIII. ecclesia nova Dunelmi est incepta, tertio idus Augusti, feria quinta, episcopo Willelmo et Malcholmo rege Scottorum et Turgoto priore ponentibus primos in fundamento lapides" (Skene's ed. of Fordun, ii. 424). According to Dugdale ('Monasticon Anglicanum,' London, 1817-30, i. 219 ff.) the monastery of Lindisfarne was founded by St Aidan, *circa* 635. Owing to the incursions of the Danes the see was removed to Chester-upon-the-Street in 854 and to Durham in 995. In 1093 William de Carilepho, bishop of Durham, began the erection of the present cathedral, and King Malcolm was present at its foundation (P. Hume Brown, 'History of Scotland,' Edinburgh, 1900, i. 61).

118. 19. St Brandan is said, in Adam King's Kalendar (Forbes, p. 152) under date 16th May, to have been abbot and confessor in Scotland in 1066. The well-known saint of the same name was born at Tralee, *circa* 484. He visited Wales and Brittany; and founded the monastery of Clonfert. He is said by Fordun (i. 29; see iii. 23; xiii. 32) to have erected a cell in Bute. He died at an advanced age at Armadown, near Loch Corrib. The legends regarding the saint and his seven years' voyage may be read in Charles Kingsley's 'The Hermits' (Forbes, pp. 284 ff; Mackinlay, pp. 65 ff.).

118. 28. The charter referred to by Bisset is printed by Lawrie, p. 54.

118. 30. St Cuthbert was born in Ireland and was brought by his mother to Scotland. He became a monk of Melrose under St Eata, and held the office of prior, first at Melrose and afterwards at Lindisfarne. He retired to the island of Farne, and eventually was consecrated bishop of Lindisfarne. He died in 687, and is commemorated on 20th March (Forbes, pp. 317 ff.; Mackinlay, pp. 243 ff.; Skene, 'Celtic Scotland,' ii. 201 ff.; Bede, 'Vita S. Cuthberti.')

119. 12. Carlisle is said to have been founded by St Cuthbert. It was destroyed by the Danes, and, in the reign of William Rufus, Walter, a Norman priest, began to build the monastery which was finished and endowed by Henry I. (Dugdale, 'Monasticon,' vi. 141). See Keith, p. 389.

119. 17. "In the island of Oransay, on which St Columba is said to have first landed, stood a priory believed to have been founded by that saint, and afterwards changed by a Lord of the Isles into a priory of canons regular brought from Holyrood" ('Origines Parochiales Scotiae' (Bannatyne Club), Edinburgh, 1851-55, ii. pt. 1, 281 f.). See Keith, p. 390; Skene's ed. of Fordun, ii. 386.

119. 21. Ardchattan, situated on the north side of Loch Etive, was a priory founded in 1230 by Duncan Mackoul, said to be ancestor of the Macdougals of Lorn (Keith, p. 428. See E. C. Batten, 'The Charters of the Priory of Beaully with Notices of the Priors of Pluscardine and Ardchattan' (Grampian Club), London, 1877). Ardchattan was not called "Insula Missarum." That name was given to the abbey of Inchaffray in Strathearn, founded by Gilbert, Earl of Strathearn, in 1200. The cells or priories belonging to it were Strathfillan, Scarinche, and Abernethy ('Liber Insule Missarum' (Bannatyne Club), Edinburgh, 1847; J. Dowden, 'Charters . . . relating to the Abbey of Inchaffray' (Scott. Hist. Society), Edinburgh, 1908).

119. 30. The passage cited from Polydore Vergil, 'De Rerum Inventoribus,' vii. 2, refers to the Vall' Ombrosa in Tuscany where Jean Gualbert founded a Benedictine monastery in 1038. It was the order of Vallis Caulium, founded in 1193 by Virard in the diocese of Langres in Burgundy, which had monasteries at Ardchattan, Pluscarden and Beaulieu. This order was introduced into Scotland by William Malvoisin, bishop of St Andrews in 1230 (Keith, pp. 426 f.).

120. 1. Whithorn was founded by Fergus, lord of Galloway, in the reign of David I. (Keith, p. 399). See note to p. 43, l. 27 above.

120. 12. According to Keith (p. 389), the priory of St Mary's Isle was founded by Fergus, lord of Galloway, in the reign of David I.

120. 16. Mauchline is said to have been founded by David I.; but there is evidence suggesting that it was granted to Melrose by Walter, son of Alan, High Steward of Scotland (Keith, p. 426).

120. 19. Lesmahagow was founded by King David I. in 1140 (Keith, p. 407).

120. 22. Lawrie (pp. 251, 399) observes that "it has been erroneously said that King Edgar . . . founded the 'Priory' of Coldingham. The monks of Durham held the lands, and afterwards built a church; but there was no priory at Coldingham before 1147." See Keith, pp. 401 f.

120. 29. Inchmahome, or the Isle of St Colmoc, was the site of an abbey erected by Walter Comyn, earl of Menteith, *circa* 1238, and dedicated to that saint conjointly with the Virgin (Mackinlay, p. 93).

120. 30. St Colmoc—*i.e.*, Colman with the honorific suffix *oc* or *og* (Forbes, p. 304; Skene, 'Celtic Scotland,' ii. 32), bishop of Dromore, is confused by Bisset, who cites Boece (Bellenden's transl.), ix. 22,

as his authority, with Colman, bishop of Lindisfarne (see Skene, 'Celtic Scotland,' i. 258 f.). The former's day is 6th June. He lived about 500.

121. 3. St Finnan came from the monastery of Hy (Bede, 'Hist. Eccles.,' iii. 17). He became bishop of Lindisfarne, and died in 662. His day is 17th February (Forbes, pp. 348 f.). See p. 376, l. 4 below. In Adam King's Kalendar under date 18th March we find entered "S. Finnane, bischope and confes. in scotland under king ferquhard 2, 660" (Forbes, p. 147).

121. 7. The citation of Boece (Bellenden's transl.) should be ix. 21, 22.

121. 12. The rights of St Andrews Priory were confirmed by three charters, of which the earliest was granted by the bishop of St Andrews in 1144 (see 'Liber Cartarum Prioratus Sancti Andree' (Bannatyne Club), pp. 122, 189, 192; Lawrie, pp. 124-29, 390 ff.).

121. 15. The Isle of May belonged of old to the monks of the priory of Reading, in Berkshire, for whom David I. founded a cell or monastery (Keith, p. 388). Towards the close of the thirteenth century the connection of the May and Pittenweem with Reading ceased. A convent was built at Pittenweem and the monks deserted the May, leaving a priest there (Lawrie, p. 388). See 'Records of the Priory of the Isle of May,' ed. J. Stuart, Edinburgh, 1868. Pittenweem priory was dedicated to the Blessed Virgin. See Lawrie, pp. 387 f.

121. 19. Lochleven was bestowed on St Andrews by David I. (Keith, p. 387).

121. 22. Urquhart was founded by David I. (Keith, p. 404; see Lawrie, pp. 350, 364, 386).

121. 24. Restennet in Angus was perhaps founded in the eighth century (see 'Archæologia Scotica' (1890), v. 285 ff.).

121. 26. Canonbie was founded before 1296, as its prior subscribed the Ragman Roll in that year (Keith, p. 392).

121. 28. Fyvie was founded by Fergus, earl of Buchan, in 1179 (Keith, p. 410).

122. 1. Blantyre was founded before 1296, as its prior signed the Ragman Roll in that year (Keith, p. 390).

122. 3. The priory of Beaully was founded in 1230 by John Bysset (Keith, p. 427), who is mentioned in the bull of Gregory IX. (1227-41) addressed to the prior and brethren of Beaully (see E. C. Batten's work, cited in note to p. 119, l. 21 above, pp. 14 ff.).

122. 6. At Scarinche, in the island of Lewis, were the "exuvie" of St Chattan or Kaddan. He was the uncle of St Blane (see note to p. 45, l. 26 above). He left Ireland and landed in Bute, where he erected a cell on the south side of Kilchattan Bay. His day is 17th May (see Keith, p. 393; Forbes, pp. 298 f.; Mackinlay, pp. 108 ff.). As to 'Insula Missarum,' see note to vol. ii., 119, l. 21 above.

122. 9. Strathfillan was a priory founded by King Robert the Bruce in 1314 (Keith, p. 393). See note to p. 123, l. 18 below, relating to the abbot of Glendocharoch. As to 'Insula Missarum,' see note to vol. ii. 119, l. 21 above.

122. 11. Pluscarden was founded by Alexander II. in 1230 (Keith, p. 427). See note to p. 119, l. 21 above.

122. 18. Monymusk was of old possessed by the Culdees. In the reign of William the Lion, Gilchrist, Earl of Mar, built a priory there for the canons-regular of St Andrews. The Culdees were dispossessed, and their possessions were given to the canons by the bishops of St Andrews (Keith, pp. 387, 388).

122. 20. Loch Tay was a cell or priory belonging to Scone, founded in 1122 by King Alexander (Keith, p. 385). See Lawrie, pp. 294 f.

122. 22. The charterhouse of Perth was founded by James I. shortly before his death (see Keith, pp. 429, 443; Hume Brown, 'History of Scotland,' i. 219; Boece, xvii. 8).

123. 1. The Abbey of Carthusia Magna (Grande Chartreuse) was established in 1086 by Bruno, a doctor of Paris and a canon of Rheims (Keith, pp. 429 f.).

123. 5. "Gratianopolis," Grenoble.

123. 9. Portmoak is said by Keith (p. 388) to have been founded by Eogasch, king of the Picts. See Lawrie, pp. 210, 445.

123. 11. Monimail. We have not found any notice of this priory.

123. 13. The priory of Kingussie is said to have been founded about 1490 by George, Earl of Huntly (see L. Shaw, 'History of the Province of Moray,' Edinburgh, 1775, pp. 261, 334). On 12th January, 1530-31, a protection was granted to John Foulfurd, prior of the Carmelite Friars of Kingussie ('Reg. of the Privy Seal,' ii. No. 797).

123. 15. The hospital of Soutra was dedicated to the Holy Trinity by Malcolm IV. in 1164 (Keith, p. 479; see 'Registrum Domus de Soltre,' &c. (Bannatyne Club), Edinburgh, 1861).

123. 18. Abbot of Glendocharoch. Chalmers denies the existence of the abbot and the abbacy ('Caledonia,' ii. 733, note (d)); although the abbot is mentioned in an old law ascribed to William the Lion ('Ass. Reg. Will.' c. 3) which is reproduced in the 'Regiam' (i. 15). In a paper entitled "Historical Notices of St Fillan's Crozier and of the devotion of King Robert Bruce to St Fillan" ('Proceedings of the Society of Antiquaries of Scotland,' 1876-77, xii. 140), Mr John Stuart identifies the abbacy of Glendocharoch with the monastery of St Fillans, and describes the abbot as a great lay lord taking rank with the Earl of Atholl. Robertson ('Scotland under her Early Kings,' i. 236; ii. 16) mentions both abbot and abbacy; and Mr J. R. N. Macphail ('Highland Papers' (Scottish History Society), Edinburgh, 1916, ii. 241) observes that "Argyll proper—'Ergadia

que pertinet ad Scotiam'—was in some way under the jurisdiction of the Earl of Atholl and the abbot of Glendochart. . . ."

124. 1. They were called "Fratres Predicatores." They were instituted by St Dominic and were brought into Scotland in the time of Alexander II. by William Malvoisin, bishop of St Andrews (Keith, pp. 441 ff.).

124. 8. In addition to the places mentioned by Bisset, Keith (pp. 440-47) names Berwick.

124. 18. The Franciscan order was instituted by St Francis of Assisi, *circa* 1210.

124. 20. The reference is to 'Chronicon Domini Walteri de Hemingburgh, Canonici de Gisburn.' See the edition edited by H. C. Hamilton (The English Historical Society), London, 1848, i. 245.

124. 32. Bisset writes "Lufno" for "Luffness."

125. 4. Keith (p. 455) states that there was a monastery of the order at Dunbar. He is doubtful as to the existence of settlements at Inverbervie and Luffness.

125. 5. Bisset's account of the order is taken from Polydore Vergil, 'De Rerum Inventoribus,' vii. 3. The order was introduced into Scotland in the reign of Alexander III. (Keith, p. 455).

125. 27. The Trinitarians were also called Red Friars, and "Patres de redemptione captivorum." The order was founded at Rome in 1198, and its rules provided that a third part of its revenue was to be devoted to the redemption of Christian captives (Keith, pp. 394 f.).

125. 33. Keith (pp. 394 ff.) mentions all the settlements named by Bisset except Caithness, Dirleton, Bothance, and St Anthony's, and he refers to several places not named by Bisset.

126. 5. As to St Anthony's monastery, see C. Rogers, 'Historical Notices of St Anthony's Monastery, Leith' (Grampian Club), London, 1877.

126. 7. "Bothance." Botham in East Lothian was founded by Hugh Gifford, Lord Yester, about the year 1418 (Keith, p. 466).

126. 21. Keith (pp. 447 ff.) enumerates the same places as Bisset. See W. M. Bryce, 'The Scottish Gray Friars,' Edinburgh and London, 1909.

127. 2. See note to p. 124, l. 18 above.

127. 5. As to reference in margin, see note to p. 124, l. 20 above.

127. 10. St Francis of Paola (1416-1507), a Franciscan, founded the order of the minims as distinguished from the minors of St Francis of Assisi.

127. 15. St Bernard of Clairvaux (1091-1153) was a Cistercian. It would appear that Bisset confuses him with St Bernardine of Sienna (1380-1444), who founded the monks of the Fratres de Observantia, a branch of the Franciscan order.

127. 27. Boece (Bellenden's transl.), xiii. 10.
127. 29. Boece (Bellenden's transl.), xiii. 10, 14, and Polydore Vergil, 'De Rerum Inventoribus,' vii. 4.
128. 7. As to Iona, see vol. ii., 108 ff. and relative notes (Keith, p. 458).
128. 10. As to the Isle of Man, see vol. ii., 50 ff. above and relative notes.
128. 15. Queen Cartandes founded the abbey of Icolmekill according to Boece (Bellenden's transl.), vi. 18.
128. 22. The nuns of Berwick-on-Tweed followed the Cistercian rule (Keith, p. 460).
128. 26. The monastery of North Berwick existed at least two generations earlier than Malcolm, son of Duncan, Earl of Fife, to whom its foundation is ascribed by Keith ('Carta Monalium de Northberwic' (Bannatyne Club), 1847, p. x. See No. 3; Keith, p. 463).
128. 30. Eccles in Berwickshire was founded by Cospatrick, Earl of March, in 1156. (See Lawrie, 'Annals,' p. 19.)
129. 1. Coldstream was founded by Cospatrick, Earl of March (Keith, p. 461). See C. Rogers, 'Chartulary of the Cistercian Priory of Coldstream' (Grampian Club), London, 1879.
129. 4. Haddington was founded by Ada, Countess of Northumberland and mother of William the Lion, in 1178 (Keith, p. 462). See Lawrie, p. 378.
129. 8. St Bothans in Berwickshire is said to have been founded by a Countess of March in the reign of William the Lion. It is said to have been a cell dependent upon South Berwick (Keith, p. 460).
129. 12. Manuel, near Linlithgow, was founded by Malcolm IV. in 1156 (Keith, p. 461).
129. 16. Elcho on the water of Tay was founded on land belonging to Dunfermline by David Lindsay of Glenesk and his mother (Keith, p. 463).
129. 19. Gullane in East Lothian was founded by King David I., and is said to have been a cell of South Berwick (Keith, p. 461).
129. 22. Lincluden was founded in the reign of Malcolm IV. by Uthred, father of Rolland, Lord of Galloway (Keith, p. 459). See W. M'Dowall, 'Chronicles of Lincluden,' Edinburgh, 1886.
129. 26. Trefontana in Lammermuir was founded by King David I., and was a cell of South Berwick (Keith, p. 460).
130. 1. "Elbotle, with an island in the Forth (now called Fidra), was a barony in the parish of Dirleton, East Lothian. . . . About A.D. 1220, William de Vallibus, Lord of Dirleton, gave the island to the Abbey of Dryburgh, and the church of St Nicholas on the isle became a cell where the canons of Dryburgh served" (Lawrie, p. 329; 'Liber S. Marie de Dryburgh' (Bannatyne Club), Edinburgh, 1847, pp. 15, 16, 73, 74, 75).

130. 4. Newcastle-on-the-Tyne was founded by David I. (Keith, p. 459). See Dugdale, 'Monasticon Anglicanum,' iv. 484.

130. 6. "On the borough-moor there was a convent of Dominican Nuns, which was founded by Lady Saint Clair of Roslin, Countess of Caithness, in the fifteenth century, and dedicated to St Catherine of Sienna. . . . This place where the convent stood was called *Siennes*, and by corruption *Sheens*" ('Liber Conventus S. Katherine Senensis prope Edinburgum' (Abbotsford Club), Edinburgh, 1841, p. ii.). See Keith, p. 458.

130. 9. The work referred to in the marginal note does not seem to be Luther's 'Supputatio annorum mundi,' Wittemberg, 1541. At all events no such statement as that referred to in the text has been traced in it.

130. 26. As to the abbot of Glendochoeroch, see note to p. 123, l. 18 above.

131. 3. Bede, in writing of the wall ('Hist. Eccles.,' i. 12), says: "Incipit autem duorum ferme milium spatio a monasterio Aebbercurnig." Aebbercurnig is Abercorn (G. Macdonald, 'The Roman Wall in Scotland,' Glasgow, 1911, p. 34, note 1). Fordun (iii. 4, 5) says that the wall was called "Grymsdike," because it was destroyed by Gryme, the grandfather of King Eugenius. Boece (Bellenden's translation), vii. 6, 14, 16, elaborates this statement. "Grime's Dyke" is said to be equivalent to "Devil's Dyke," "Grim" being an old English name for the devil. See Waldie, 'Walks along the Roman Wall,' Linlithgow, 1883; G. Neilson, 'Per Lineam Valli,' Glasgow, 1891.

131. 21. An example of this form of process is given in the 'Registrum Episcopatus Glasguensis' (Bannatyne Club), Edinburgh, 1843, ii. No. 453. In the case there reported the pursuer's procurator appeared in the fourth court, and stated that it was matter of common knowledge that earth and stone had been presented at three head courts and that payment of the unpaid annual had been demanded. He then presented earth and stone again to the court and asked ward and doom of the waste, as it was lawfully recovered in default of payment. The court pronounced judgment in the pursuer's favour, and his procurator asked the doom "to be rowit and thereof ane instrument of the samyn." See 'Extracts from the Council Register of the Burgh of Aberdeen,' 1398-1570 (Spalding Club), Aberdeen, 1844, pp. 73 f., and the Act 1578, c. 33 ('A. P.,' iii. 112); and vol. i., 138.

131. 29. 1489, c. 21 ('A. P.,' ii. 222); 1597, c. 17 ('A. P.,' iv. 133). Sections 1 and 2 of the chapter of the 'L. Q. B.' cited are printed in 'Fragmenta Coll.,' c. 14 ('A. P.,' i. 722).

135. 24. "Maria" is written in error for "modo." The words "quasi modo geniti" are, as Dr Walter Seton pointed out to the editor, the opening words of the introit for the first Sunday after Easter, "Dominica in Albis," or "Low Sunday." In 1413 Easter day

was 23rd April. The words are taken from the Itala version of 1 Peter, ii. 2. See 'The Catholic Encyclopedia,' *s.v.* "Dates," "Introit," "Versions of the Bible." This was a customary method of indicating the date of a document or event (see *e.g.*, 'A. P.,' i. 391).

135. 30. "Epiphanie domini de anno predicto." This is surely an error for A.D. 1414.

136. 15. As to dispensing with sasine, see note to p. 145, l. 9 below.

136. 22. The case referred to has not been traced.

136. 29. 1540, c. 37 ('A. P.,' ii. 377).

137. 1. 1525, c. 3 ('A. P.,' ii. 295).

137. 12. As to Davidson and Lekprevik, see note to vol. i. p. 71, l. 21; p. 72, l. 30 above.

137. 26. See 1567, c. 36 and art. 68 ('A. P.,' iii. 33, 42).

137. 33. As to the Secretary's Register, see note to vol. i. 241, l. 23.

137. 34. See 'Reg. of Privy Council,' vi. 17; 'A. P.,' iv. 184.

138. 6. 1600, c. 36 ('A. P.,' iv. 237).

138. 9. 1609, c. 40 ('A. P.,' iv. 449).

138. 15. 1617, c. 16 ('A. P.,' iv. 545).

138. 24. 1578, c. 33 ('A. P.,' iii. 112). The Act 1597, c. 17 ('A. P.,' iv. 133), provided that failure to pay feu-duty for two years involved tinsel of the feu.

139. 14. "Feudal subjects granted in donation to churches, monasteries, or other corporations for religious, charitable, or public uses, are said to be given in mortmain, or in our law style to be mortified" (Ersk., 'Inst.,' ii. 4, 10).

139. 16. "Alterage or chaiplanrie." "Altarages were small donatives, destined for the maintenance of a priest, who was to perform divine service for the soul of the founder, or some of his deceased kinsmen, at a particular altar, several of which were placed in every church" (Ersk., 'Inst.,' i. 5, 3). "Chaiplanrie" signifies "the office, duty, service or income of a chapel priest" (Jamieson, 'Scott. Dict.'). See Ersk., *loc. cit.*

140. 13. "De me." See p. 143, l. 16 below.

141. 15. As to Gilbert de Grenlau, Bishop of Aberdeen, see the preface to the 'Registrum Episcopatus Aberdonensis,' i. pp. xxxiv. ff.

141. 18. Was Henry de Lichten the future Bishop of Aberdeen? See 'Registrum Episcopatus Aberdonensis,' i. pp. xxxvi. ff.; ii. 209.

141. 19. William Layng, Rector of Turriff, Duncan Petie (Petit), Andrew Giffard, and William Cryne are mentioned in 'Registrum Episcopatus Aberdonensis' (i. 213, 205, 222).

145. 9. "Sasina successorio." "By collation or institution the bishop confers or bestows the benefice, and grants precept or mandate to any ecclesiastic in the diocese to give investiture or possession of the benefice to the person entitled to it. This was ordinarily executed by the arch-deacon, and is termed Induction, and, improperly, Institu-

tion. The solemnity is the delivering him the bible and keys of the church, and entering him within the church; and thereon an instrument of possession is extended by a notary. This form of induction is similar to our seisins in lands" (Bankton, ii. 8, 52). See Ersk., 'Inst.,' i. 5, 18-19; and vol. i. 138, l. 3 above.

146. 13. The references to the gloss on C. x. 10.3 and to the statute of David II. ('A. P.,' i. 492 § 9) are taken from Skene, "De verborum significatione," *s.v.* "Annexation."

146. 30. The Act of David referred to belongs to the year 1366 ('A. P.,' i. 498 § 8).

147. 10. The Act referred to is 1489-90, c. 1 ('A. P.,' ii. 218).

148. 20. Bisset's authority for his statements in this and the following pages is Boece. See Skene's edition of Fordun, ii. 388 f., 393 ff., and note to volume i. 3, as to the formation of the legends regarding the early kings.

149. 3. The emperors referred to are T. Flavius Domitianus and M. Ulpius Nerva Trajanus.

149. 7. The reference to Tacitus is 'Agricolæ Vita,' c. 29, where the chief is named Galgacus. See Boece (Bellenden's translation), iv. 21.

149. 11. Bisset's Woadia is called Vodicia by Boece (iv. 9). As to Boadicea, see 'Tac. Ann.,' xiv. 31, 35, 37, where some MSS. have Voaduca and Voadicca, and Burton, 'History of Scotland,' i. pp. 12 f.

149. 13. As to Caractacus, see note to vol. i. 4, l. 12.

149. 19. "C. 4." The reference should be to c. 5.

149. 32. "Be" is apparently an error for "to." See Boece (Bellenden's translation), vi. 14.

150. 3. Berigionium is the name applied by Boece (Bellenden's translation), ii. 14, to the vitrified remains crowning the summit of a rocky eminence on the shore of Ardmuchnish (Skene, 'Celtic Scotland,' iii. 129).

150. 20. As to the name of the Pictish king said to have built the church of St Andrews, see note to p. 9, l. 11 above.

150. 21. As to St Reule, see note to p. 9, l. 11 above.

151. 5. As to the burial of the Scottish kings at Iona, see note to p. 109, l. 28 above.

151. 12. As to Palladius, see p. 11, l. 31 above, and relative note. The origin of Bisset's curious notice of the Pelagian heresy has not been traced.

152. 5. As to Dongallus, see Skene's edition of Fordun, ii. 402, 404.

152. 12. As to Alpine, see Skene's edition of Fordun, ii. 402, 404.

152. 18. As to Kenneth MacAlpin, see Boece (Bellenden's translation), x. 9-12, and Skene's edition of Fordun, ii., xxx., xlvi. ff., 402, 405, 406.

152. 30. As to Camelon, see W. F. Skene, 'The Four Ancient Books of Wales,' Edinburgh, 1868, i. 59.

152. 35. Boece (Bellenden's translation), i. 12, says that Cruthneus built the town and castle of Edinburgh, formerly called the Maiden Castle. "Castellum Puellarum" is a name first applied to the castle of Edinburgh in the reign of David I. Its earlier name was Dunedin. Buchanan says that the name "Castle of Maidens" was derived from French romance. It is more likely to be a monkish version of the Celtic May-din, a fort (Lawrie, p. 403). Higden ('Polychronicon,' i. c. 48) says that Edinburgh was called after Edan, king of Scots, and that Ebrancus, the first king of the Britons, built it as well as York and Alcluid. See Fordun, ii. 26; Skene, 'Celtic Scotland,' i. 240.

153. 19. As to Constantine II., see Skene's edition of Fordun, ii. 408, 421. As to his laws, see vol. i. 45 ff. above.

153. 27. Fordun (iv. 16) calls the place of his death "nigra specus."

153. 30. As to Gregorius, see vol. i. 46, l. 33.

154. 5. As to Donald VI., see vol. i. 48, l. 6.

154. 12. As to Constantinus, son of Hethus the wing-footed, see Skene's edition of Fordun, ii. 409.

154. 22. As to Indulphus, see Skene's edition of Fordun, ii. 410.

154. 31. As to Constantine IV., see Skene's edition of Fordun, ii. 411.

155. 15. As to Gryme, see Skene's edition of Fordun, ii. 412.

155. 25. As to Malcolm II., see Skene's edition of Fordun, ii. 412.

156. 6. As to Macbeth, see vol. i. 56 ff., 63 f., and Skene's edition of Fordun, ii. 419, 422 f. Dovada was the younger daughter (Boece (Bellenden's transl.), xii. 1).

156. 27. "Sir Robert de Mowbray was Earl of Northumberland; he rebelled against William Rufus and was defeated and taken prisoner in 1095, from which time until 1139—when Henry, son of the King of Scots, received the earldom from King Stephen—the earldom was 'in the Crown'" (Lawrie, p. 438).

156. 31. As to the privileges of the Earl of Fife and the Douglas, see note to vol. i. 64, l. 22.

157. 4. Bisset has "jamais arrear" for "jamais arrière."

157. 11. As to Sir John Skene's 'Chronology,' see note to vol. i. 5, l. 20.

157. 28. "Vailles." Wales.

158. 3. As to Camelon, see note to p. 152, l. 30 above.

158. 27. The reference is to 'The Chronicle of Fabyan, which he nameth the concordance of histories newly perused . . . ' London, 1559 ("septima pars"), where it is stated that the old writings and jewels taken from Scotland (see note to vol. i. p. 5, l. 1 above) were delivered to the Scots.

160. 2. As to the "fatell seat," see W. F. Skene, "The Coronation Stone," in the 'Proceedings of the Society of Antiquaries of Scotland,' 1868-69, viii. 68 ff.; and J. Stuart, "Note on the Coronation Stone," *Ib.*, viii. 99 ff.

160. 11. The lines are to be found in Fordun, i. 27, and in Boece (Bellenden's transl.), i. 2. The translation is Bellenden's.
160. 15. The reference to Holinshed is to his 'History of Scotland,' London, 1577, p. 3.
160. 31. "Thereftir and deith" — *i.e.*, "thereafter and after the death." Randolph died in 1346. The king landed in France in 1334.
161. 5. David's marriage to Joan took place on 17th July 1328 (Fordun's 'Annales,' ed. Skene, i. 353). Fabyan ("septima pars") says that she was called "Jane Make Peace" by the Scots in derision.
161. 11. The reference is to Boece (Bellenden's transl.).
163. 16. As to Berigone, see note to p. 150, l. 3 above.
167. 23. As to Ferchard I., see Skene's edition of Fordun, ii. 399.
167. 31. As to Ferchard II., see Skene's edition of Fordun, ii. 399.
168. 15. As to Ambirhillethus (Boece writes Amberkelathus), see Skene's edition of Fordun, ii. 400.
168. 23. As to Eugenius, see Skene's edition of Fordun, ii. 401.
169. 5. As to Fergus, see Skene's edition of Fordun, ii. 401.
169. 32. As to Donald, see Skene's edition of Fordun, ii. 408.
170. 7. As to Hethus the wing-footed, see Skene's edition of Fordun, ii. 408.
170. 26. As to Cullen, see Skene's edition of Fordun, ii. 411.
171. 3. As to Kenneth, see Skene's edition of Fordun, ii. 411.
171. 14. "Fetenella." Boece and Bellenden have Fenella. See Fordun, iv. 32-33, and Skene's edition, ii. 411-12.
171. 19. As to Constantine, see Skene's edition of Fordun, ii. 411.
171. 29. As to Gryme, see Skene's edition of Fordun, ii. 412.
172. 11. As to Macbeth, see note to p. 156, l. 6.
172. 30. As to Donald Bane, see Skene's edition of Fordun, ii. li.
173. 6. It is now generally admitted that Duncan was a legitimate son of Malcolm by his first wife, Ingibiorg, widow of Thornfinn, Earl of Orkney (Skene's edition of Fordun, ii. 424).
175. 18. Baldred Bisset. See note to p. 184, l. 7 below.
175. 31. The treatise by Leslie referred to is entitled 'A Treatise Towching the Right, Title and Interest of the most excellent Princesse Marie, Queene of Scotland, and of the most noble King James, her Graces sonne, to the succession of the Croune of England,' 1584.
175. 33. The reference in the marginal note is to Sigismund Scaccia, "Tractatus de judiciis Causarum Civilium, Criminalium et hæreticalium," Frankfurt, 1669, lib. ii. cap. 9, §§ 1718, 1717.
176. 20. In Leslie's treatise the lines—
- " All Britaine Yle (dissentions ouer past)
In peace & faith will growe to one at last,"

are the first two lines of the verses, and not the last two lines, as they appear in Bisset's altered and inferior version.

177. 35. There are many accounts of the death of King James, with none of which, so far as we have discovered, does Bisset's account exactly correspond. See A. Philips, 'The Life of John Williams, Lord Keeper of the Great Seal, Bishop of Lincoln and Archbishop of York,' Cambridge, 1700, p. 142; 'Secret History of the Court of James I.,' Edinburgh, 1811, i. 478 ff.; D. Calderwood, 'The History of the Kirk of Scotland' (Wodrow Society), Edinburgh, 1842-45, vii. 633.

182. 3. Of the precious stones enumerated in Exod. xxviii. 17-20, the ninth was the amethyst and the tenth beryl. The amethyst (*ἀμέθυστος*) was supposed to enable the wearer to drink without becoming intoxicated. Thus Marbodus ("De Gemmis," in Migne, 'Patrologiæ Cursus' (Latin Fathers), clxxi. 1750) writes of it:—

"Hic facilis sculpi, contrarius ebriati."

The use of the amethyst to stem bleeding has not been traced.

182. 20. Of the chrysolithus Marbodus (*Ib.*, clxxi. 1747) writes:—

"Auro chrysolithus micat et scintillat ut ignis;
Iste marî similis quoddamque viroris adumbraris."

182. 31. The treatises of Brochtoun and Patrick Hay of Naughtoun have not been traced.

183. 8. The references are to R. de Glanville, 'Tractatus de Legibus et Consuetudinibus Regni Angliæ,' first printed *circa* 1554 (see 'Dict. of National Biography,' xxi. 413 f.); Giraldus Cambrensis, 'Descriptio Kambriæ' (ed. J. F. Dimock (Rolls Series), London, 1868, see i. c. 7 as to "Wallia"); 'Magna Charta' (cc. 56-58, in G. B. Adams and H. M. Stephens, 'Select Documents of English Constitutional History,' New York and London, 1901, p. 50).

183. 14. The reference is to Sir J. Fortescue, 'De Laudibus Legum Angliæ.' As to Richard Pynson, see 'Dictionary of National Biography,' xlvii. 87 ff.

183. 18. The references to Polydore Vergil, 'Angliæ Historiæ Libri Viginti Septem,' Basel, 1570, books 8 and 15, and the references in the marginal note to books 16 and 21 have not been identified.

183. 19. The reference is to 'Flores Historiarum per Mathæum Westmonasteriensem collecti . . .,' London, 1570, lib. ii. p. 87.

183. 25. Bisset writes "Martha" for "Marjorie."

184. 7. As to Baldred Bisset and his "Processus," see 'The Book of Pluscarden,' ed. by F. J. H. Skene, Edinburgh, 1880, viii. 29, 54 ff., 62.

184. 26. The learned doctors referred to were Magister Salinus, Magister Reverius de Senis, and Magister Reverius de Florencia ('The Book of Pluscarden,' viii. 8, 9).

185. 1. "Serbonis College." The Sorbonne.

185. 3. John Foxe ('Actes and Monuments of matters most speciall and memorable happenyng in the church . . .,' London, 1583, p. 341) refers to Baldred Bisset as Radulph de Bizoto.

185. 16. "Heirefter" seems to have been written in error.
188. 28. After "persones" the words "and has" seem to have been omitted.
189. 16. As to the foundations of Abbeys and Religious Houses referred to in this and the following pages, see pp. 108 ff. above and the relative notes.
190. 19. "Fothrik." The territories of "Fyf and Fothrithi" comprised the present counties of Fife and Kinross. Fothrif was in the S.W. portion. See Lawrie, pp. 330, 344, 418.
190. 34. As to Duncan II.'s legitimacy, see note to p. 173, l. 6.
191. 6. Malpeder MacLoen, Mormaer of Mearns (Hume Brown, i. 66). See Boece (Bellenden's translation), xii. 13.
193. 15. "Mauldie." Matilda, daughter of Waltheof, Earl of Northumberland.
195. 1. As to this account of the foundation of Perth, see Boece (Bellenden's translation), xiii. 9. King William granted a charter to the burgh, printed 'A. P.,' i. 86.
195. 18. As to the French Alliance, see vol. i. 34 ff.
197. 11. As to the "Norway Annual," see note to vol. i. 150, l. 8.
199. 2. Bisset's observations regarding the earliest navigators are borrowed from Polydore Vergil, 'De Rerum Inventoribus,' iii. 15 whose chief authority is Pliny, 'N. H.,' vii. 57.
199. 4. Bisset writes "Ninus" for "Minos."
199. 9. Bisset writes "Erichtbras" for "Erythra."
199. 23. "Ethius maid the barge." Polydore Vergil writes "Biremem Erythraei fecerunt."
199. 26. Bisset writes "Nesithon" for "Nesichthon."
199. 28. Linagoras is not mentioned by Polydore Vergil. Pliny (*loc. cit.*) says that, according to Xenagoras, the Syracusans were the first to construct vessels with six banks of oars.
199. 29. Bisset writes "hippius and tiron" for "Hippius Tyrius" (Hippus).
200. 2. Bisset writes "Cerentie" for "Cyrenenses," and "Penicens" for "Phœnices."
200. 6. "Rutheris war fund be Copius, and the brodgores the platiens devysed." Polydore Vergil writes, "Remum autem Copæ invenerunt, latitudinem ejus plateæ." "Latitudinem" means the broad blade of the oar.
200. 8. "Acolus . . . festynned." Polydore Vergil writes "Acolum velis uti nautas primum docuisse. Malum, id est, arborem navis & antennam Dædalus."
200. 11. Bisset writes "salmonianis" for "Salamini," and "trasianis" for "Thasii."
200. 12. Bisset writes "tirthenians" for "Tyrrheni," and "Ewfabanus" for "Eupalamius" (Eupalamus).

200. 16. Bisset writes "Piscus" for "Pisæus," and "Tiphis" for "Tiphys."

200. 17. Bisset writes "Ninus" for "Minos."

200. 28. "Tent buik." The reference should be to Pliny, 'N. H.,' vii. 57.

200. 33. The reference to Joseph is not in Polydore Vergil.

200. 34. Bisset writes "libianis" for "Lydi."

201. 1. The reference should be to Polydore Vergil, 'De Rerum Inventoribus,' iii. 16.

201. 5. "Garpatt," *i.e.*, the Carpathian Sea, so called from the island of Carpathus. The observations which follow are largely borrowed from the work by William Welwod, on the Sea Laws. Welwod was professor of mathematics at St Andrews, and exchanged the mathematical for the juridical chair about the year 1587. In 1590 he published 'The Sea Law of Scotland . . .,' imprinted by Robert Waldegrave, Edinburgh, a copy of which is in the Cambridge University Library. In 1613 he published 'An Abridgement of All Sea Laws' ('Dictionary of National Biography,' lx. 245 f.). See p. 264, l. 33 below.

201. 7. The compilation known as νόμος ῥοδίων ναυτικός belongs to Byzantine times, perhaps to the period of Leo the Isaurian (A.D. 717-741). Its contents consist in part of borrowings from Justinian's legislation, and in part of local or provincial ordinances and customs. It may have been enacted as an imperial law (L. Goldschmidt, 'Handbuch des Handelrechts,' Stuttgart, 3te Aufl., i. 56). According to P. Huvelin ("Droit Commercial," 'Revue de Synthèse Historique,' Paris, 1903, vii. 352) the oldest MSS. belong to the eleventh century, and the collection itself is of a private and unofficial character. The laws are to be found in Pardessus (see next note).

201. 9. The Judgments of Oléron belong in part at least to the twelfth century. They were received in Flanders, Holland, England, Scotland, and Northern Europe, and formed the principal element in the so-called laws of Wisby (Goldschmidt, i. 223; Huvelin, *loc. cit.*). The laws of Rhodes, Oléron, and Wisby, are to be found in J. M. Pardessus' 'Collection de Lois Maritimes Antérieures au XVIII. siècle,' Paris, 1828-45, i. 209 ff., 283 ff., 425 ff. See also Sir Travers Twiss, 'The Black Book of the Admiralty' (with an appendix), London, 1871-76. The MS. collections of Sea Laws referred to in the first volume of the 'A. P.' (see MSS. Adv. Library, 7.1.9; 25.5.9; 25.5.6; 25.5.7; and 25.4.15) are in the main composed of the laws of Oléron and Wisby.

201. 11. "Carantie," *i.e.*, Charante.

201. 12. "Garantie," *i.e.*, Garonne.

201. 14. "The skilled skipper," see p. 250, l. 2 below.

201. 19. The reference to "the sea lawes of Scotland contened in

the *maiestie*" seems to be a reference not to the *Regiam* but to Skene's collection, which contains not only the *Regiam* but many other treatises and statutes attributed to certain reigns.

201. 21. Bisset writes "Roman" for "Rhodian."

202. 3. Bisset writes "Germanie" for "Genoa."

202. 5. Bisset writes "Polonesis" for "Peloponesus."

202. 9. Bisset writes "Piliobeg" for "Palæologus."

202. 30. Polydore Vergil, "*Angliæ Historiæ Libri Viginti Septem*," lib. iii.

202. 31. David Origanus, '*Ephemerides*,' Frankfurt-on-Oder, 1609, in which no mention of Gathelus has been traced.

202. 32. The reference is to Fabyan's '*Chronicle*,' see note to p. 158, l. 27 above.

202. 33. The reference seems to be to Fordun's work.

202. 34. The reference is to Higden's '*Polychronicon*' (*Rolls Series*), i. c. 33.

202. 35. Bisset's version of the legend of Gathelus, and his account of Symon Brek and his successors, are summarised with some alteration of dates from Boece. See Bellenden's translation, i. 1, 2. See also Fordun, bk. i. 10-16, and the notes in Skene's edition.

203. 21. "Brachare." The ancient name of Barcelona was *Barcino*.

204. 10. As to Fergus I. and II., see Skene's edition of Fordun, ii. 388 f.; 393 ff.

204. 28. As to Berigone, see note to p. 150, l. 3 above.

204. 30. As to the burial-place of the Scottish kings, see p. 109 above.

205. 2. See note to p. 201, l. 19 above.

205. 7. The references in this and the following chapters are mostly to be found in Balfour's '*Practicks*,' pp. 629 f.

205. 13. The reference is to 1592, c. 79 ('A. P.,' iii. 580).

205. 28. The references are to 1466-67, c. 4 ('A. P.,' ii. 87); 1487, c. 15 ('A. P.,' ii. 178).

206. 3. "Merchandise liable to custom could not be legally exported without a cocket, that is, a certificate under the seal of the proper officer that the great custom had been paid on it; and every burgh of export had its cocket seal and cocket clerk" ('*Exchequer Rolls of Scotland*,' i. p. c.). The references are to 1488, c. 12 ('A. P.,' ii. 209); 1555, c. 37 ('A. P.,' ii. 499); 1571, c. 9 ('A. P.,' iii. 59); 1581, c. 27 ('A. P.,' iii. 224); 1597, c. 27 ('A. P.,' iv. 137); 1600, c. 24 ('A. P.,' iv. 231).

206. 17. The references are to 1429-30, c. 15 ('A. P.,' ii. 19); *Stat. Alex.* II. 25 (see note to p. 214, l. 14 below).

206. 22. The account of weights and measures which follows seems to have been borrowed from Skene, '*De verborum significatione*,' s.v. "Serplath." See Index to 'A. P.,' s.v. "Weights and Measures";

'Assisa de Tolloneis'; 'Assisa Regis David de Mensuris et Ponderibus'; and 'Exchequer Rolls,' i. p. xcvi.

206. 30. The reference is to 1424-25, c. 16 ('A. P.,' ii. 8).

207. 10. The reference is to 1457-58, c. 10 ('A. P.,' ii. 49).

207. 20. The reference is to 1535, c. 32 ('A. P.,' ii. 348).

207. 24. The reference has not been traced.

209. 21. For "barrellis," used twice, Skene has "bollis."

210. 1. The reference is to 1581, c. 12 ('A. P.,' iii. 216).

210. 4. The date of these accounts is given as 1368 by Skene.

211. 3. The reference is to 1466-67, c. 4 ('A. P.,' ii. 87).

211. 8. The reference is to 'L. Q. B.,' c. 25.

211. 14. The reference is to 1488, c. 12 ('A. P.,' ii. 209).

211. 18. The references are to 1555, c. 37, and 1581, c. 27 ('A. P.,' ii. 499; iii. 224).

211. 23. The references are to 1493, c. 20, and 1471, c. 10 ('A. P.,' ii. 235, 100).

212. 8. The references are to 1535, cc. 32, 33, 34 ('A. P.,' ii. 348-49); and 1466, cc. 5, 6, 8 ('A. P.,' ii. 87).

212. 13. The references are to 1425, c. 16; 1467, c. 3; 1474, c. 17 ('A. P.,' ii. 10, 89, 107); 1478, c. 7; 1485, c. 13; 1551-52, c. 14 ('A. P.,' ii. 119, 172, 486).

213. 2. "Coronall." The name of this official assumes different forms,—coroner, crowner, crunair, coronell ('R. P. C.,' 1st ser., vii. 627), and colonell (*Ib.*, vii. 750),—of which crowner is the most common. The earliest notices of this office in England belong to the close of the twelfth century ('Select Cases from the Coroners' Rolls, A.D. 1265-1413, with a Brief Account of the History of the Office of Coroner,' ed. by C. Gross (Selden Society), London, 1896, pp. xiv. ff.). Notices of the office are to be found in the laws attributed to William the Lion (c. 30) in the 'Quoniam Attachiamenta' (cc. 9, 39), and in the "Ordonnance sur le Gouvernement de la terre d'Escoffe" ('A. P.,' i. 121) of Edward I. It was provided in a parliament held in 1357 that the king should appoint good and sufficient men as sheriffs and coroners, and that persons infest in such offices who were inefficient should present efficient substitutes to the king ('A. P.,' i. 492). The office was regarded as an honourable one, and was frequently held by men of high social standing (see the Index to the 'A. P.,' *s.v.* "Coroners," and "Indices Officiorum" appended to the volumes of the 'R. M. S.,' *s.v.* "Coronator"). The main duty of the coroner seems to have been to attach and produce at the ayre the persons named in the porteous rolls made up by the justice-clerk (Skene, 'De verborum significatione,' *s.v.* "Coroner," "Porteous," "Traistis"; Hume, 'Commentaries,' ii. 24 note). Sir George Mackenzie ('Observations on the Fourteenth Parliament of King James III.,' c. 99 (1487, c. 4; 'A. P.,' ii. 176)) states that in his time the justice-clerk kept the rolls himself, and gave them to the macers

of the criminal courts, or messengers, who cited the persons to be prosecuted. When a murder had been committed it was the coroner's duty to inspect the marks of violence upon the deceased, to record the same, and to see to the burial. When a dead body was found he held an inquest "de suspicione," and attached any one suspected of the crime. If there were no suspect, the body was buried at his order ('Fragm. Coll.,' cc. 2, 3 ('A. P.,' i. 737)). Blows, beatings, and markets were his concern, and also attachments, where the charge stated that the king's peace had been broken. Where there was no such statement, the matter was dealt with by the sheriff (*Id.*, c. 3). In early times he seems to have performed his duties gratuitously (*Id.*), as was the rule in England ('Select Cases,' *ut supr. cit.*, p. xxi.). In later days he seems to have helped himself to the forfeited goods of the party convicted, and in prohibiting this practice a statute of 1487 (c. 7 (ii. 177)) assigned a share to him. The laws erroneously attributed to Malcolm Makkeneth ('A. P.,' i. 710) state in detail what was included in that share, and are referred to in a statute of 1487-88 (c. 18 (ii. 183)). In some instances the coroner was held entitled to certain payments on proof that such payments had been made to his predecessors in office from time immemorial (*M'Lay v. Skelmerlie*, 10th July, 1623, 'Mor. Dict.,' p. 10,887). See also M. Bateson, "The Scottish King's Household," 'Miscellany of the Scottish History Society,' Edinburgh, 1904, ii.

214. 4. "Sicyk . . . samin." Article 12 of the edict (see note to 216, l. 4 below), which this passage reproduces, has "Item, et semblable de tous nauires, & autres marchandises peries & peschees à flo en la mer." Balfour ('Practicks,' p. 633), in his translation of the same article, has "win a-flot in the sea." Jamieson (*s.v.* "win") explains the phrase as meaning "to break loose," "to be set adrift."

214. 14. The statute attributed to Alexander II., c. 25, is not printed in the 'A. P.' It was applied in the case of *Hamilton v. Cochrane*, 1622 ('Mor. Dict.,' 16,791), and was declared to be in desuetude in the case of *Monteir v. Agnew*, 1725 ('Mor. Dict.,' 16,796). It is referred to in Stair, iii. 3, 27; Hume, 'Comm.,' i. 485; Ersk., 'Inst.,' ii. 1, 13. It is curious that Skene, who prints this statute, does not refer to it in his 'De verborum significatione,' *s.v.* "Wrek," where he does refer to 3 Edward I., c. 4, and 17 Edward II., c. 11. The practice of the Middle Ages is thus summed up by Ducange, *s.v.* "Lagan":—"Neque dumtaxat naves ipsæ fractæ et naufragium passæ resque in iis contentæ dominorum erant; sed et homines ipsi qui in iis vehebantur; adeo ut et per vim caperentur et persoluto pretio a captivitate liberari cogerentur." See L. Goldschmidt, 'Handbuch des Handelsrecht,' 3te Aufl., Stuttgart, 1891, i. 117, note 76; W. Rösscher, 'System der Volkswirtschaft,' 7 Aufl., Stuttgart, 1899, iii. 141, note 6.

215. 1. As to "the buiks of the maiestie," see vol. iii., 14 ff. above. As to the acts of King Malcolm II., see 'A. P.,' i. 51, 709.

215. 2. As to the laws of King David I., see 'A. P.,' i. 38, 317.

215. 3. As to the Burgh Laws, see 'A. P.,' i. 38, 333.

215. 5. As to the Court of the Four Burghs, see 'A. P.,' i. 51, 703.

215. 8. As to the statutes of the Gild, see 'A. P.,' i. 44, 431 ff.

215. 13. As to the Chamberlain's ayres, see 'A. P.,' i. 51, 693 ff.

215. 16. William the Lion began to reign in 1165. See 'A. P.,' i. 43, 371.

215. 17. As to the Forest laws, see 'A. P.,' i. 51, 687 ff.

215. 20. Alexander II. began to reign in 1214, and reigned thirty-five years. As to his statutes, see 'A. P.,' i. 43, 397.

215. 23 The English acts are noted on the margins of 'Q. A., c. 76 (Skene's ed.), and St. Alex. II., c. 25 (Skene's ed.).

215. 27. "Quon. Attauch." See immediately preceding note.

215. 32. As to the reference to Fabian, see note to p. 158, l. 27 above.

216. 4. The origin of the chapters which follow from this page to page 231 is the edict relating to the French admiralty dated February 1543. The edict is printed in A. Fontanon's 'Les Edicts et Ordonnances des Rois de France,' reueuz et augmentez . . . par Gabriel Michel, Paris, 1611, iii. 19 ff. Bisset's version is sometimes a translation, sometimes a free paraphrase, and sometimes a brief summary of the French original. In the notes the French is quoted only when quotation is necessary to render Bisset's version intelligible. References are also given to the version in Balfour's 'Practicks,' pp. 629 ff.

216. 13. The first chapter corresponds to article 1 of the edict. The reference to the parliament is Bisset's. See Balfour, 'Practicks,' p. 629 f.

216. 24. The second chapter substitutes a provision applicable to Scotland for article 2 of the edict. See the case quoted in Balfour, 'Practicks,' p. 630.

217. 4. The third chapter corresponds to article 3 of the edict. See Balfour, 'Practicks,' p. 630.

217. 5. "Denude or utherwyse." The original has "quand vacation y escherra par mort, resignation ou autrement."

217. 14. The fourth chapter corresponds to article 4 of the edict. See Balfour, 'Practicks,' p. 634.

217. 17. "Tabill of Numbe." "Numbe"—apparently a clerical error for "marbrie" (see p. 228, l. 5 below). There were three degrees of jurisdiction,—that of the judges of the admiralty appointed in each district, that of the superior judges who sat at the tables of marble, and that of the parliament to whom, as a court of last resort, the appeals from the tables of marble were submitted (Pardessus, iv. 297, note 1). See p. 228, l. 5 below.

217. 21. The fifth chapter corresponds to article 5 of the edict. See Balfour, 'Practicks,' p. 638.

217. 22. "In touris . . . coist." The original has "en nos villes, places et chasteaux, ensemble de nos subjects prochains des costes de la mer."

217. 25. "Sall furnes persones . . . admirallis." The original has "et seront tenus . . . leur prester prisons en payant raisonnablement les despens des prisonniers."

218. 2. The sixth chapter corresponds to article 6 of the edict.

"The officeris . . . sea coist." The original has "les officiers de ladite admirauté en premiere instance tiendront la jurisdiction trois jours la sepmaine pour les gens de la ville où icelle jurisdiction sera tenue, et de la coste de la mer."

218. 10. The seventh chapter corresponds to article 7 of the edict. See Balfour, 'Practicks,' p. 633.

218. 18. The eighth chapter corresponds to article 8 of the edict. See Balfour, 'Practicks,' p. 633.

219. 3. The ninth chapter corresponds to article 9 of the edict.

219. 13. "That sall . . . estimatioun." The original has "lequel default sera taxé a tel feur qu'il a accoustumé estre payé."

219. 15. The tenth chapter corresponds to article 10 of the edict. See Balfour, 'Practicks,' p. 633.

219. 21. The eleventh chapter corresponds to article 14 of the edict. Balfour, 'Practicks,' p. 631.

220. 2. The twelfth chapter corresponds to article 13 of the edict. Balfour, 'Practicks,' p. 633.

220. 7. The thirteenth chapter corresponds to article 15 of the edict. Balfour, 'Practicks,' p. 631.

"In tyme of wear" is Bisset's addition.

220. 12. The fourteenth chapter corresponds to article 16 of the edict. Balfour, 'Practicks,' p. 631.

220. 15. The original has "le tout à poids competant."

220. 18. The fifteenth chapter corresponds to article 17 of the edict. Balfour, 'Practicks,' p. 631.

220. 22. "Being knawin . . . cum." The original has "attenciu que les faits de la mer ne sont semblables à ceux de la terre, et que quand aucun y mesfait, les compagnons le peuuent scauoir, et ne se peut absenter apres son mesfait, jusques à ce qu'il soit retourné à terre."

221. 4. The sixteenth chapter corresponds to article 18 of the edict. Balfour, 'Practicks,' p. 630.

221. 8. "To the same." The original has "pour la guerre."

221. 21. The seventeenth chapter corresponds to article 19 of the edict. Balfour, 'Practicks,' p. 631.

221. 22. "Habill . . . be his advise." The original has "habillé à sa deuse."

221. 28. The eighteenth chapter corresponds to article 20 of the edict. Balfour, 'Practicks,' p. 635.

222. 9. The twentieth chapter corresponds to article 21 of the edict.

222. 17. "or theme selfis that ar takin." These words are added by Bisset.

222. 25. "Nebait." Bisset refers to Skene, 'De verborum significatione,' s.v. "Namare." The original has "rabbatu."

222. 28. "Gif sua suld be." The original has "s'il est dit par justice que faire se doyoue."

223. 8. The twenty-first chapter corresponds to article 22 of the edict. See Balfour, 'Practicks,' p. 632.

223. 12. "Or 3it . . . maisterschip." The original has "aucuns d'eux se trouuans les plus forts viendront rançonner à argent les nauires de noz subjects, ou d'aucuns noz amis ou alliez."

223. 18. The twenty-second chapter corresponds to article 23 of the edict.

223. 25. The twenty-third chapter corresponds to article 24 of the edict. See Balfour, 'Practicks,' p. 635.

224. 9. To the twenty-fourth chapter there is nothing corresponding in the original.

224. 14. The twenty-fifth chapter corresponds to the latter part of article 25 of the edict. See Balfour, 'Practicks,' p. 639.

224. 16. "And all . . . ransoms." The original has "soit de marchandise, prisonniers, rançons et quelques que soyent lesdites prises et butin."

224. 25. The twenty-sixth chapter seems to be intended to correspond to article 26 of the edict. See Balfour, 'Practicks,' p. 635. Article 26 proceeds on the narrative that many abuses and thefts are committed under colour of an oath taken in presence of a priest not to reveal the guilty parties' misdeeds to any one, prohibits the taking of such oaths and the commission of such abuses, and directs that all goods, &c., shall be shown to the admiral to be disposed as the royal ordinances prescribe under penalties in case of non-compliance.

225. 7. The twenty-seventh chapter corresponds to article 27 of the edict. See Balfour, 'Practicks,' p. 639.

225. 12. "And gif . . . men of weare." The original has "et si plus en y auoit, demeurera à butin, reserué lesdicts dix escus qui demeureront ausdicts mariniers et gens de guerre."

225. 17. "Beis maid to fall in merchandice." The original has "faits pour vendre en fait de marchandise."

225. 26. The twenty-eighth chapter corresponds to article 28 of the edict. See Balfour, 'Practicks,' p. 638.

226. 8. "Or uthirwyse . . . stayed." The original has "ils fussent contrains eux sauuer en autre port."

226. 12. The twenty-ninth chapter corresponds to article 29 of the edict. See Balfour, 'Practicks,' p. 638.

226. 22. The thirtieth chapter corresponds to article 30 of the edict. See Balfour, 'Practicks,' p. 640.

"Therefor . . . rehersed." These words are added by Bisset.

226. 28. The thirty-first chapter corresponds to article 31 of the edict. See Balfour, 'Practicks,' p. 632.

227. 3. "Attoure . . . selffis." These words are added by Bisset.

227. 8. The thirty-second chapter corresponds to article 32 of the edict. See Balfour, 'Practicks,' p. 635.

227. 16. The thirty-third chapter corresponds to article 33 of the edict. See Balfour, 'Practicks,' p. 632.

227. 17. "Albeit they be all absent." The meaning is that if the admiral and his deputies are all absent the captain shall swear on leaving port that, &c.

227. 23. These seventeen articles correspond to articles in the same edict.

227. 26. Article 1 corresponds to article 35 of the edict.

228. 4. Article 2 corresponds to article 36 of the edict. The original is as follows:—*s'il aduient matieres de grand poix en aucuns des sieges particuliers de ladite admirauté, et que les juges vissent qu'ils ne puissent pas estre obeys, ou recouurer du conseil pour faire leur jugement, pourront renuoyer icelles matieres, s'ils voyent que bon soit, avec les parties adiournees deuant nostredit Admiral, ou son Lieutenant, à son siege de la table de marbre, du ressort de laquelle seront lesdits sieges particuliers.*"

228. 5 "Tabill of marborrie." See note to p. 217, l. 17 above.

228. 12. Article 3 corresponds to article 37 of the edict.

228. 16. "Caution . . . reductionis." The original has "*en baillant toutesfois caution par lesdits marchands d'en rendre et restituer ce que par justice diffinitive en sera ordonné.*"

228 18. Article 4 corresponds imperfectly to article 38 of the edict. See Balfour, 'Practicks,' p. 641.

228. 22. Article 5 corresponds to article 39 of the edict. See Balfour, 'Practicks,' p. 641. The original provides that the admiral may purchase the articles referred to at a reasonable price "*sondit dixiesme rabbatu.*"

228. 27. Article 6 corresponds to article 40 of the edict. See Balfour, 'Practicks,' p. 641.

228. 28. "With the richt . . . persones." The original has "*avec le droict de son sauconduit pour le retour dudit prisonnier, sans que nostredit Admiral y puisse autre chose demander ny auoir la garde desdits prisonniers, sinon entant que montera sa portion de sondit dixiesme; si ce n'est que le prisonnier soit de si grand prix, et les preneurs de si petite qualité et condition qu'il ne fust pas bon le laisser en leurs mains.*"

229. 4. "They tyne"—*i.e.*, those who accept ransom without the admiral's permission.

229. 10. Article 7 corresponds to article 41 of the edict.

229. 18. Article 8 is a meagre abridgment of article 42 of the edict. See Balfour, 'Practicks,' p. 637.

229. 22. Article 9 corresponds to article 43 of the edict. See Balfour, 'Practicks,' p. 637.

229. 24. "Collusioun . . . confiderattis." The original refers to collusion between allies or confederates and the king's enemies.

229. 33. Article 10 corresponds to article 44 of the edict. Article 44 provides that those who victual and equip ships shall not be liable to the king's allies for the acts of violence of the men of war on board those ships unless their complicity in those acts is proved.

230. 10. Article 11 corresponds to article 45 of the edict. See Balfour, 'Practicks,' p. 634.

"Testymonie of the merchandice coft." The original has "certification des descentes des marchandises."

230. 17. Article 12 corresponds to article 46 of the edict. See Balfour, 'Practicks,' p. 634.

230. 22. "Under the pane foirsaid." See article 11 above.

230. 25. Article 13 corresponds to article 47 of the edict. See Balfour, 'Practicks,' p. 634.

230. 26. "Taking of there bodyis." The original has "par prise de biens."

230. 27. "Palions." The original has "pauois." See "paveis" in vocabulary. "Palion" is a form of "pavilion." The French "pavillon" means, *inter alia*, a standard flag, and Bisset may have had this meaning in his mind.

230. 30. Article 14 corresponds to article 48 of the edict. See Balfour, 'Practicks,' p. 631.

"The admirall . . . therewith." The original has "Pourra nostredit admirall donner congez, passages, seuretez et sauf-conduits par la mer, & par les greues d'icelle, auoir et prendre les droicts des congez et sauf-conduits des toutes personnes prises en la mer. Et si aucuns souz ombre de quelque pouuoir qu'ils pretendoient auoir de quelque capitaine, quel qu'il soit, contreuenoient ausdits sauf-conduits. . . ."

231. 6. Article 15 corresponds to article 49 of the edict.

231. 13. Article 16 corresponds to article 50 of the edict. See Balfour, 'Practicks,' p. 631.

231. 15. "Eftir the condition." The original has "selon le conuenant et accord."

231. 18. Article 17 corresponds to article 51 of the edict. See Balfour, 'Practicks,' p. 631.

231. 21. The modifications of the preceding articles, dated 10th March 1543, are printed in Fontanon, iii. 25 f.

231. 28. "The admirall sall joise etc." See p. 216, l. 15.

231. 29. "Nocht subiect." The original has "qui n'ont autrement subjectes."

232. 11. "Countis de Baucollis." The original has "Comte de Brayancois."

232. 29. The paragraphs relating to the customs and privileges of the Duchy of Brittany and of the Vicomte de Lion are printed in 'Le Grant Routtier, Pillotage et Encrage de mer tant des parties de France, Bretagne, Angleterre, que haultes Almaynes . . .' par Pierre Garcie, dit Ferrande, Poitiers, 1536.

232. 32. "Gæ to [wra]k be adventoure." The original has "quant ils perissent et aduenturent."

233. 1. "Be as they wer wount to the said vicount." The original has "tout est conquis et confisque au noble Duc et Comte et autres seigneurs de Bretagne."

233. 4. "Gif they gæ . . . on the schoir." The original has "sil vont à l'avanture de la mer loing querir et sauluer les biens ils ont le tiers. Et sil ne perdent terre. . ."

233. 11. "Maryneris of schippis." The original has "toutes manieres de nauyres."

233. 13. "Brevis . . . they call seillis to quhome he wald in his ground." The original has "seaulx lesquelz lon appelez briefz."

233. 19. "Fyndand . . . thereof." The original has "trouuant les briefz en tesmoignage du papier des lieux où les briefz seroient ne doit ladicte seigneurie rien prendre, ne souffrir que lon preigne rien de ladicte nef ou nauyre des biens qui soient dedans ne de leur marchandise saulue le droit des saulueurs, lequel est accorde affin quilz traueillent à sauluer les biens."

233. 29. "Powaris." The original has "ports."

233. 30. "Inglischemen war nocht at weare . . . conditioun." The original has "ne furent mye soubz ceste accordance a mareer soubz la premiere condition, ne aussi les Angloys."

234. 3. "The vicount . . . conduct." The original has "le viconte de Lion fut a coustume es seaulx lesquelz sont appellez seaulx de conduit."

234. 4. "Sectis." The word is plainly so written in the University Library copy. In the Advocates' Library copy it may be "settis." "Settis" might perhaps mean ordinances or regulations. Cp. "setting," ii. 206, l. 25. It seems impossible to find a meaning for "sectis" appropriate to the context. "Secta pacis," which frequently appears in the MS. 'Acta Dominorum Concilii' (e.g., 5th November 1513, xxvi., fol. 12) on the margin opposite entries relating to lawburrows, means "borowis of pece" (see the Act 1449-50, c. 2 ('A. P.' ii. 35)),—persons, not documents.

234. 5. "Wes at the passaige." The original has "estoit du trespas."

234. 7. The words "to find that" represent "affin que" in the original.

234. 10. "Towardis there landis frome the said harbarie." The original has "endroit sa terre et ledict trespas."

234. 19. "And they . . . a maner." The original has "Et sont tenuz a monstrez tous les seaulx des voyages quilz auront fait pour annees. Et par ainsi, est tenu ledict viconte de tenir lesdictz vaisseaulx, et faire son pouoyr de leur porter paix ou de trespas et en sondict terrouer. Et ce son droit de puis que homme a memoire de puis que les seigneurs de Bretagne ont conquis ladite Vicomte, et sont les deux noblesses au prince. Et de puis que ladite noblesse fut toute au prince, a voulu que les Espaignolz et aultres quilz puissent prendre port en sa terre sans aventure chargees ou a charger de estrange pays, que la ou les brief seront sauf, a elux demander les brief dedans la tierce maree apres auoir gette au port leur ancre en terre, et saisir ou effect les aller querir quelque part quilz seront on cas quilz ne passeroient par le ras S. Mahe mais on cas quilz y passeroient, il ne seront mye saulues par telle volonte et maniere."

235. 4. An ordinance of the date given by Bisset has not been traced. Pardessus (iv. 226) mentions a collection entitled 'Recueil d'Ordonnances royales sur le fait de l'Amirauté,' published at Rouen in 1587, to which we have not had access. In his notes to the edict of 1584, Pardessus (iv. 295 ff.) refers to certain provisions of an edict of 1555, which are incorporated in the later edict. These provisions we have been unable to find elsewhere.

235. 8. Article 1, except the last sentence, corresponds to an article of the edict of 1555, reproduced in article 66 of the edict of 1584. The last sentence is a much abridged and very imperfect version of an article of the edict of 1555, reproduced in article 67 of the edict of 1584.

235. 19. "But ony lenning of money." The edict of 1584 has "sans pour ce demander aucune aduance."

235. 23. "That schippis . . . ilk day." The edict of 1584 has "qui mettront lesdicts nauires en furain et chargeront lesdicts viures d'autant d'hommes que ledict chef en voudra prendre à raison de dix sols tournois par iour."

236. 12. Article 2 corresponds to article 2 of the edict of 1555, reproduced in article 63 of the edict of 1584. See Balfour, 'Practicks,' p. 627.

236. 20. The original of article 3 has not been traced.

236. 22. As to article 25 of the edict of 1543, see p. 224 above.

236. 26. "Saglag" is apparently Bisset's equivalent for Fr. "singlage," explained by Cotgrave ('A French and English Dictionary,' ed. by J. Howell, London, 1660) as meaning, *inter alia*, "a Mariner's hire, wages, or intertainment, or the earnest or press-money given him when he is intertained." The word "singlage"

occurs in several of the edicts—*e.g.*, in article 66 of the edict of 1584.

236. 32. Article 4 corresponds to article 4 of the edict of 1555, reproduced in article 68 of the edict of 1584.

237. 2. "Thairfoir . . . his awin schipis." The edict of 1584 has "par aduis et oppinion de sept des principaux et officiers du nauire ou vaisseau où telles choses aduiendront, ou bien s'il y a compagnie de nauires, par l'aduis et oppinion de sept des capitaines et chefs desdicts nauires."

237. 5. "Onlie to the deid knawin." The edict of 1584 has "la seule vérité du fait congrueü."

237. 9. Article 5 corresponds to article 5 of the edict of 1555, reproduced in article 61 of the edict of 1584. See Balfour, 'Practicks,' p. 638.

"Gif within . . . Inimies." The edict of 1584 has "si auscun nauire de noz subiectz pris par noz ennemis a esté entre leurs mains jusques a vingt-quatre heures."

237. 13. "Twelf." The edict of 1584 has "vingt-quatre." See p. 240, l. 21 below.

237. 15. Article 6 is an imperfect abridgment of article 6 of the edict of 1555, incorporated in article 62 of the edict of 1584. See Balfour, 'Practicks,' p. 636.

237. 18. "3it they . . . cause thereof." The edict of 1584 has "il ne sera loisible a aucun nauire a qui qu'il soit appartenant de demander aucune part et portion aux prises qui se feront, si ce n'est qu'ils ayent combatu ou fait tel effort que pour son debuoir l'ennemy ait amené ses voiles, ou bien qu'il en ait este en quelque partie cause." Pardessus (iv. 313, note 1) observes that according to the previous custom a part of the prize might be claimed by those who alleged that they had been witnesses of the encounter.

237. 22. Article 7, down to "Ilk tyde," l. 30, corresponds with article 7 of the edict of 1555, reproduced in article 96 of the edict of 1584.

237. 23. "Be practasing ane maisteris steik." The edict of 1584 has "nul ne pourra estre faict maistre que premierement il n'ait esté apprenty trois ans, et faict chef d'œuvre en presence des maistres et gardes qui y seront establiz par nostre Admiral, visadmiral, ou aultre personnage."

237. 30. "And the maister calfatter." Article 8 begins at these words. It corresponds to article 8 of the edict of 1555, reproduced in article 97 of the edict of 1584.

237. 31. "Sextent." The edict has "quinziesme."

237. 32. "Convoyis." The edict of 1584 has "conduisant."

238. 4. "Tent." The edict has "quinziesme."

238. 5. "Convoyaris." The edict of 1584 has "conduisant."

238. 12. Article 9 corresponds to article 9 of the edict of 1555, reproduced in article 98 of the edict of 1584.

238. 13. "Spaikis" means "bars of wood," but is used in the sense of "spailis," meaning "shavings of wood," and as representing "coppeaux" of the original.

238. 21. Article 10 corresponds to article 10 of the edict of 1555, reproduced in article 99 of the edict of 1584.

238. 25. "And thereftir . . . hardis." The edict of 1584 has "et sitost qu'il sera changé et mué en aultre qualité, il sera encores en semblable poisé de rechef és presence des dessusdicts où l'ung d'eulx."

239. 1. Article 11 is taken partly from article 64 of the edict of 1584, which, according to Pardessus's note, is a new article, and partly from article 11 of the edict of 1555, reproduced in article 65 of the edict of 1584.

239. 12. "Reallie . . . dependand." Article 64 of the edict of 1584 has "reaument et de fait et executez á la morte et supplice de la roue, nonobstant l'appel, pourueu que audict jugement y assistent six aduocats, où notable personnes de conseil, qui orront de bouche les prisonniers, et seront tenus signer le dictum."

"Deip," written *per incuriam* for "deid." See immediately preceding note.

239. 13. "Torment ga [and] the rattis." "Rat," or the plural form, is the wheel upon which the limbs of criminals were broken. There is nothing in the French original (see note to p. 239, l. 12) corresponding to "ga [and]." Professor Craigie observes that the error of "deip" for "deid" (p. 239, l. 12) indicates the possibility of mis-copying, and that probably the correct reading would be "torment of the rattis."

239. 15. Article 12 corresponds to article 12 of the edict of 1555, as reproduced in article 100 of the edict of 1584.

239. 16. "Disagysingis." The object of the enactment was to put a stop to a practice of smiths who used inferior metal "desguisans ledict fer comme ils veullent," and keeping the good metal for their own use.

239. 18. "Ony . . . fasson." The original has "changer le vieil fer d'aultre façon."

239. 28. The first modification seems to be derived from article 67 of the edict of 1584, which, however, does not mention "Scottis schipis."

240. 12. "Nocht be iudged . . . concluded." The edict of 1584, section 67, reproducing a provision of the edict of 1555, has "ne seront censez ny reputez concluds ny arrestez."

241. 1. Bisset's version of the laws which follow is a reproduction of an ancient translation of the Judgments. This translation is printed in Travers Twiss, 'The Black Book of the Admiralty' (London, 1871-76). Twiss (i. 89, note 1) says of it that it is "contained in a very rare book called the 'Rutter of the See,' imprinted at London, in Poules Chyrche yarde, at the sygne of the Mayden's heed, by me

Thomas Petyt. The yere of our Lorde God MDXXXVI. The XVIII. daye of Marche. A copy of the book is preserved in Lincoln's Inn Library." As to the French original, see note to p. 232, l. 29 above. See Pardessus, i. 323 ff., and Balfour, 'Practicks,' pp. 614 ff. In the notes which follow, the translation is quoted where Bisset's version differs from it, or is made clearer by reference to it.

241. 6. Chapter one of the translation of the Rutter has "First, one man is made maister of a ship, and the ship belongeth to many parteners, and departeth from the countre of whiches it is, and commeth to London." The translator "has in this and several other places substituted the name of an English port for a Gascon port" (Travers Twiss, i. 89, note 2). See Balfour, 'Practicks,' p. 614.

241. 15. This is chapter two of the translation which has "a shyp [is] lyeng in a haven and taryeth." See Balfour, 'Practicks,' p. 622.

241. 17. "And seæ meittis Saying quhow." The translation has "and saye, Mates howe."

241. 23. This is chapter three of the translation. See Balfour, 'Practicks,' p. 623.

241. 29. "Gif he can nocht . . . is loist." "The more correct translation would seem to be "if they aid not, he is not bound to give them anything nor to provide for them, and they will also lose their wages if the ship be lost" (Travers Twiss, i. 91, note 2).

242. 1. "And that maister trewilie uthirwyse." The translation has "and he ought to do it the most truely that he can, and yf he do otherwyse."

242. 4. This is chapter four of the translation. See Balfour, 'Practicks,' p. 619.

242. 5. "Or chance." The translation has "it chaunceth."

242. 7. "The maister." After these words the translation has "be."

242. 9. "Haifand." The translation has "payenge."

242. 10. "Kenning [be kenning]." See note to p. 256, l. 26 below.

242. 13. "And nocht." The translation has "and if not."

242. 14. "Furneis." The translation has "fynyshe."

242. 29. This is chapter eight of the translation. See Balfour, 'Practicks,' p. 622.

242. 35. The translation does not contain the words "will nocht ansueir . . . gif they." It has "wyll ansere and wyl the contrary. . . ." See Balfour, 'Practicks,' p. 622.

243. 11. "Wairis." The translation has "wynes."

243. 18. "The uthir." The translation has "any other." The translation does not have the words "aucht to be pairted . . . seæ and." It has "ought to have."

243. 24. This is chapter nine of the translation. See Balfour, 'Practicks,' p. 622.

243. 29. "To cut . . . and cabillis." The translation has "to cut

a sonder cables and leave the ankers and rothers." See Travers Twiss, i. 99, note 5.

244. 4. "Ressave." The translation has "perceyveth."

244. 7. "Wynis." The translation has "tonnes."

244. 8. This is chapter ten of the translation. See Balfour, 'Practicks,' p. 620.

244. 12. "For the tun loise." The translation begins a new sentence with the words "For yf the tonne lese."

244. 15. "Pay." The translation has "take" for the second "pay."

244. 20. "He is." The translation following the original has "they are."

244. 26. This is chapter eleven of the translation.

244. 30. "Taikling . . . pype." The translation has "the takelyng crussbeth or smyteth out the botome of tonne or pype." See Travers Twiss, i. 103, note 3.

245. 1. "May say." The translation has "sayth nay."

245. 8. "Fra there charge." The original has "du lieu ou ilz se chargent."

245. 9. This represents chapter thirteen of the translation, which is in the following terms: "Any shyp freyght at Burdewes or any other place and cometh to his ryghte dyscharge, and be charged, halfe party, tonnage and small lodemans servauntes ben to the marchauntes. The custom of Brytayne is, all they that be taken syth they pas the yle of bas and be painz la main; and they of Normandy and England syth they passe Garnesey, and they of [Scotland] syth they passe Garnesey, [and they of Flanders since they passe Calais, and they of Scotland since they passe Yarmouth]." Pardessus conjectures that the words "charged halfe party . . . ben to the marchauntes" mean "and has a charter party, that towage and local pilotage shall be at the expense of the merchants." "Painz la main" is a corrupt reading for "petitz lodmans"—*i.e.*, "local pilots, as distinguished from the lodman of the ship, the sailing master" (Travers Twiss, i. 105, notes 3, 5). Pardessus translates the latter part of the chapter as follows: "En côte de Bretagne on considère comme petit locmans tous qu'on prend pour passer l'île de Batz dans la vicomté de Léon; en côte de Normandie et d'Angleterre, ceux qu'on prend pour passer Guernesey; en côte de Flandre ceux qu'on prend pour passer Calais; et en côte d'Écosse, ceux qu'on prend pour passer Yarmouth."

245. 10. See immediately preceding note.

245. 26. "Innernesey," probably written in error for "Jernemouth," *i.e.*, Yarmouth.

245. 27. This is chapter fifteen of the translation. See Balfour, 'Practicks,' p. 625.

246. 8. "Lyand." The translation has "lyeth."

246. 10. "To be danger it to be gevin." The translation has "to

damage it by grevyng." The sense of the original, from which the translation differs, would seem to be that "if the master of an old ship were to know that he would recover full damages, he might willingly place his vessel in the way of a new ship, but not, if he knows that the damage will be shared between the two vessels" (Travers Twiss, i. 109, note 3).

246. 12. The words "uthirwyse . . . bettir" are not in the translation.

246. 15. This is chapter sixteen of the translation. See Balfour, 'Practicks,' p. 625.

"Skant wattir." The original has "ou il y a pou deaue."

246. 29. This is chapter eighteen of the translation. See Balfour, 'Practicks,' p. 618.

246. 31. "Will 3e fraucht be 3oure selfis." The original is "frettez vous vos mareez." The word "mareez" seems "to denote the carriage or freightage, which was allowed to the mariner, who engaged himself on condition of being allowed to embark a certain quantity of goods at his own risk" (see Travers Twiss, i. 113, note 1).

247. 2. "Do nocht to tarie." The original is "ne soit demourante pour leur deffaulte."

247. 4. "Schaw . . . schip meit." The translation has "shewe theym theyr fare, and may set the weyght of their shypmeate." "Fare" is the space allotted to each mariner, where he might stow his venture. By "shypmeate," the word "shipment" is probably intended (Travers Twiss, i. 113, notes 3, 4).

247. 8. "Of the seæ." The translation has "into the sea."

247. 13. "Sic fraucht . . . have." The translation has "such fraunchyse as the maryner hath ought the marchaunte to have."

247. 15. This is chapter twelve of the translation. "Hyred." The translation has "hyreth."

247. 17. "Leid, haif." The translation has "lyeth, havying."

247. 25. "Pund." The translation has "shillings."

247. 26. This is chapter fourteen of the translation. See Balfour, 'Practicks,' p. 614.

247. 28. "Tabill." The translation has "towel." "Pardessus cites the phrase 'trancher la nappe devant soy' as an ancient form of expression for excluding a person from table" (Travers Twiss, i. 107, note 3). The expression is probably metaphorical (*Id.*, ii. 229, note 3).

248. 6. This is chapter six of the translation. See Balfour, 'Practicks,' p. 616.

248. 15. This is chapter seven of the translation. See Balfour, 'Practicks,' p. 615.

248. 24. "Aucht nocht." The translation has "is not bounde to gete hym any."

248. 31. This is chapter five of the translation. See Balfour 'Practicks,' p. 615.

249. 7. What follows is a version of chapter twenty-five of the Rolle of Olayron. See Travers Twiss, ii. 459 f.; Balfour, 'Practicks,' p. 623.

249. 21. Pardessus observes that there is no documentary proof of the accuracy of this certificate.

249. 26. See notes to vol. ii. 201 above.

250. 10. Versions of the Laws of Wisby are given in Pardessus, i. 463 ff., and in Travers Twiss, iv. 55 ff. (under the title of the Gotland Sea-Laws), and iv. 265 (an abbreviated version). Some of the laws are printed in Balfour's 'Practicks,' in terms almost identical with those of Bisset's version.

250. 21. This article corresponds to the first part of the first article of Pardessus's version and of the Gotland Sea-Laws. See Balfour, 'Practicks,' p. 617.

250. 31. This article corresponds to the second part of the first article of Pardessus's version and of the Gotland Sea-Laws. See Balfour, 'Practicks,' p. 617.

251. 13. This article corresponds to the second article of Pardessus's version and of the Gotland Sea-Laws. See Balfour, 'Practicks,' p. 617.

251. 24. This paragraph seems to be Bisset's.

251. 31. This article corresponds to the third article of Pardessus's version and of the Gotland Sea-Laws. See Balfour, 'Practicks,' p. 617.

251. 32. "Pase." Read "put," as in the University MS. and in Balfour's version.

252. 1. "Than putting away," *i.e.*, if he then put him away.

252. 5. This article corresponds to the fourth article of Pardessus's version and of the Gotland Sea-Laws. See Balfour, 'Practicks,' p. 615.

252. 17. This article corresponds to the fourteenth article of Pardessus's version and of the Gotland Sea-Laws. See Balfour, 'Practicks,' p. 623.

252. 32. This article has not been traced either in Pardessus's version or in the Gotland Sea-Laws. See Balfour, 'Practicks,' p. 618. See also vol. ii. 245, l. 9 above, and the relative note.

253. 7. This article has not been traced either in Pardessus's version or in the Gotland Sea-Laws.

253. 11. The second paragraph is in Balfour, 'Practicks,' p. 625.

253. 25. An Exercitor is he who employs a ship in trade on his own account, whether as owner or charterer. The "actio exercitoria" was a pretorian action by which the exercitor was made liable to third parties for the contracts entered into by his agents. The "actio institoria" made the undertaker of any trade or business on land

liable for the contracts of those whom he had set over it (Stair, i. 12, 18, 19; Ersk., 'Inst.' iii. 3, 43-46; Gaius, iv. 71; 'Inst.' iv. 7, 2; D. xiv. 1 and 3; C. iv. 25).

255. 3. What this season for "stankis" means is uncertain. "Stankie" or "stank-hen" is a species of water-fowl. It may be it that is here referred to.

255. 6. See D., iii. 5, 2; iv. 9; xlv. 7, 5; C., ii. 18, 20; Stair, i. 8, 3-5.

255. 19. "Deip." Dieppe.

256. 6. This is the seventeenth chapter of the translation of the Rutter.

256. 14. This is the nineteenth chapter of the translation. See Balfour, 'Practicks,' p. 616.

256. 20. This is the twentieth chapter of the translation. See Balfour, 'Practicks,' p. 616.

256. 23. After "fraucht" the translation has "to go."

256. 26. "Kenning be kenning." "The wages of the sailors seem sometimes to have been calculated by the distance, not by the day. The term "kennyng" is applied in the Rutter to the distance between well-known headlands or islands in sight of each other" (Travers Twiss, i. 115, note 5).

256. 27. "Course be course." "A course would appear to have been in general a greater distance than a kenning—*e.g.*, the distance between two headlands out of sight of each other, but between which a vessel might keep one and the same course" (Travers Twiss, i. 115, note 6).

256. 28. After the word "place" the translation has "and yf they go nerer than the place."

256. 30. The word "to" is not in the translation.

257. 1. This is the twenty-first chapter of the translation. See Balfour, 'Practicks,' p. 616. "Birsto" is Bristol.

257. 6. The words "albeit . . . the same" are not in the translation.

257. 8. "Houre." The original has "overes," which seems to be the equivalent of "haveres" in the Castilian version. The translation has "ernest" (Travers Twiss, i. 117, note 3).

257. 15. This is the twenty-second chapter of the translation.

257. 20. "Wedderring." The original has "mession," which probably means fine weather (Travers Twiss, i. 117, note 5).

257. 22. For the words "amendis as the maister hecht," the translation has "amendes. And of such amendes as the mayster hath."

257. 26. This is the twenty-third chapter of the translation. See Balfour, 'Practicks,' p. 621.

257. 32. "And mak wyne to be sauld." The translation has "but he may take of the wyne and of the marchauntes goodes and make sale."

258. 6. This is founded on the thirty-third chapter of the trans-

lation. See Balfour, 'Practicks,' p. 618. See also chapter 34 and Travers Twiss, i. 129, note 2.

258. 15. The provisions which follow relating to pillage, and the rules to be observed in dividing it, are printed in Balfour, 'Practicks,' pp. 640 f., and are also to be found in Alexander King's ("Regius") MS. 'Tractatus Legum et Consuetudinum Navalium. . . .' Title iv. § 14 (Adv. Lib. MS. 28.4.7). King was appointed depute Admiral by Francis Stewart, Lord Bothwell, who held the office of Admiral of Scotland from 1581 to 1591 ('Reg. Mag. Sig.,' v. p. 1138). The source from which these provisions have been taken has not been traced.

259. 4. "Victuallis." Balfour has "victualleris."

259. 11. "The cumpany." Balfour has "the capitane."

259. 19. "Aworage." Balfour has "abordage," *i.e.*, the act of boarding a ship (French, "abordage").

259. 21. "Attour this thereof." Balfour has "of everie uther ship that beis takin."

259. 23. "And that . . . schipis." Balfour has "and that ane he may tak of the best of all the shippis."

259. 26. "Rois nobill of." Balfour has "ressonabil."

259. 29. "Loomall." Balfour has "vessellis of everie ship that is tane."

259. 32. "Wark lumes." Balfour has "work-looms."

260. 1. "Wount." Balfour has "worn."

260. 4. Another version of this provision is printed in Balfour, 'Practicks,' p. 628. The source from which it has been taken seems to be the same as that of the preceding paragraphs.

260. 7. "Parting." Balfour, 'Practicks,' p. 628, has "pactioun."

260. 21. The reference is to C. v. 17, 8, § 6.

260. 22. The regulations set forth by Richard I. in A.D. 1190,—Bisset writes A.D. 1290,—are to be found in Hovedene's 'Chronica,' ed. W. Stubbs, London, 1868-71 (Rolls Ser.), iii. 36, under the title of "Carta Ricardi regis Angliæ de statutis illorum qui per mare ituri erant."

261. 13. The original has "sine effusione sanguinis," which Bisset leaves untranslated.

261. 30. The source from which the question and answer have been taken has not been traced.

262. 8. "Any . . . deduction." The meaning apparently is that the admiral must be paid without deduction of any part of these charges.

263. 16. The first reference is to 1429-30, c. 15 ('A. P.,' ii. 19). As to the statute of Alexander II., see note to p. 214, l. 16 above.

263. 27. The reference is to 1592, c. 79 ('A. P.,' iii. 580).

264. 34. As to William Welwod, see note to vol. ii. 201, l. 5 above.

266. 3. Bisset writes "as" for "are."

266. 30. There are a great many statutes (see 'A. P.,' Index, *s.v.* "Packing and Peeling") which deal with the proper method of packing fish for export. "Peill" means to pile or to pair (Jamieson, 'Scott. Dict.').

267. 1. The references are to 1503-04, c. 29 ('A. P.,' ii. 252); 'L. Q. B.,' c. 2.

267. 7. The reference is to 1567, c. 33 ('A. P.,' iii. 33).

267. 18. The reference is to 1555, c. 24 ('A. P.,' ii. 497).

268. 2. 1563, c. 24 ('A. P.,' ii. 543).

268. 16. 1567, c. 33 ('A. P.,' iii. 33); 1578, c. 11 ('A. P.,' iii. 102).

268. 23. 1607, c. 13 ('A. P.,' iv. 375).

269. 1. 1606, c. 15 ('A. P.,' iv. 288).

269. 5. 1607, cc. 12, 13 ('A. P.,' iv. 375).

269. 16. 1571, c. 7 ('A. P.,' iii. 59).

269. 18. 1579, c. 57 ('A. P.,' iii. 174).

269. 21. 1593, c. 33 ('A. P.,' iv. 28).

269. 30. The dean of guild is the head of the merchant company or guild brethren in a Scots burgh. In former times he had jurisdiction in all causes between merchant and merchant and mariner and mariner. He is now mainly concerned with seeing that burghers in burgh encroach neither on private property nor on public streets, and are in a safe condition (Ersk., 'Inst.,' i. 4, 24).

270. 3. 1469, c. 5 ('A. P.,' ii. 95); 'L. Q. B.,' c. 71.

270. 9. 1555, c. 26 ('A. P.,' ii. 497).

270. 13. 1474, c. 12 ('A. P.,' ii. 107).

270. 20. 1487, c. 14 ('A. P.,' ii. 178).

270. 27. 1503-04, c. 25 ('A. P.,' ii. 252); 1487, c. 14 ('A. P.,' ii. 178).

270. 35. 1535, c. 35 ('A. P.,' ii. 349).

271. 5. 1587, c. 8 ('A. P.,' iii. 431).

271. 13. The reference in the margin is to the translation of Virgil's 'Æneid' by Gavin Douglas, bk. vi. cap. 14, l. 36.

271. 16. "Pane of oppressioun." The act cited (1535, c. 36 ('A. P.,' ii. 349)) provides that those who molest the magistrates and merchants of burghs in the exercise of their privileges shall be punished as "commoune oppressouris." See Hume, 'Comm.,' i. 338.

271. 18. 'L. Q. B.,' c. 100; 'Fragm. Coll.,' c. 3 ('A. P.,' i. 719).

271. 23. 1606, c. 16 ('A. P.,' iv. 288).

271. 28. "Commoun guid." "The common good of a burgh consists of the entire property of the burgh which is held by the corporation for behoof of the community" (Green's 'Encyclopædia of the Law of Scotland,' *s.v.* "Common good").

272. 6. 1491, c. 19 ('A. P.,' ii. 227).

272. 15. 1587, c. 114 ('A. P.,' iii. 506).

272. 30. 1593, c. 39 ('A. P.,' iv. 30).

273. 4. 1503-04, c. 31 ('A. P.,' ii. 252); 'L. Q. B.,' c. 2.

273. 10. 1555, c. 26 ('A. P.,' ii. 497).

273. 19. 1535, c. 35 ('A. P.,' ii. 349).
273. 25. 1555, c. 27 ('A. P.,' ii. 498).
273. 29. 1592, c. 78 ('A. P.,' iii. 579).
274. 5. The statute has "that they within 3eir and day eftir the said tryell lay in the samyn commounteis agane. . . ."
274. 11. 1600, c. 13 ('A. P.,' iv. 228; 'R. M.,' i. 4; ii. 68). The second act is inapposite.
274. 22. As to the removal of the documents from Scone, see note to vol. i. 5, l. 1.
275. 2. As to Sir John Skene, see note to vol. i. 5, l. 16. As to his sons, see next note.
275. 9. Lord Curriehill was Sir John Skene's eldest son. He was admitted advocate 6th July 1603, created lord of session 12th June 1612, became lord president 14th February 1626, and died 15th October 1633 ('D. N. B.,' lii. 337; Brunton and Haig, p. 254; see Books of Sederunt).
275. 10. John Skene was Sir John Skene's second son. He is mentioned in 1612 as ordinary clerk of the exchequer. He became deputy to the clerk register on 2nd July 1616, and died in December 1644 ('D. N. B.,' lii. 338).
275. 17. As to Lord Forrestersaittis, see note to vol. i. 201, l. 16.
275. 20. As to Sir James Balfour, see note to vol. i. 84, l. 25.
275. 22. Michael, first Lord Balfour of Burleigh, was the son of Sir James Balfour of Pittendreich and Margaret Balfour, heiress of Burleigh. He married Margaret Lundie or Lundin, by whom he had one daughter, Margaret, who married Robert Arnot, eldest son and heir of Robert Arnot of Newton ('Scots Peerage,' i. 537 ff.).
275. 31. As to Baldred Bisset's "Processus," see note to ii. 184, l. 7. above.
276. 10. 1571, c. 7 ('A. P.,' iii. 59).
276. 15-22. 1578, cc. 17, 18, 19, 33 ('A. P.,' iii. 105, 112).
276. 24. 1579, c. 57 ('A. P.,' iii. 174).
276. 29. 1581, c. 65 ('A. P.,' iii. 240).
276. 34. 1585, c. 71 ('A. P.,' iii. 421).
277. 3. 1585, c. 24 ('A. P.,' iii. 395).
277. 6. 1587, c. 21 ('A. P.,' iii. 445).
277. 11. 1587, c. 133 ('A. P.,' iii. 520).
277. 13. 1592, c. 19 ('A. P.,' iii. 548).
277. 17. 1592, c. 45 ('A. P.,' iii. 564).
277. 20. 1592, c. 64 ('A. P.,' iii. 574).
277. 22. 1594, c. 98 ('A. P.,' iv. 94).
277. 25. 1594, c. 58 ('A. P.,' iv. 80).
277. 28. 1600, c. 36 ('A. P.,' iv. 237).
277. 30. 1609, c. 40 ('A. P.,' iv. 449).
277. 34. 1606, c. 66 ('A. P.,' iv. 320).
277. 37. 1592, c. 16 ('A. P.,' iii. 547).

278. 4. 1594, c. 58, ('A. P.,' iv. 80).

278. 9. 1597, c. 52 ('A. P.,' iv. 147).

278. 14. 1612, c. 47 ('A. P.,' iv. 500).

279. 26. The reference is to Bartholomeus Sacchi de Platina. Of his 'Vitæ Pontificum Romanorum,' first published at Venice in 1479, there are many editions. The edition published at Cologne in 1600 contains the supplements of Onuphrius and Cicarella, bringing the history down to Pope Clement VIII., and reproducing the former's 'Epitome Pontificum Romanorum.'

279. 27. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' iv. 1.

279. 33. The reference is to David Origanus Glacencis, 'Ephemerides,' Frankfort-on-the-Oder, 1609.

280. 6. The correct reference is to St John xix. 30.

280. 8. As to the difference between the Greek and Roman methods of computing time, see J. J. Bond, 'Handy Book of Rules and Tables for Verifying Dates with the Christian Era,' London, 1875, pp. xxxii. 222; Eusebius, 'Chronicorum Canonum Omnimodiæ Historiæ Libri Duo,' ed. J. J. Scaliger, Leyden, 1606. See Scaliger's 'Prolegomena,' and 'Animadversiones,' p. 170.

281. 9. The reference to Polydore Vergil should be to 'De Rerum Inventoribus,' iv. 2.

283. 22. The reference is to Alphonso de Villegas, whose work, 'Flos Sanctorum . . .' Toledo, 1583, was translated by W. and E. K(inesman). B(rothers), in 1615 under the title of 'Lives of the Saints written in Spanish by . . . Father Alphonso Villegas . . . The First Part containyng the six first moneths. . . .' The third volume is dated 1623, and has a different title page, 'The Lives of the Saints gathered out of the Reverend Father, Peter Ribadeneyra . . . D. Alphonso Villegas, and other authentical authors . . . with an appendix prefixed of the saintes lately canonized and beatified by Paulus V. and Gregory XV.' By Edward Kinesman, Gent. It is to this translation that our references to Villegas apply. The present reference is to pt. i. pp. 305-6.

283. 27. The reference is to C. Baronius Soranus, 'Martyrologium Romanum . . .' 2nd ed., Antwerp, 1589, under 29th June.

283. 29. As to "St Dionise," see Villegas, pt. ii. p. 227 (fresh pagination begins in the month of September). See also pt. i. A. p. 306.

284. 2. As to St Peter's death on Mons Aureus, see Villegas, pt. i. p. 307.

284. 3. As to St Paul's death in the Via Ostiensis, see Villegas, pt. i. pp. 323, 326.

284. 14. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' iv. 2.

284. 16. The reference is to Higden, 'Polychronicon,' iv. 9.

284. 28. The reference is to Villegas, ii. pt. ii. pp. 476 ff.

286. 2. The reference is to Œcumenius, 'Commentaria . . . in Acta Apostolorum,' Paris, 1630, introductory matter. The first edition was published in 1532.

286. 5. The reference is to Petrus de Natalibus, 'Catalogus Sanctorum,' Lyons, 1519, vi. 133.

287. 2. Jerome, 'Adversus Jovianum,' lib. i. (Migne (Latin Fathers), xxiii. 247), quotes Tertullian, 'Liber de Præscriptionibus Adversus Hæreticos,' cap. 36 (Migne (Latin Fathers), ii. 49).

287. 7. Villegas (ii. pt. ii. p. 595) says that S. Augustine, Chrysostom, and Ruffinas call him martyr.

287. 8. The reference is to Eusebius, 'Historia Ecclesiastica,' iii. 28.

287. 10. This reference is to St Augustine, 'In Joannis Evangelium Tract. 124,' § 2 (Migne (Latin Fathers), xxxv., 1970).

288. 2. The references are to 'Chronica Antonini. Prima pars Historiarum Domini Antonini Archipræsulis Florentini . . .' Lyons, 1543, i. 6, fol. cxxv., and to Petrus de Natalibus, iv. 107.

288. 3. "Panianis." In the 'New English Dictionary,' "panion" is given as a contracted form of "companion." Possibly the word "panianis" is intended by Bisset to represent "paynims."

288. 17. The reference is to Petrus de Natalibus, vii. 103.

288. 18. The reference is to 'Chronica Antonini,' *loc. cit.*

288. 23. The reference is to Petrus de Natalibus, vii. 103.

288. 24. The reference is to Abdias, 'Acta Apostolorum Apocrypha sive Historia Certaminis Apostolici . . .' viii. 9, in J. A. Fabricius, 'Codex Apocryphus Novi Testamenti,' Hamburg, 1703, ii. 438.

289. 10. Dorotheus ("De vita et morte Prophetarum et Apostolorum Synopsis," in 'Maxima Bibliotheca Veterum Patrum et Antiquorum Scriptorum,' Lyons, 1577, iii. 426 ff.) writes: "prædicavit Germanis, Hircanis, Bactris et Dacis. Obdormivit autem Calimine civitate Indiæ. . ."

289. 17. The reference is to 'Chronica Antonini,' *loc. cit.*

289. 18. The reference is to Abdias, ix. 24.

290. 18. The reference is to Abdias, vii. 14.

290. 19. The reference is to 'Chronica Antonini,' *loc. cit.*

290. 25. The reference is to Dorotheus, *loc. cit.*

290. 27. The reference is to Raphael Maffejus Volaterranus, 'Commentariorum Urbaniorum,' xxxviii. libri, Basel, 1559, p. 445, who writes: "Bethania." Bisset spells and contracts Volaterranus in many ways.

290. 28. The reference is to Antonius Monchiacenus, cognom. Demochares, 'Christianæ Religionis . . . Propugnatio,' Paris, 1562, ii. fol. 19. He writes "Bethania." Bisset cites him as Democrates.

Petrus de Natalibus, ix. 115; see also iii. 135. He does not mention the place.

291. 7. The references are to Eusebius, 'Historia Ecclesiastica,' iii. 11, 29, and to Jerome, 'De Viris Illustribus,' App. 1, "De Vita Apostolorum," in Migne (Latin Fathers), xxiii. 722.

291. 8. The reference is to Œcumenius, *loc. cit. supr.*

291. 19. The reference is to Eusebius, 'Historia Ecclesiastica,' i. 14.

292. 1. The reference is to Abdias, vi. 5 *et seq.*

292. 5. The reference is to Eusebius, 'Historia Ecclesiastica,' ii. 23.

292. 25. The references are to Jerome, 'De Viris Illustribus,' App. 1. *ut supr. cit.*, and to Œcumenius, *loc. cit. supr.*

292. 26. The reference is to Petrus de Natalibus, iii. 149.

292. 28. The references are to Abdias, vii. 14, and to 'Chronica Antonini,' *loc. cit. supr.* The references seem to apply to St Matthew.

293. 11. Eusebius, 'Historia Ecclesiastica,' ii. 14, 25.

294. 14. The reference is to Nicephorus Callistus, 'Ecclesiasticæ Historiæ,' Libri xviii., Paris, 1630, ii. c. 43, where Bethania is not mentioned.

295. 1. The reference is to Petrus de Natalibus, xi. 7.

295. 6. The reference is to Eusebius, 'Historia Ecclesiastica,' vii. 31; viii. 1.

295. 21. The reference is to Dorotheus, *op. cit. supr.*

295. 34. The reference is to Eusebius, 'Historia Ecclesiastica,' ii. 1, who cites a lost work of Clemens Alexandrinus.

296. 1. The reference is to Gal. i. 19.

296. 19. As to the references to Clemens Alexandrinus and Eusebius, see note to p. 295, l. 34 above.

296. 22. 'Chronica Antonini.'

296. 27. Barnabas is said to have been martyred in Cyprus.

297. 12. The reference is to Volaterranus, p. 445.

297. 13. The references are to Demochares, ii. 19, and to Petrus de Natalibus, v. 91.

297. 15. The reference is to 'Chronica Antonini.'

298. 4. The references are to Demochares, ii. 19; to Volaterranus, p. 445; and to Petrus de Natalibus, vi. 100.

298. 18. Parmenas died at Nisibis, according to Petrus de Natalibus, vi. 100.

298. 24. The reference to Eusebius has not been traced.

298. 27. Eusebius, 'Historia Ecclesiastica,' iii. 11, 29; iv. 8, 20, 21, refers to Egesippus. The passage of Egesippus or Hegesippus referred to will be found in M. J. Routh, 'Reliquiæ Sacræ,' Oxford, 1846, i. 215.

299. 9. The references are to 2 Cor. i. 19; 1 Thess. i. 1; 1 Pet. v. 12.

299. 11. The reference is to Volaterranus, p. 445.

299. 12. The references are to Demochares, ii. 18, and to Petrus de Natalibus, vi. 15.

299. 13. The reference is to Eusebius, 'Historia Ecclesiastica,' iii. 4.

299. 23. As to the question whether "Gallasia" is or is not written for "Gallia," see Baronius, 'Martyrologium Romanum,' note *a*, under 27th June.

300. 5. The references are to Demochares, ii. 19, and to Petrus de Natalibus (vi. 100), who mentions Ampliatus, bishop of Edessa, and Ampleius, bishop of Smyrna.

300. 6. Volaterranus (p. 445) mentions Ampliatus, bishop of Edessa, and Ampliatus, bishop of Smyrna.

300. 7. The reference is to Rom. xvi. 8.

300. 11. Demochares (ii. 19) and Petrus de Natalibus (vi. 100) refer to Stateus, bishop in Argicapolis. Volaterranus (p. 445) makes him bishop of Thracia.

300. 17. The references are to Volaterranus, p. 445, and to Demochares, ii. 19.

300. 18. The reference is to Petrus de Natalibus, vi. 100.

300. 19. As to Ampleius, see note to vol. ii. 300, l. 5 above.

300. 22. The references are to Volaterranus, p. 445; Demochares, ii. 19; Petrus de Natalibus, vi. 100.

300. 26. The references are as in the note immediately preceding.

301. 16. The references regarding Hermes are to Volaterranus, p. 445, who calls him bishop of Philippopolis, and to Demochares, ii. fol. 19, and Petrus de Natalibus, vi. 100, both of whom call him bishop of Philipolis.

301. 19. Eusebius, 'Hist. Eccles.,' iii. 3, does not say that he was bishop of Dalmatia.

301. 25. The references as to Patrobas are to Demochares, ii. 19 f., and Petrus de Natalibus, vi. 100, of whom the latter calls him "episcopus Pelorum." Dorotheus (*loc. cit.*) calls him "episcopus Neapolitanus." Baronius, 'Mart. Rom.,' under 4th November, note *e*, says that he is said by Hippolytus to have been bishop of Puteoli.

302. 2. The reference to Agabus is to Acts xi. 28. See xxi. 10.

302. 15. Caius was bishop of Ephesus (Volaterranus, p. 445; Petrus de Natalibus, x. 100). According to Origen (commentary on Romans xvi. 23) he was bishop of Thessalonica.

302. 17. The references are to Rom. xvi. 23; Acts xix. 29; 1 Cor. i. 14.

302. 22. The reference to 3 John is erroneous. Perhaps the reference to Gaius (3 John i. 1) appropriate to p. 302, l. 17, is misplaced.

302. 26. Origen and Ambrose in their commentaries on Rom. xvi. 15, say nothing as to a male Olympas. Ambrose does not take Olympas for a sister of Nereus.

303. 2. As to Liphassus, see Petrus de Natalibus, vi. 100, and Volaterranus, p. 445.

303. 13. The reference to Origen as to Sosipater seems to have been borrowed from Petrus de Natalibus, vi. 100.

303. 24. The references as to Tertius are to Demochares, ii. fol. 19; Petrus de Natalibus, vi. 100, who calls him "episcopus meaidi."

304. 2. Volaterranus, p. 445, calls Erastus "episcopus Meuadi." See Demochares, ii. fols. 18, 19.

304. 9. Neither Volaterranus nor Petrus de Natalibus mention Phygellus (see 2 Tim. i. 15). The former (p. 445) writes "Philetus vel Philebus," the latter (vi. 100), "Philetus vel Philegus." See 2 Tim. ii. 17.

305. 6. Petrus de Natalibus (vi. 100) calls Apollos "Episcopus iconnie."

305. 13. The reference is to Dorotheus, *loc. cit.*

305. 16. The reference is to Eusebius, 'Historia Ecclesiastica,' i. 13.

305. 26. The reference is to Demochares, ii. 19.

305. 27. The reference to St Paul's writings is to Philipp. ii. 25; iv. 18.

306. 1. As to Cæsar, Volaterranus (p. 445) and Peter de Natalibus (vi. 100) refer to Philipp. iv. 22.

306. 10. The references are to Acts i. 23; Coloss. iv. 11.

306. 13. The reference to Volaterranus regarding Artemas or Antonias has not been traced. Volaterranus (p. 445) and Petrus de Natalibus (vi. 100) mention Antomas, whom the latter calls bishop of Lysina.

306. 16. Of Clemens, Dorotheus (*loc. cit.*) says, "Sardicæ, quæ nunc est Triaditza, factus est episcopus."

306. 26. Of Onesiphorus, Dorotheus (*loc. cit.*) says that he was "Coroniæ Episcopus." He is mentioned in 2 Tim. i. 16; iv. 19. Onesimus is mentioned in Coloss. iv. 9; Philem. 10.

307. 5. Dorotheus (*loc. cit.*) says that Tychicus was bishop of Chalcedon. Volaterranus (p. 445) writes "Titicus" for "Tychicus," and says that he was bishop of Colophon.

307. 8. The references are to Acts xx. 4; Eph. vi. 21; Col. iv. 7; 2 Tim. iv. 12.

307. 16. "Barthea," perhaps "Berythus" or "Beræa." See l. 19.

308. 6. The references are to Acts xviii. 2; 1 Cor. xvi. 19; 2 Tim. iv. 19.

308. 11. See St Ambrose, commentary on Rom. xvi. 7. Origen in his commentary on the same passage does not mention Julias.

308. 13. Petrus de Natalibus (vii. 19) and Volaterranus (p. 445) call Aristarchus bishop of Apamia. The reference is to Rom. xvi. 7, where Junias is mentioned.

308. 14. Junias is called bishop of Apamia by Dorotheus (*loc. cit.*).

308. 19. The references are to Acts xii. 25; 2 Tim. iv. 11.

308. 23. The references are to Philem. 24; Acts xix. 29, xx. 4, xxvii. 2; Coloss. iv. 10.

309. 9. The references seem to be to Acts xii. 12, 25, xiii. 5, xv. 37; Coloss. iv. 10; 2 Tim. iv. 11; Philem. 24.

309. 21. St Lazarus was bishop of Marseilles and died there. See Baronius, 'Mart. Rom.,' under 17th December.

310. 13. See Eusebius, 'Eccles. Hist.,' ii. 1.

310. 14. "Sindrie uther writtaris." Volaterranus (p. 445) has Polycarp and Vicentius for Vicentius and Antoninus.

310. 31. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' iv. 2.

310. 32. The whole passage in Bisset is taken from Villegas, part ii., p. 380.

311. 8. The reference to Volaterranus given by Villegas (see immediately preceding note) has not been traced.

311. 11. As to St Elizabeth of Schonau, see the Bollandist 'Acta Sanctorum,' under 18th June, where the revelations regarding the death of the Blessed Virgin are mentioned. See also Baronius, 'Mart. Rom.,' under 18th June, note *g*.

311. 17. The reference is to Nicephorus Callistus, 'Hist. Eccles.,' ii. c. 21; cp. i. c. 7.

311. 19. The reference to Eusebius, 'Chronicorum Canonum Historiæ,' libri duo, ed. J. J. Scaliger, Leyden, 1606, has not been traced.

311. 32. See immediately preceding note.

311. 34. Higden, in the 'Polychronicon,' iv. c. 8, says that the Blessed Virgin was sixty-three at the time of her death.

312. 9. In the notes from this page to p. 318, the dates given by Bisset have been corrected when erroneous in accordance with the Romish calendar. Where the date has been omitted it has been supplied from the authorities which Bisset used, or from the Bollandist 'Acta Sanctorum.' The University Library copy includes in its list the names of Prochorus, Sosthenes, Carpus, Tychicus, Timothy, Cleopas, Crispus, Gaius, Crescens, Soscipiter, Agabus, Titus, Lazarus, Onesimus, and Quartus. The Advocates' Library copy omits these names, possibly on the ground that they are included in the list of the seventy disciples (pp. 294 ff. above).

312. 13. See Baronius, 'Mart. Rom.,' under 22nd July.

312. 19. St Lucina died at Rome. See Baronius, 'Mart. Rom.,' under 30th June.

312. 22. See Baronius, 'Mart. Rom.,' under 3rd September.

312. 25. St Zacharias was slain between the temple and the altar (see Baronius, 'Mart. Rom.,' under 5th November; Petrus de Natalibus, x. 24).

313. 2. St John the Baptist was beheaded 29th August. See Baronius, 'Mart. Rom.,' under that date.

313. 5. See Baronius, 'Mart. Rom.,' under 25th January.
313. 15. See Baronius, 'Mart. Rom.,' under 29th January.
313. 16. "Treueris," Trevisis Trèves.
313. 18. See Baronius, 'Mart. Rom.,' under 2nd February.
313. 22. Papias was bishop of Hierapolis in Phrygia.
313. 26. Hispalis is the modern Seville.
314. 3. See Baronius, 'Mart. Rom.,' under 14th March.
314. 6. See Baronius, 'Mart. Rom.,' under 22nd March.
314. 9. See Baronius, 'Mart. Rom.,' under 15th May.
314. 13. See Baronius, 'Mart. Rom.,' under 19th April.
314. 17. See Baronius, 'Mart. Rom.,' under 6th May.
314. 20. St Torpes was martyred at Pisa (Baronius, 'Mart. Rom.,' under 17th May).
314. 23. As to St Boniface, see p. 386, l. 2 below and relative note.
315. 1. St Ferrolus and St Ferrutio were martyred at Vesontio (Besançon), "sub Claudio iudice," according to Baronius, 'Mart. Rom.,' under 16th June.
315. 5. St Panthenus died at Alexandria under Caracalla (see Petrus de Natalibus, vi. 65).
315. 8. St Hermacoras was martyred at Aquileia in Gaul (see Baronius, 'Mart. Rom.,' under 12th July).
315. 11. St Maternus died at Milan (see Baronius, 'Mart. Rom.,' under 18th July).
315. 14. St Epaphras was martyred at Colossæ (see Baronius, 'Mart. Rom.,' under 19th July).
315. 17. St Aristarchus died at Thessalonica (see Baronius, 'Mart. Rom.,' under 4th August).
315. 20. St Nicomedes was martyred at Rome (see Baronius, 'Mart. Rom.,' under 15th September).
315. 23. St Sagar was martyred at Laodicea (see 'Baronius, 'Mart. Rom.,' under 6th October).
315. 26. St Marcellus and Apuleius were martyred at Rome (see Baronius, 'Mart. Rom.,' under 7th October).
316. 3. St Theophilus died in 181 under Commodus, the son and successor of Marcus Aurelius Antoninus, whose original name was Marcus Annius Verus (see 'Acta Sanctorum,' under 13th October).
316. 11. St Quentin was martyred at Augusta Veromanduorum (St Quentin) under Maximinian (see Baronius, 'Mart. Rom.,' under 31st October).
316. 15. See Baronius, 'Mart. Rom.,' under 7th November.
316. 19. See note to p. 314, l. 6, where the correct date is given.
317. 24. St Apollinaris was martyred at Ravenna (see Baronius, 'Mart. Rom.,' under 23rd July).
317. 28. St Dionysius Areopagiticus was martyred at Lutetia Parisiorum (Paris). See 'Petrus de Natalibus,' ix. 41. See also note to vol. i. 9, l. 12 above.

318. 2. There is some confusion here. St Gregory the Great, pope and doctor of the church, died at Rome on 12th March, 604. Baronius, 'Mart. Rom.', under 14th August, mentions the martyrdom of Eusebius on that day during the reign of Constantius II., the Arian Emperor (351-363).

318. 14. St Jerome died at Bethlehem of Judæa.

320. 21. Bisset's list of the popes is copied from Onuphrius Panvini's 'Epitome Pontificum Romanorum, a S. Petro usque ad Paulum VIII.,' Venice, 1557. It seems probable that Bisset's version is taken from the reproduction of this work in the 1600 edition of Platina. The corrections of Bisset's errors in transcribing proper names are shown in the footnotes, and the blanks which he has left have been filled in from the work cited above. Lists of the popes with the dates of their accessions and deaths will be found in Bishop Stubbs' edition of J. L. Mosheim's 'Institutes of Ecclesiastical History, Ancient and Modern,' London, 1863; in P. B. Gams, 'Series Episcoporum'; in Mas Latrie, 'Trésor de Chronologie'; and in L. Duchesne, 'Liber Pontificalis,' Paris, 1884-92.

320. 26. Leonardus de Bononia, see note to p. 439, l. 9 below.

321. 21. As to St Peter's martyrdom, see vol. ii. 283-84 above.

321. 31. The testimony of Marcellus is contained in the document cited in the note to p. 339, l. 14 below. In his 'Chronology,' Eusebius says that St Peter was the first to preach the gospel at Antioch, and that Evodius was the first bishop there.

322. 12. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' iv. 2.

322. 20. The references are to 2 Tim. iv. 21, Eusebius, 'Historia Ecclesiastica,' iii. 2, 4, and Dorotheus, *loc. cit.*

322. 27. The reference in the margin is to the 'Constitutiones Apostolicæ,' viii. cc. 16, 17, and seems inapposite. It is repeated at p. 379, l. 18 below, where it is in point.

323. 3. The references are to Eusebius, 'Historia Ecclesiastica,' iii. 4, 14, and Dorotheus, *loc. cit.* The latter says of Clement, "Sardicæ, quæ nunc est Triaditza, factus est episcopus."

323. 11. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' v. 3.

323. 25. Nicephorus Callistus, ii. c. 39, gives an account of St Andrew, but does not mention the date of his death.

323. 27. As to St Andrew's martyrdom, see vol. ii. 9, 284.

324. 18. The reference is to Villegas, ii. pt. i. 41.

325. 17. The reference is to Polydore Vergil, v. 10.

325. 26. As to St Guthagonus, see note to vol. i. 8, l. 22 above.

326. 22. The references are to Villegas, ii. pt. ii. p. 282.

327. 9. The reference is to Polydore Vergil, v. 8.

328. 2. The reference is to Villegas, i. pt. i. p. 29.

328. 14. The reference is to Villegas, ii. pt. i. p. 36.

329. 1. The reference is to Villegas, i. pt. i. pp. 391-92 ; C. Baronius, Soranus, 'Annales Ecclesiastici,' Antwerp, 1617, ii. 191.

329. 5. The reference to Villegas is as given in note to l. 1 above.

329. 11. The reference to Baronius is as given in note to l. 1 above.

329. 20. The references are to Villegas, i. pt. i. p. 395 ; Baronius, 'Annales,' ii. 227.

329. 27. The reference is to Villegas, i. pt. i. p. 397.

330. 2. As to Damasus, see note to p. 338, l. 5 below.

330. 11. The references are to Villegas, i. pt. ii. p. 144 ; Baronius, 'Annales,' ii. 250.

330. 17. The reference is to Villegas, i. pt. ii. p. 143.

330. 20. The reference is to Baronius, 'Annales,' ii. 238.

As to Damasus, see note to p. 338, l. 5 below.

331. 1. The references are to Villegas, ii. pt. i. p. 176 ; Baronius, 'Annales,' ii. 290.

331. 20. The references are to Villegas, ii. pt. i. p. 456 ; Baronius, 'Annales,' ii. 333.

332. 17. The reference is to Villegas, ii. pt. ii. p. 235, who gives Usuardus' account of his martyrdom.

333. 11. The reference as to St Urbanus is to Villegas, i. pt. ii. p. 139 ; Baronius, 'Annales,' ii. 373.

333. 21. The reference is to Villegas, ii. pt. ii. p. 403.

334. 8. The reference is to Villegas, i. pt. i. p. 110. See next note.

334. 10. The references as to Fabianus are taken from Villegas, i. pt. i. p. 110. He cites Eusebius, 'Hist. Eccles.,' vi. 22, 27, 31 ; St Jerome, 'De Viris Illustribus,' c. 64 ; Rufinus, 'Historiæ Eccles.,' vi. 21, 25, 29. The reference to Eusebius should be to vi. 28. The chapter of St Jerome's work, which is cited, is silent as to Fabianus. The work of Rufinus referred to is 'Auctores Historiæ Ecclesiasticæ Eusebii Pamphili Cæsariensis libri novem Ruffino interprete,' 1523. The reference to Himon is probably to Haymo, bishop of Halberstadt, whose work was published in Salvianus Massiliensis, 'De Vero Iudicio et Providentia Dei,' Libri VII., Rome, 1564. An edition was published at Leyden in 1650. As to Anastatius, see note to p. 338, l. 5 below. The work of Cedrenus referred to may be his 'Annales sive Historiæ ab exordio mundi ad I. Comnenum usque compendium . . .,' Basel, 1566.

334. 21. The reference as to St Cornelius is to Villegas, ii. pt. ii. pp. 62-3. The name of the woman mentioned by Villegas is said to have been Salustria.

335. 2. Polydore Vergil, 'De Rerum Inventoribus,' viii. 4, writes "Nouatianus . . . omnes sui dogmatis sectatores mundos appellauit." The Novatians called themselves *καθαροί*, *i.e.*, Puritans.

335. 13. The reference as to St Lucius is to Villegas, iii. pt. i.

p. 464. According to Platina he reigned three years, three months, and three days. He was martyred under Valerian (see Baronius, 'Mart. Rom.,' under 4th March).

335. 18. The reference should be to Clement VII.

335. 21. Bisset writes Ædon for Ado. See 'Martyrologium Romanum . . . una cum Martyrologio Adonis . . .,' Antwerp, 1613.

336. 2. The reference is to Villegas, ii. pt. i. p. 234.

336. 4. For "Baronius," read "Platina."

336. 6. The reference is to Baronius, 'Annales,' ii. 532.

336. 16. The reference is to Villegas, ii. pt. i. p. 234.

336. 22. The reference is to Baronius, 'Annales,' ii. 549.

337. 8. The reference is to Villegas, iii. pt. ii. p. 152.

337. 10. The reference is to Baronius, 'Annales,' ii. 625.

337. 14. The reference is to Eusebius, 'Hist. Eccles.,' vii. 29.

337. 17. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' viii. 5.

337. 19. "Euthianus" for "Eutychianus."

338. 5. The earlier editions of the 'Liber Pontificalis' bear the name of Anastasius Bibliothecarius, and portions of it have been attributed to Damasus, whom Bisset frequently cites. The claims to authorship of Anastasius and Damasus have been disproved (see 'The Catholic Encyclopædia,' s.v. "Liber Pontificalis"; R. L. Poole, 'Lectures on the History of the Papal Chancery down to the Time of Innocent, III.' Cambridge, 1915, p. 166). The best edition is that of L. Duchesne, Paris, 1884-92.

338. 6. The reference is to Baronius, 'Annales,' ii. 679.

338. 10. This document is to be found in the Pseudo-Isidorian Decretals (see Migne, 'Patrologiæ Cursus' (Latin Fathers), cxxx., 207 ff.).

338. 12. "Varietie" is an error for "verity."

338. 18. Villegas (iii. pt. i. pp. 422-26) writes of Marcellinus, whom Bisset erroneously names Marcellus I., that his reign lasted seven years, eleven months, and twenty-three days, and that he was martyred on 26th April, A.D. 304. See Baronius, 'Annales,' ii. 774.

338. 26. The references are to Villegas, i. pt. i. pp. 72-5; Baronius, 'Annales,' ii. 775.

339. 2. The pope's title was Marcellus I.

339. 9. The reference is to Villegas, i. pt. i. pp. 72-5, from whom Bisset's account is taken. See Baronius, 'Mart. Rom.,' under 16th January, note c., where it is said that the Catabolum was a stable for animals used for drawing loads for the public utility.

339. 14. The document referred to is to be found in the Pseudo-Isidorian Decretals (see Migne, 'Patrologiæ Cursus' (Latin Fathers), cx x., 218 ff.).

339. 29. Villegas does not mention this pope. He does mention (ii. pt. i. p. 375) St Eusebius, priest and confessor, who died 4th

August, *circa* 437. (See Petrus de Natalibus, vii. 5; Baronius, 'Mart. Rom.,' under 1st August.)

340. 5. Clement VIII. issued a revised edition of the breviary.

340. 15. The reference is to Villegas, ii. pt. ii. pp. 526 f.

340. 19. As to "Damasus," see note to p. 338, l. 5 above.

340. 25. The reference as to St Sylvester is to Villegas, ii. pt. ii. pp. 654 f.

341. 14. As to St Marnoch, bishop and confessor, 1st March, 625, see Forbes, pp. 392 f.; Mackinlay, pp. 74 ff. He was buried at Aberchirder.

341. 22. As to St Modoc, see note to vol. ii. II, l. 16 above.

341. 28. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' vi. 13.

342. 7. By "vernacle" Bisset represents "vera ikon" (*i.e.*, the true image of Christ), the designation given to this picture.

342. 18. As to Sodora, see note to vol. ii. 50. l. 14.

342. 21. Should not a reference to Boece (Bellenden's translation), vi. 9, be substituted for that to Polydore Vergil?

342. 23. The reference is to Villegas, ii. pt. ii. pp. 654 f.

342. 30. The reference as to St Marcus is to Villegas, ii. pt. ii. p. 215.

343. 3. The reference to St Jerome has not been traced.

343. 4. The reference is to Villegas, ii. pt. ii. p. 215.

343. 21. As to St Andrew, see note to vol. ii. 9, l. 11 above.

344. 18. The reference is to Villegas, ii. pt. ii. p. 533.

344. 27. Bisset writes "Eudoras" for "Eudoxus" (see Polydore Vergil, 'De Rerum Inventoribus,' viii. 5).

345. 3. As to St Mirren, see note to vol. ii. 113, l. 20 above.

345. 12. As to St Reule, see note to vol. ii. 9, l. 11 above.

345. 18. As to King Hungus and the church of St Andrews, see note to vol. ii. 9, l. 11 above.

345. 32. Bede ('Historia Ecclesiastica,' ii. 4) says that the pastoral care of Lawrence, Archbishop of Canterbury, extended to the Scots "qui Hiberniam insulam Britanniae proximam incolunt" (see Plummer's ed., ii. 11). There was an arch-priest of Dunbar (see note to vol. ii. 8, l. 12 above).

345. 35. As to Adamnan, see Bede, 'Historia Ecclesiastica,' v. 15.

346. 12. St Levine was according to some authorities bishop of Ghent, according to others "Scotorum archiepiscopus" (see Dempster, ii. 426).

346. 18. The passage cited is silent as to St Siricus.

346. 26. The reference is to Villegas, iii. pt. ii. pp. 149, 152, 154.

347. 3. "Bersolœ." In the life of Anastasius, a Persian monk, in the 'Acta Sanctorum,' under 22nd January, the name is written "Bethsalœ."

347. 20. The reference is to Villegas, ii. pt. i. p. 183.

347. 23. The reference is to Baronius, 'Annales,' v. 407.

347. 24. Onuphrius (*loc. cit.* see note to p. 320, l. 21 above) says that Innocent was pontiff during the reigns of Arcadius, Honorius, and Theodosius.

347. 26. Dempster (ii. 370) claims Innocent for a Scotsman. He was called Albanus, which Leslie in his 'History' (Bk. iv. c. 40) interprets as meaning Scotsman. He was probably a native of Albano.

347. 27. The birthplace of Innocent is not mentioned, so far as we can discover, in the works of Prosper of Aquitaine.

348. 9. By Melevitana Bisset means Milevum, a titular see of Numidia, called during the Roman era "Colonia Sarnensis Milevitana" ('The Catholic Encyclopædia,' s.v. "Milevum").

349. 6. As to Palladius, see note to vol. ii. 11, l. 31 above.

349. 10. We have not traced the origin of Bisset's curious notice of the Pelagian heresy. See Boece (Bellenden's translation), vii. 18.

349. 21. As to St Patrick, see note to vol. ii. 12, l. 14 above.

349. 28. The reference as to Nestorius is to Polydore Vergil, 'De Rerum Inventoribus,' viii. 5.

350. 8. As to St Ninian, see note to vol. ii. 43, l. 27 above.

351. 10. As to St Tarnan, see note to vol. ii. 11, l. 29 above.

351. 15. As to St Serf, see note to vol. ii. 12, l. 3 above.

351. 19. St Kennere is said in Adam King's Kalendar, under date 29th October (Forbes, p. 165), to have been a Scotswoman, and one of the 11,000 virgins who joined St Ursula in her pilgrimage to Rome. St Kennere alone escaped the slaughter of the pilgrims through the protection of the king of the Huns, but afterwards fell a victim to the jealousy of his wife (Forbes, p. 361).

351. 23. St Nathalan, Nachtan, or Nauchlan was a native of Tullicht in Aberdeenshire. He went to Rome, and, on his return, built churches at Tullicht, Bothelim, and Colle. He died and was buried at Tullicht. His day is 8th January, and Forbes gives 678, Adam King (Forbes, p. 141), 452 as his date. (Forbes, pp. 417 ff.; Mackinlay, pp. 198 f., 221 ff.)

351. 24. The story of Leo's meeting with Attila is apparently reproduced from Polydore Vergil, 'De Rerum Inventoribus,' viii. 7.

353. 21. Hanmer's work is entitled 'The Auncient Ecclesiasticall Histories of the first six hundred yeares after Christ wrytten in the Greeke tongue by . . . Eusebius, Socrates, and Evagrius . . . Whereunto is annexed Dorotheus, Bishop of Tyrus, of the lives of the Prophets, Apostles, and 70 Disciples . . .' translated . . . by M. Hanmer, London, 1577.

358. 12. In Adam King's Kalendar, under date 15th October, we find the entry, "S. Culmane, bischop and confess. in scotland vnder king Conranus, 512" (Forbes, p. 164). Forbes gives 16th October as his day (p. 302).

358. 14. In Adam King's Kalendar (Forbes, p. 167), under 14th November, St Middame is said to be "patron of fillorthe, bischop and confess. in scotland vnder King Conranus, 503." He seems to be the saint elsewhere named St Modan or St Medan (Forbes, pp. 399, 402 f.; Mackinlay, pp. 148 ff.; Skene, 'Celtic Scotland,' ii. 282.

358. 19. St Fergus, an Irish bishop, came to the west of Scotland and to the confines of Strogeth where he founded three churches. Thence he went to Caithness, and afterwards to Buchan. He died at Glammis. His day is 18th November. It may be that he was the Scotch bishop Fergustus who attended a council at Rome in 721 (Forbes, pp. 336 ff.; Skene, 'Celtic Scotland,' ii. 232 f.).

358. 24. St Fridolin is described in Adam King's Kalendar (Forbes, p. 146), under date 6th March, as "Conf. Scotisman vnder Anastasi, 500." He seems to have been an Irish saint, and Forbes (p. 341) notes his cultus in the Vosges and Jura. See Dempster, i. 280, who refers to the saint under the name of St Fridelinus or Winfredus.

359. 1. "Ane uthir Cælius." See vol. ii. 363, l. 3.

359. 12. St Mackessog or Kessog was born in Cashel in the province of Munster. He is said to have resided in the island of Inch-ta-vanach in Loch Lomond. Luss was the centre of his cultus. His day was 10th March (Forbes, pp. 373 f.; Mackinlay, pp. 136 ff.).

359. 27. The cultus of St Bridget or Bryde was popular both in Ireland and in Scotland, especially in the Hebrides. She is believed to have been born in 451, and to have died in 525. She was the chosen patroness of the Douglas family. Douglas church was properly styled "St Bride's Kirk of Douglas." Her day was 1st February (Mackinlay, pp. 116 ff.; Skene, 'Celtic Scotland,' i. 135; ii. 443). Forbes (pp. 287-91) supposes that there were two saints of the name.

360. 33. The verses as given by Boece are—

"Hi tres in Duna tumulo tumulantur in uno
Brigida, Patricius, atque Columba pius."

These verses Bellenden, in his version of Boece (ix. 17), translates—

"Sanct Colme, Sanct Patrik and Brigitta pure;
Thir thre in Dune lysis in ane supulture."

As to St Columba, see note to vol. ii. 108, l. 34 above.

361. 3. The reference is to Higden, 'Polychronicon,' i. 32.

361. 6. As to St Benedict, see vol. ii. 108 above.

361. 15. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' vii. 2.

361. 24. St Convellanus is said in Adam King's Kalendar (Forbes, p. 164), under date 13th October, to have been abbot in Scotland and confessor under King Conranus in 527 (see Boece (Bellenden's translation), ix. 6; Forbes, pp. 314 f.).

362. 4. St Foillanus or Fillan crossed from Ireland to Lochalsh. He became abbot of Cnobersburg, and was martyred in Brabant. His day is 31st October. Forbes gives 655 as his date (see Forbes, p. 346 f.; Mackinlay, pp. 162, 165 ff.; Skene, 'Celtic Scotland,' ii. 33, 175).

362. 14. In Adam King's Kalendar (Forbes, p. 152), under date 8th May, we find entered "S. Gibriane, confess. scotsman vnder King conranus, 532." See Boece (Bellenden's translation), ix. 6; Dempster, i. 301.

362. 17. According to the Aberdeen Breviary, St Triduana of Colossæ came to Scotland with St Regulus (see note to vol. ii. 9, l. 11. She died at Restalrig near Edinburgh, and her chapel there became a popular place of pilgrimage. Her day is 8th October (Forbes, pp. 453 f.; Mackinlay, pp. 476 ff.).

362. 27. As to Justinian's Pandects, see note to vol. i. p. 27, l. 31 above.

363. 14. As to Justinian's Code, see note to vol. i. p. 27, l. 31 above.

364. 6. The reference is to Polydore Vergil 'De Rerum Inventoribus,' viii. 5.

364. 9. As to St Convallanus, see note to vol. ii. 361, l. 24 above.

364. 12. In Adam King's Kalendar (Forbes, p. 164), under date 16th October, we find entered "S. Galle, abbot in scotland vnder king Coranus, 590." Forbes, p. 341, notes his cultus in Switzerland. See Dempster, i. 299.

364. 16. The origin of the statement that Vigilius was made pope for "his fatheris rewaired" has not been traced.

364. 19. St Machutus or Malo was of British birth, and was trained under St Brandan (see note to vol. ii. 118, l. 19 above). In Adam King's Kalendar (Forbes, p. 167) he is said to have been bishop and confessor at Santonas. He crossed to Brittany and became bishop of Aleth, where he died in 627. His day is 15th November (Forbes, pp. 381 f.; Mackinlay, pp. 206 ff.).

364. 30. As to St Mongo and St Mongo's Rental, see note to vol. ii. 18, l. 20 above.

366. 4. In Adam King's Kalendar (Forbes, p. 170), under date 22nd December, we find entered "S. Ethernane, bischop and confess. disciple to S. Colme in scotland vnder king aidanus, 582." See Mackinlay, pp. 140 f., and Forbes, pp. 333 ff. The latter mentions two saints of the name, neither of whom seems to correspond with the saint referred to by King and Bisset. Forbes also mentions a saint named Ethernascus, whose day was 22nd December.

366. 15. The reference to Polydore Vergil is incorrect. Perhaps Bisset had in view a passage in lib. vii. cap. 2.

368. 5. As to St Baldred, see note to vol. ii. 19, l. 22 above.

368. 7. St Asaph, a disciple of St Kentigern (see note to vol. ii.

18, l. 20 above), was appointed by him to the headship of the monastery of Llanelwy, in what is now Flintshire. The monastery was superseded by the cathedral of St Asaph (Forbes, pp. 271 f.; Mackinlay, pp. 194 f.).

368. 12. In Adam King's Kalendar (Forbes, p. 152), under date 18th May, we find entered "S. Conualle, first archdeacon of glascow, disciple to S. Mungo vnder King Eugenius ye 4, 612." See Boece, ix. 17. Forbes, p. 315, gives 28th September as his day. He is said to have been a son of an Irish prince and a disciple of St Kentigern, and to have taken part in the evangelisation of Strathclyde (Forbes, pp. 315; Mackinlay, pp. 188 ff.).

368. 16. As to St Colme, see note to vol. ii. 108, l. 34 above.

368. 20. As to St Moluoc, see note to vol. ii. 42, l. 8 above.

369. 4. As to St Boniface, whom Bisset calls bishop of Ross, see note to vol. ii. 41, l. 7 above.

369. 27. The authority for this statement as to the terms of Honorius' letter to Donald IV. has not been traced.

370. 5. In Adam King's Kalendar (Forbes, p. 157), under date 8th July, we find entered "S. Killiane, bischop of herbipolis, Scotisman vnder heraclius, 630." See Dempster, ii. 407; Forbes, p. 341, notes his cultus in Thuringia. Herbipolis is the modern Würzburg.

370. 9. According to Bede ('Hist. Eccles.,' iii. 19), St Fursey came from Ireland, and founded a monastery at Cnobheresburg or Burgh Castle. He became an anchorite and crossed to Gaul, and founded a monastery at Lagny-sur-Marne, where he died. His day is 16th January. Forbes (pp. 352 ff.) says that he was not only one of the most distinguished of the Irish missionaries, but profoundly affected the eschatology of Christianity. See Dempster, i. 279, 283; Boece (Bellenden's translation), ix. 21.

370. 11. St Ultanus was a monk and became a hermit (Bede, *loc. cit.*). He eventually was appointed abbot of Peronne, where his brother, St Fursey, was buried. His day is 1st May (Forbes, pp. 455 f.; Mackinlay, p. 322).

370. 17. As to St Moluoc, see note to vol. ii. 42, l. 8.

371. 2. St Aidan, a monk of Iona, was the first bishop of Lindisfarne. He died after an episcopate of seventeen years at Bamborough on 31st August, 651 (Forbes, p. 269; Mackinlay, pp. 230, 237 ff.; Skene, 'Celtic Scotland,' i. 251 ff.; Bede, 'Hist. Eccles.,' iii. 317).

371. 6. Bisset confuses St Colman, bishop of Lindisfarne, with St Colman, bishop of Dromore in Ireland, in whose honour the monastery of Inchemaholmoch was dedicated. The former saint succeeded St Finnan (see note to vol. ii. 121, l. 3 above) in 660 as bishop of Lindisfarne. In 664 he left Lindisfarne and went to Iona; and in 668 passed over to Ireland. Owing to dissensions between the monks who accompanied him and the Irish monks he returned

to Scotland. His day is 18th February (Forbes, pp. 303 f.; Mackinlay, p. 238; Skene, 'Celtic Scotland,' i. 258 f., ii. 163 ff.; Boece (Bellenden's translation), ix. 22 (see note to l. 12 below). As to the bishop of Dromore, see Forbes, pp. 304 f.; Mackinlay, 93 ff.; Skene, *loc. cit.*, ii. 32).

371. 12. The reference to Bede is incorrect. St Finnan (see note to p. 121, l. 3 above) succeeded St Aidan and was succeeded by St Colman (Bede, 'Hist. Eccles.,' iii. 25; see note to p. 371, l. 2 above). Colman's successor was Tuda, who died of the plague in the year of his succession (*Ib.*, c. 26; see note in Plummer's edition). He was succeeded by Eata (*Ib.*; see Forbes, pp. 329 f.). See Higden, 'Polychronicon,' i. c. 56, of which Bisset assigns the authorship to Wynkyn de Worde.

372. 4. St Fiacre was born in Ireland. He passed over to France, and obtained from St Faro, bishop of Meaux, a piece of land at Breuil, where he built an oratory and hermitage. He died *circa* 670, and his shrine at Breuil became an object of pilgrimage. His day is 30th August (Forbes, pp. 338 ff.; Mackinlay, pp. 332 ff.; Boece (Bellenden's transl.) ix. 19; Adam King's Kalendar (Forbes, p. 160)). "Hackney coaches in Paris came to be known as fiacres, from the circumstance that in 1640 an establishment for the hiring of carriages was set up in the Rue St Martin at a house known as the Hotel de St Fiacre. The house was so called from an image of the saint which adorned the gateway" (Mackinlay, pp. 333 f.).

372. 29. Bisset writes "Bryan" for "Briensis"—*i.e.*, in the province of La Brie.

373. 18. J. Leslie ('Historie of Scotland' (Scott. Text Society), Edinburgh, 1895, vii. cap. c.) tells the story of Henry V. of England. See Boece (Bellenden's translation), xvi. 19.

Bisset writes "sevint" for "fifth." He gives, however, correctly the date of Henry V.'s death.

374. 4. St. Syre is stated in Adam King's Kalendar (Forbes, p. 154), under date 8th June, to have been St Fiacre's sister, and daughter of King Eugenius IV. See Boece (Bellenden's translation), ix. 19; Dempster, ii. *577.

374. 23. As to St Mynnane, see note to p. 400, l. 11. Here Bisset makes him a bishop, and identifies him with St Finnan. As to St Finnan, see note to p. 121, l. 3 above.

375. 7. In Adam King's Kalendar (p. 147), under date 18th March, we find entered "S. Finnane, bischope confess. in scotland vnder king Ferquhard 2, 660." See note to p. 121, l. 3 above.

375. 11. In Adam King's Kalendar (Forbes, p. 168), under date 1st December, St Eloi, Eligius, or Loye is described as "bischof of noion in picardie scotisman vnder constans. 657." He was born at Cardaillac near Limoges, and was consecrated bishop of Noyon in 640, and died in 659. He was celebrated as a worker in metal,

and has been described as the "hagiological Vulcan" (Mackinlay, pp. 346 ff.).

375. 15. St Ronan is said to have been bishop at Kilmaronen in Levenax (Forbes, pp. 441 f.; Mackinlay, pp. 151 ff.). Skene ('Celtic Scotland,' ii. 282) identifies him with Ronan, abbot of Kingarth in Bute, who died in 737. His day is 7th February.

375. 18. As to St Rumoldus, see note to vol. ii. 19, l. 28 above.

376. 4. As to St Finnan, see note to vol. ii. 121, l. 3 above.

376. 7. As to St Colman, see note to vol. ii. 371, l. 6.

377. 7. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' viii. 5.

377. 21. In Adam King's Kalendar (Forbes, p. 163), under date 23rd September, we find entered "S. Thewnan abbot and confess. in scotland maister to king eugenius, ye 6, 684." Theunan is one of the many modifications of Adamnan, the name of the biographer of St Columba. He was born in Ireland about 624. He was chosen ninth abbot of Iona in 679 according to Forbes and Skene, in 694 according to Mackinlay. He undertook two missions to Northumbria, and died in 704 (Forbes, pp. 264 ff.; Mackinlay, pp. 56 ff.; Skene, 'Celtic Scotland,' i. 245, 269; ii. 170 ff.; Boece, ix. 24).

377. 24. The remainder of Bisset's note is borrowed from Polydore Vergil, 'De Rerum Inventoribus,' iv. 10.

378. 15. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' iv. 10.

379. 17. The references are to Polydore Vergil, 'De Rerum Inventoribus,' iv. 10; v. 3; 'Constitutiones Apostolicæ,' viii. 4, 5, in W. Whiston's 'Primitive Christianity Reviv'd,' London, 1711, ii., which relate to the election and consecration of bishops.

379. 23. In Adam King's Kalendar (Forbes, p. 166), under date 6th November, we find entered "S. Wilbrodde bischop and confess. in frisland scotisman vnder Iustiniane, 688." See Dempster, ii. 651.

379. 28. In Adam King's Kalendar (Forbes, p. 167), under date 13th November, we find entered "S. Kiliane bischop and confess. in Franconia scotisman vnder Iustinian 2, 687." See Dempster, ii. 416.

380. 1. St Oda, said to have been the daughter of Eugenius, king of Scotland, was celebrated both in Scotland and in Flanders. Her day is 27th November; and in Adam King's Kalendar (Forbes, p. 168) 700 is given as her date (Forbes, p. 425; Dempster, ii. 509).

380. 4. As to St Colman and St Finnan, see notes to vol. ii. 121, l. 3; 371, l. 6 above.

380. 11. As to St Cuthbert, see note to vol. ii. p. 118, l. 30 above.

380. 18. King David's charter to the monks of St Cuthbert at Durham commences with the words, "David Dei gratia Rex Scottorum omnibus per regnum suum in Scotia et Lodoneio constitutis Scottis et Anglis salutem" (Lawrie, 54, 314).

381. 6. St Fillan is said to have been the son of an Irish prince and St Quentigerna, sister of St Congan. St Congan with his sister and her son crossed to Lochalsh, in what is now the county of Ross. The principal scene of St Fillan's labours was the upper part of Glendochart in Perthshire, now known as Strathfillan, where he is said to have died, *circa* 700. His day is 9th January. He is to be distinguished from St Fillan or Faelan, whose day is 20th June (Forbes, pp. 341 ff.; Mackinlay, pp. 162, 165 ff.). As to the effect of the presence of one of his relics at the Battle of Bannockburn, see Boece (Bellenden's transl.), xiv. 11.; Mackinlay, pp. 167 f. As to St Congan, see Forbes, pp. 310 f.; and St Quentigerna, see Forbes, pp. 310 f., 373; Mackinlay, pp. 162 ff.

381. 24. Bisset follows Boece (Bellenden's transl.), ix. 25, in making St Donald's daughters seven in number. In Adam King's Kalendar (Forbes, p. 157), under date 15th July, their number is given as nine. They retired to Abernethy, and were buried under an oak which was held in veneration as late as the seventeenth century. Forbes gives 12th July as the saint's day, and *circa* 716 as his date (Forbes, pp. 324 f.; Mackinlay, pp. 16 ff.).

382. 3. In Adam King's Kalendar (Forbes, p. 142), under date 21st January, we find entered "S. VVimine bischop in scotland, 715." See Dempster, ii. 637.

382. 15. In Adam King's Kalendar (Forbes, p. 143), under date 29th January, we find entered, "S. Makwolok bischop in scotland, 720." It is probably to this saint that Bisset refers. His name, latinised Volocus, may be a form of the Irish name Faelchu. A Faelchu Mac Dorbene was abbot of Hy in 717-24 (Forbes, pp. 459 ff.; Mackinlay, pp. 142 f.; Skene, 'Celtic Scotland,' ii. 177).

382. 26. As to the election of the emperor, Polydore Vergil, 'De Rerum Inventoribus,' iv. 10, writes as follows: "Et postremo Gregorius quintus, ut suam gentem, fuit enim homo Germanus singulari quopiam beneficio afficeret, auctoritatem in posterum tempus eligendi Imperatoris fecit archiepiscopis, Moguntino, Treuerensi & Coloniensi, item marchioni Brandeburgensi, comiti Palatino, duci Saxonie, et regi Boemie, ut qui ab eis renunciatus esset, Cæsar & Romanorum rex diceretur ac deinde Imperator statim, ut electionem hujusmodi Romanus pontifex comprobasset. Fuit is annus humanæ salutis MII."

383. 18. In Adam King's Kalendar (Forbes, p. 168), under date 20th November, we find entered "S. Maxence dochter to ye king of scotland and mart. at ye brige callit frome hir brige of S. Maxence in france vnder constantinus, 742." See Dempster, ii. 458. "This," says Forbes, p. 395, "is Easscon bishop, *i.e.*, Mo-Easconn (another case of unsexing)". See his observations and the note to p. 410 l. 7 below regarding St Kevoca.

383. 19. Bisset writes "Etfynnus" for "Ethfyn."

383. 25. In Adam King's Kalendar (Forbes, p. 146), under date 2nd March, we find entered, "S. Cedde bisch. of the mers in scot. vnder Constantine ye 5, 746." See Dempster, i. 131. St Cedd and St Chad were brothers. The former founded the monastery of Lestingan, now Lastingham, in Yorkshire. He laboured among the East Saxons, and died in 664. On his death, his brother St Chad was chosen abbot of Lestingan. He became bishop among the Mercians, and had his episcopal seat first at Repton, and afterwards at Lichfield. He died in 672 (Mackinlay, pp. 258 ff.). In King and Bisset there seems to be a confusion of the Merse with Mercia, and of St Cedd with St Chad. See p. 399, l. 3 and relative note.

384. 3. According to Platina, Stephen III. was the son of Olybrius.

385. 5. As to the treaty with Charles the Great, see note to vol. i. 35, l. 1 above.

385. 21. As to Joannes Mailrocius, Claudius Clemens, and Samson, see Boece (Bellenden's translation), x. 4; Dempster, i. 175 ff.; ii. 476 ff., 579 f.

386. 2. St Boniface, the apostle of Germany, was born at Crediton in Devonshire, *circa* 680. He became a monk, and undertook a mission to the Frisians. He visited Rome in 718, and obtained the papal authority to preach to the German tribes. He carried on missionary work in Bavaria, Thuringia, Friesland, and other parts of Germany. He was recalled to Rome in 723 and consecrated bishop. In recognition of his labours he was made Archbishop of Germany, and in 746 became Archbishop of Mainz (Moguntiacum). In 754 he resigned his office and resumed his missionary work, and was martyred in West Friesland in the following year. His day is 5th June (see Baronius, 'Mart. Rom.,' and 'Acta Sanctorum' of the Bollandists under that date).

386. 6. "Myntis" *i.e.*, Mainz ("Moguntiacum").

386. 10. The references are to Matthias Flacius, 'Historia Ecclesiastica,' 1556-7, sometimes cited as 'Centuriæ Magdeburgenses' (see the edition of L. Lucius, Basel, 1624, VIII. century, ii. pp. 444 ff.), and Patrick Symson, 'The History of the Church . . .' (see 3rd ed., London, 1634, p. 337).

386. 27. St Egidius or Giles is said to have been a Greek by birth. He came to Gaul, and was appointed head of a monastery situated where the present town of St Gilles stands. His day is 1st September and his date is given as *circa* 712. In Adam King's Kalendar (Forbes, p. 161) he is called "abot of arls in Prouance, patron of Edinbourge." According to Forbes, he "finds his way into the Scottish Kalendars through that of Sarum" (Forbes, pp. 331 f.; Mackinlay, pp. 352 ff.).

387. 5. St Gervadius or Gernadius, an Irishman by birth, came to Moravia and built a cell at a place called Kenedor, where he

lived the life of an anchorite. His day is 8th November, and his date 934 (Forbes, pp. 354 f.; Mackinlay, p. 214; Skene, 'Celtic Scotland,' ii. 369; Boece (Bellenden's translation), x. 5).

387. 8. As to King Achaius and the treaty with Charles the Great, see the authorities cited in the note to vol. i. 35, l. 1.

387. 9. Eginhard in his 'Vita Caroli Magni,' Helmstadt, 1806, pp. 76 ff. mentions six daughters, none of whom bears this name.

387. 15. As to King Achaius' brother, see Boece (Bellenden's translation), x. 2-4. The same story is told by Leslie in his 'History of Scotland,' lib. v.

387. 21. Sir George Mackenzie in c. 34 of his 'Heraldry' describes the shield as follows: "Or, a Lion rampant *Gules*, armed and langued *Asure*, within a double Tressure flowred and counterflowred with Flowers-de-lis of the second, encircled with the Order of *Scotland* the same being composed of Rue and Thistles, having the Image of St *Andrew* with his Cross on his Breast." Mackenzie adds that "the double Tressure flowred and counterflowred was bestowed upon our Kings by *Charle-maigne* when he entred in a League with *Achaius* King of *Scots*, to shew that the *French* Lilies should still defend and guard the *Scottish* Lion."

388. 31. As to Buckingham's expedition to the Isle of Rhé, see S. R. Gardiner, 'History of England from the Accession of James I. to the Outbreak of the Civil War,' London, 1884, vi. 172 ff. Buckingham was assassinated on 23rd August, 1628 (*Ib.*, vi. 349). The English prisoners were sent back unransomed ('The Political History of England,' London, 1907, vii. 145).

390. 18. That the lion of Florence was maintained as a memorial of "Scottis Gulliames wirthie deidis" is a fable (see Boece (Bellenden's translation), x. 3, 4). The lion was to Florence what the eagle was to Pisa, and the wolf to Rome. In 1305 a petition regarding his salary was presented by Matteo Corazzaio "qui electus est officialis ad custodiendum leonem" (J. del Lungo, 'Dino Compagni e la sua Cronica,' Firenze, 1879-87, i. pt. ii. p. 580 note).

391. 28. 1567, c. 3 ('A. P.,' iii. 14).

391. 32. 1567, c. 4 ('A. P.,' iii. 14).

392. 2. 1560, c. 2 ('A. P.,' ii. 534, 535).

392. 6. 1567, c. 5 ('A. P.,' iii. 22).

392. 8. 1560, c. 4 ('A. P.,' ii. 535).

392. 19. 1572-73, c. 12 ('A. P.,' iii. *75).

392. 33. 1581, c. 1 ('A. P.,' iii. 210).

393 4. 1567, c. 2 ('A. P.,' ii. 548).

394. 20. In Adam King's Kalendar (Forbes, p. 167), under date 8th November, St Moroc is described as "confess. in scotland vnder king Achaius, 817." His church and sepulchre are stated in the Martyrology of Aberdeen to be at Lekraw near Stirling (Forbes, p. 414; Mackinlay, p. 503).

394. 25. St Giles' Grange was a farm near Edinburgh (Fordun, xi. 21). In 1512 Sir John Crawford, one of the prebendaries of St Giles's College, granted 33 acres of land in the burgh moor to a chapel built at St Giles Grange (G. Chalmers, 'Caledonia,' Paisley, 1889, iv. 773 note (f.)) As to the treatment of the plague-stricken, see Chambers, 'Domestic Annals of Scotland,' Edinburgh, 1858, i. 52 f.

395. 13. In Adam King's Kalendar (Forbes, p. 170), under date 18th December, we find entered, "S. Manere bischop and confess. in scotland vnder king dungalle, 824." (See Forbes, p. 387; Mackinlay, p. 221).

395. 16. In Adam King's Kalendar (Forbes, p. 147), under date 10th March, we find entered, "S. Hemelin confess. scotisman vnder king dungallus, 722." See Dempster, ii. 337.

396. 2. As to king Kenneth, see notes to vol. i. 41, l. 24; vol. ii. 152, l. 18 above.

396. 17. In Adam King's Kalendar (Forbes, p. 160), under date 18th August, we find entered, "S. Inane confess. at iruine in scotland vnder king kennede ye 1, 839." (See Forbes, pp. 359 f.; Mackinlay, pp. 191 f.).

396. 22. In Adam King's Kalendar (Forbes, p. 148), under date 5th April, we find entered, "S. Tigernake bisch. and confess. in scotland vnder king alphine, 823." Forbes, p. 452, seems to identify him with a bishop of Clogher, who is said by some to have died in 506.

396. 25. According to the Scottish Kalendars, St Berchan was bishop in the Orkneys. His day is 6th April. Forbes (p. 279) identifies him with St Bearchan, whose day is 4th August (see Mackinlay, p. 79).

397. 18. The reference is to the Chronicle of Martinus Polonus, archbishop of Gnesen, p. 150, in Marianus Scotus, 'Cronica,' Basel, 1559.

397. 20. As to the fable of Pope Joan, see J. J. Ign. Döllinger, 'Fables respecting the Popes of the Middle Ages,' trans. by A. Plummer, London, 1871.

399. 3. "Lyndeffer." The inhabitants of the district of Lincolnshire called Lindsey are called "Lindisfari" by Bede ('Hist. Eccles.,' iii. 24; iv. 3, 12; v. 23; see Plummer's ed., ii. 108). The names of the bishops of Mercia were Diuna, Cellach, Trumhere, Jaruman, Ceadda, and Wynfrith (Bede, *loc. cit.*). As to Ceadda, see note to vol. ii. 383, l. 25 above.

399. 12. The reference to the 'Polychronicon' should be i. c. 55.

399. 19. As to king Gregory, see note to vol. i. 46, l. 33.

399. 22. In Adam King's Kalendar (Forbes, p. 149), under date 13th April, we find entered, "S. Guinoche bischop and confess. in scotl. vnder king Ethus, 875." Forbes, p. 358, gives 838 as his

date. Dempster, i. 306, makes him abbot of Deer. As to Diuna, see note to l. 3 above.

399. 29. As to Hethus Alipes, see Skene's edition of Fordun, ii. 408.

400. 4. Queranus is the latinised form of Ciaran or Kieran. The saint was born in Ireland in 515. In 547 he founded the monastery of Clonmacnois, and died seven months later (Forbes, pp. 435 f.; Mackinlay, pp. 85 ff.). Bisset follows King (Forbes, p. 161) in giving 876 as his date. His day is 9th September.

400. 8. Boece (Bellenden's translation), xi. 18, says that king Malcolm erected a Church in Buchan and dedicated it to Olaf, "patron of Norrway and Denmark."

400. 11. In Adam King's Kalendar (Forbes, p. 146), under date 1st March, we find entered, "S. Mynnane archideacon and confess. in scotland vnder king constantine ye 2, 879." According to the Scottish legend St Monan or Mynnane was born in Hungary, and came with St Adrian (see note to vol. ii. 12, l. 18 above) to the Isle of May, where he and his companions were martyred. According to the Irish Kalendars the day is dedicated to a saint who as Moinend, Moenen or Moenu, is recognised as the suffragan bishop of St Brandan of Clonfert who died in 571 (Forbes, pp. 412 f.; Mackinlay, pp. 492 ff.; Skene, 'Celtic Scotland,' ii. 312 ff.).

401. 15. As to St Adrian, see note to vol. ii. 12, l. 18 above.

401. 3. St Tarken (the name occurs under various forms) was a Pictish saint who laboured in the north of Scotland. He flourished *circa* 600, and is said to have been a bishop and confessor (Forbes, p. 449; Mackinlay, p. 213). King (Forbes, p. 166) gives 889 as his date. His day is 30th October.

401. 8. As to St Machar, see note to vol. ii. 23, l. 12 above.

401. 15. As to the transference of the seat to Aberdeen, see note to vol. ii. 24, l. 23 above.

401. 22. St Devenic is associated with St Columba and St Machar. The scene of his labours was Caithness. He was buried at Banchory-Devenick, where a church was built in his honour (Forbes, pp. 323 f.; Mackinlay, p. 156 f.). His day is 13th November.

402. 1. A disciple of St Cadoc (*circa* 514, according to Forbes, p. 292) St Machan proceeded to Rome where he was consecrated bishop. He was buried at Campsie (Forbes, pp. 380 f.; Mackinlay, pp. 197 ff.). King (Forbes, p. 163), under 28th September, gives 856 as his date.

402. 12. In Adam King's Kalendar (Forbes, p. 166) St Baya's day is given as 1st November and 896 as her date. Forbes gives 3rd November as her day. She is said to have lived in the island of Cumbrae, surrounded by beasts and birds, and to have been visited there by St Maura, who taught what she learned from the saint to the virgins associated with her (Forbes, pp. 276 f.; Mackinlay, p. 192).

403. 7. As to St Maura, see immediately preceding note. Her day is 2nd November according to King (Forbes, p. 166), 3rd November according to Forbes, p. 393. See Mackinlay, pp. 192 f.

404. 2. As to Constantine III., see Fordun, iv. 20 ff, and Skene's edition, ii. 409; Boece (Bellenden's translation), xi. 1.

404. 7. As to the order of Clugny, see note to vol. ii. 112, l. 30.

404. 9. "Masticensis." The proper form seems to be "Matisconensis." The place referred to is the modern Mâcon ("Matisco").

405. 20. On leaving Ireland St Donan prosecuted his missionary labours in the south-west of Scotland. He visited St Columba, and afterwards built a cell at Kildonan in Sutherland. He and his companions were martyred in the island of Eigg in 617. His day is 17th April (Forbes, p. 325; Mackinlay, pp. 153 ff.).

406. 14. As to St Munde, see note on vol. ii. 48, l. 23 above.

406. 28. Nothing is known of St Engladius except that he was associated with the parish of Tarves (Forbes, p. 332; Mackinlay, p. 504). In Adam King's Kalendar (Forbes, p. 166) he is said to have been bishop and confessor in Scotland in 966. His day is 3rd November.

407. 10. In Adam King's Kalendar (Forbes, p. 144), under date 17th February, St Fintan is said to have been prior in Scotland in 973. See Forbes, p. 349. Mackinlay, p. 71, regards him as a companion of St Columba.

408. 10. In Adam King's Kalendar (Forbes, p. 169), under date 14th December, we find entered, "S. Drostane mounke and confess. in scotland, mother brother to king Achaius, 587." According to the Aberdeen breviary he was a nephew of St Columba. For a time he was an abbot in Ireland. Afterwards he crossed to Scotland and founded the church of Glenesk in Angus. His relics were preserved at Aberdour in Aberdeenshire. According to the Book of Deer he accompanied St Columba to Aberdour, which was granted to them by the ruler of the country, together with the site of the abbey of Deer (Forbes, pp. 326 f.; Mackinlay, pp. 214 ff.; Fordun, iii. 38).

409. 5. In Adam King's Kalendar (Forbes, p. 154), under date 6th June, we find entered, "S. Colme bischop and confess. in scotland vnder king kennethe 3, 1000." He is said to have been raised from the dead and baptised by St Blane (see note to vol. ii. 45, l. 26 above), and to have been buried at Dunblane (Forbes, pp. 280, 307).

409. 9. As to St Blane, see note to vol. ii. 45, l. 26 above.

409. 18. As to the election of the emperor, see note to vol. ii. 382, l. 26 above, where the passage from Polydore Vergil here referred to is quoted.

410. 7. St Kemoth or Kevoca has been unsexed. "The real name is Caomhan or Pulcherius, the affectionate form of which is Mo-

chaemhoc pronounced Mo-keevoc" (Forbes, p. 375). Bishop Reeves ('The Culdees of the British Islands,' Dublin, 1864, p. 34 note, quoted by Mackinlay, p. 134) observes that "the history of his metaphysis is easily explained. The termination *og* is grammatically feminine. The Gaelic-speaking Scotch of the Middle Ages, not knowing the antecedents of St Caemhog, changed his gender, and the hagiologist accepted the name upon the terms." See the note to vol. ii. 383, l. 18 above, regarding St Maxentia. St Caemhog's date is given by Forbes, p. 374, as 655. In Adam King's Kalendar (p. 147), under date 13th March, we find entered, "S. Kennoche virg. in scotland vnder king Malcoline 2, 1007."

410. 17. As to St Bean, see note to vol. ii. 24, l. 21 above. As to the transference of the see, see note to vol. ii. 24, l. 23 above.

411. 5. As to St Congall, see note to vol. ii. 111, l. 31 above.

411. 19. In Adam King's Kalendar (Forbes, p. 160), under date 27th August, we find entered "S. Malrube heremeit and mart. be ye daneis at marne in scot. vnder king malcolme 2, 1024." The saint was born in 642, and joined the monastery at Bangor in County Down. In 671 he crossed to Scotland and founded the monastery at Apurcrossan (Applecross in Ross). He was martyred there by a band of Norwegians in 722. Another legend makes the scene of his martyrdom Strathnaver in Sutherland. According to the Irish accounts he died at Applecross at an advanced age on 21st April 722 (Forbes, pp. 382 ff.; Mackinlay, pp. 172 ff.; Dempster, ii. 450*).

412. 3. In Adam King's Kalendar (Forbes, p. 162), under date 22nd September, we find entered "S. Lolane bischop and confess. in scotlande vnder king dunkane, 1034." He is said to have been the nephew of St Servanus (see note to vol. ii. 12, l. 3), to have been born in Galilee, and to have come to Rome, where he was appointed claviger at the church of St Peter. After some years he determined to visit his uncle in Scotland. He is said to have been buried at Kincardine in Menteith (Forbes. pp. 378 f.; Mackinlay, pp. 489 f.).

412. 7. As to Banquo and the Stewarts, see note to vol. i. 59, l. 8.

413. 1. If the reference be to Henry I., the date is obviously wrong.

413. 20. As to St Brandan II., see vol. ii. 118, l. 19 above and relative note.

414. 2. As to St Barr, see note to vol. ii. 46, l. 16 above.

414. 4. As to Durham, see note to vol. ii. 118, l. 10.

414. 8. "Mathilda alias bona." The queen was known as "Maud the good."

414. 10. As to the priory of Carlisle, see note to vol. ii. 119, l. 12 above.

414. 12. As to the privilege of the earls of Angus, see vol. ii. 156-7 above and relative notes.

414. 19. As to Gualbert, see note to vol. ii. 119, l. 30 above.
415. 2. The reference to Polydore Vergil may be to 'De Rerum Inventoribus,' lib. vii. c. 2.
415. 11. As to St Bruno and the Carthusians, see note to vol. ii. 123, l. 1 above.
415. 21. St Margaret, queen of Malcolm Canmore, died on 16th November 1093 (see Forbes, pp. 387 ff.; Mackinlay, pp. 3 ff.; Hume Brown, 'History of Scotland,' 1900, i. 62 f.).
415. 25. As to Robert, abbot of Molesme and the Cistercians, see note to vol. ii. 111, l. 7 above.
416. 5. The reference to Polydore Vergil is to 'De Rerum Inventoribus,' vii. 2.
416. 16. As to St Magnus, see note to vol. ii. 49, l. 26 above.
418. 16. St Malachi or Michael, archbishop of Armagh, *circa* 1148, visited Scotland twice. He is said on the first occasion to have cured the king's son, and on the second to have made preparations for the foundation of an abbey at Viride Stagnum in Galloway. This was probably the abbey of St Michael, otherwise called Saulseat ("sedes animarum") (Forbes, pp. 398 f.; Mackinlay, p. 15).
419. 25. As to St Gilbert, see note to vol. ii. 46, l. 23 above.
420. 16. As to the foundation of Perth, see H. Boece (Bellenden's translation), xiii. 9.
421. 23. The Act as to the privilege accorded to the Archbishop of St Andrews is 1481-82, c. 15 ('A. P.,' ii. 140).
421. 28. As to the Franciscans, see notes to vol. ii. 127, l. 10 above.
422. 18. The reference is to Polydore Vergil, 'De Rerum Inventoribus,' vii. 14.
423. 9. As to the Crown of Thorns, see Villegas cited in next note.
423. 13. The reference as to St Louis is to Villegas, ii. pt. i. 444, 452-3.
423. 30. As to the Franciscans, see note to vol. ii. 127, l. 10 above.
424. 7. The references are to Polydore Vergil, 'De Rerum Inventoribus,' vii. 4.
424. 25. As to St Duthac, see note to vol. ii. 40, l. 27 above.
425. 2. On 19th June 1250 (Fordun, x. 3) or in 1251 Queen Margaret's relics were transferred to Dunfermline (Forbes, p. 390).
425. 4. As to the bull "Volentes," see note to vol. i. 96, l. 15 above.
426. 7. The reference is to St Thomas Aquinas, whose day was 7th March (see Adam King's Kalendar (Forbes, p. 146)).
427. 11. Albert I. of Austria was elected 23rd June 1298. He was killed on 1st May 1308. His successor, Henry VII., Count of Luxemburg, was elected on the 15th November following.
427. 13. As to Baldred Bisset's "Processus," see vol. ii. 184 ff. above and relative notes.
428. 5. The bull of Boniface VIII. is dated 28th June 1299

(Rymer, 'Fœdera,' i. pt. ii., p. 907; 'Calendar of Papal Registers, Papal Letters,' i. 584. See 'Liber Pluscardensis,' ed. F. J. H. Skene (Historians of Scotland Series), Edinburgh, 1877-80, viii. 30).

428. 23. Clement's letter has not been traced.

429. 10. As to the institution of the College of Justice, see vol. i. 88 ff. and relative notes.

431. 22. As to Bagimont's Roll, see note to vol. ii. 2, l. 17 above.

432. 12. The reference to Polydore Vergil has not been traced.

432. 25. As to the charterhouse at Perth and St Bruno, see note to vol. ii. 122, l. 22 above.

433. 12. Eneo Silvio de' Piccolomini was sent on a mission to Scotland in 1435. He was elected pope in 1458, and took the name of Pius II. An account by him of his visit to Scotland will be found in P. Hume Brown's 'Early Travellers in Scotland,' Edinburgh, 1891. Bisset's statement is borrowed from Boece (Bellenden's translation), xvii. 8.

433. 17. For reference to Boece, see immediately preceding note.

434. 15. The reference is to 1485, c. 6 ('A. P.,' ii. 171).

434. 17. As to the alliance with France, see vol. i. 35 ff. and relative notes. As to the Norway Annual, see note to vol. i. 150, l. 8.

435. 14. Boece ('Murthlacensium et Aberdonensium Episcoporum Vitæ' (Bannatyne Club), Edinburgh, 1825, p. 70) writes: "Christianæ religionis protectorem declaravit, missis ad eum legatis qui galerum purpureum, aureis floribus varie contextum, ensem, aureo capulo, vagina aurea gemmis consita, pontificis nomine offerrent." The statement that the pope conferred this title upon King James seems to be due to a confusion of the papal embassy of 1507 with that of 1536 (see Leslie, 'Historie of Scotland,' translated by F. James Dalrymple (Scottish Text Society), ii. 123). In his letter of thanks ('Epistolæ Regum Scotiæ,' Edinburgh, 1722, i. 82), the king refers to the hat and sword, but does not mention the title. The sword is still preserved among the Regalia (A. J. S. Brook, "Technical Description of the Regalia of Scotland" in 'Proceedings of the Society of Antiquaries of Scotland,' 1889-90, xxiv. 112).

436. 23. As to the institution of the College of Justice, see vol. i. 88 ff. and relative notes.

439. 9. Alessandro Lodovisi, born at Bologna, was created archbishop of Bologna in 1612. He became cardinal priest of Santa Maria Transpontina, and was elected pope in 1621 under the name of Gregory XV.

GLOSSARY

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- A bak, *adv.* back, i. 112, l. 25.
 Abbrogad, *past p.* abrogated, i. 45, l. 13.
 Abefoir, *adv.* before, i. 31, l. 30.
 Abolisch, *v.* destroy, ii. 331, l. 29; do away with, ii. 349, l. 27.
 Abone, *prep.* above, i. 31, l. 16.
 Above, *prep.* contrary to, i. 50, l. 12.
 Abrogat, *pret.* abrogated, i. 42, l. 10.
 Abstinence, *s.* cessation from proceedings in action at law, i. 168, l. 32.
 Absolutioun, *s.* setting free of defender from pursuer's claim by decision of court, i. 180, l. 2. See note.
 Absolve, *v.*, i. 182, l. 5. See Absolutioun.
 Absolvitoure, *s.*, i. 228, l. 25. See note to i. 180, l. 2.
 Abstene, *v.* abstain, ii. 169, l. 30.
 Abuljeamentis, *s.* clothes, ii. 259, l. 12.
 Aburde, *adv.* aboard, ii. 235, l. 17.
 Abusing, *s.* act of putting to a wrong use, ii. 239, l. 16.
 Abyde, *v.* await, i. 134, l. 21.
 Acceptatioun, *s.* acceptance, i. 141, l. 17.
 Accessour, *s.* accessory, i. 218, l. 31.
 Acclame, *v.* claim, i. 193, l. 13; 244, l. 16.
 Accord, *v.* reconcile, ii. 158, l. 8; agree, ii. 233, l. 10; *as accordis*, as is conformable to law, ii. 264, l. 10.
 Accustumabill, *adj.* according to use, i. 139, l. 20.
 Accustumate, *adj.* customary, ii. 262, l. 22; *to be accustumate to be*, to be in accordance with the practice, i. 238, l. 33; *to be accustumate to*, to follow the practice with regard to, ii. 234, l. 4. See note to l. 3.
 Act, *v.* to act himself or to be acted is said of a man who binds himself judicially to perform a certain action, *e.g.*, to pay a sum of money or to be a surety or cautioner, and whose bond is entered in an official book or register, i. 254, l. 23; to enact, i. 242, l. 5.
 Act of adjornall, a regulation enacted by the judges of the High Court of Justiciary, i. 144, l. 17.
 Act buik, i. 254, l. 21. See Act.
 Act of Court is an interlocutor which does not contain any decerniture, i. 146, l. 19. See Apud Acta.
 Act of witnesses. See note to i. 152, l. 1.
 Acta, Apud. See Apud Acta.
 Actore, *s.* author, i. 11, l. 7.
 Addetted, *past p.* owed, ii. 177, l. 24.
 Addicted, *past p.* devoted, i. 11, l. 24.
 Adject, *v.* add, i. 194, l. 13.
 Adjoned, *past p.* adjoined, i. 94, l. 15.
 Adjournal, Act of. See Act of Adjornall.
 Admiraltie, *s.* Admiralty, ii. 235, l. 4.
 Ado, *v.* do, i. 16, l. 5.
 Ado, *s.* to have to *ado with*, to be concerned with, i. 224, l. 22.
 Adventoure, *s.* hazard, ii. 233, l. 4; mishap, i. 29, l. 3; ii. 234, l. 28; 248, l. 34; *gae to [wraik] be adventoure*, are wrecked by running aground (transl. of "perissent et aduenturent"), ii. 232, l. 32.
 Adventure, *v.* to run aground, to be wrecked, ii. 233, l. 19.
 Adversar, *s.* the opposite party in a law suit, i. 151, l. 11; 259, l. 7.

- Adverteis, Advertese, *v.* inform, notify, ii. 280, l. 26; i. 49, l. 31.
- Advertisement, *s.* admonition, ii. 170, l. 24; *to mak advertisement*, to notify, inform, i. 4, l. 31.
- Advise, *s.* counsel, ii. 390, l. 7; ii. 237, l. 3. See note to l. 2.
- Advise, *v.* deliberate, i. 70, l. 20; 168, l. 26; *to advise the cause*, to consider and decide it (Ersk., 'Inst.,' iv. l. 71), i. 212, l. 10; *to be weill advised*, to have given careful consideration, i. 169, l. 23.
- Advisement, *s.* deliberation, ii. 319, l. 20; consultation, consideration (used in the sense of delay granted for consultation), i. 169, l. 24.
- Advocat, *s.* See note to i. 157, l. 20.
- Advocatioun, *s.* the calling of an advocate, i. 158, l. 28; a form of procedure. See Introduction above, pp. 88 f.
- Æfauld, *adj.* honest, i. 84, l. 26.
- Afferm the courte, i. 303, l. 1, see note to i. 248, l. 10; *to afferm the judge*, to accept him as competent, i. 173, l. 23.
- Affray, *v.* make afraid, i. 259, l. 17.
- Afoir, *prep.*, ii. 110, l. 33.
- Afspring, *s.* offspring, ii. 204, l. 2.
- Agane, *adv.* again, ii. 274, l. 7.
- Agane calling of a dome, i. 281, l. 2. See Falsing.
- Agane sayd, contradicted, i. 281, l. 6. See Falsing.
- Aganis, *prep.* against, i. 96, l. 7; in regard to, with respect to, i. 51, l. 23; 311, l. 4; ii. 76, l. 24.
- Agent, *s.*, i. 155, l. 27. See note.
- Aggreance, *s.* agreement, ii. 196, l. 14.
- Aggredge, *v.* increase, i. 96, l. 7.
- Aggrie, *v.* to cause the parties to a dispute to agree, i. 29, l. 13; to agree, i. 13, l. 4; *pres. p.* aggreand, i. 13, l. 4.
- Agill, *adj.* agile, ii. 170, l. 18.
- Agment, *v.* add to, increase, i. 278, l. 12.
- Agmentatioun, *s.* addition, increase, i. 278, l. 14.
- Aidged, *adj.* aged, ii. 277, l. 10.
- Aige, *s.* age, ii. 177, l. 4. See Perfyte aige.
- Aik, *s.* oak, ii. 163, l. 8.
- Air, *s.* heir, ii. 372, l. 19; heiress, i. 59, l. 23.
- Air, *s.* eyre, circuit court, i. 16, l. 12; ii. 215, l. 14.
- Airship geir, ii. 92, l. 9. See note.
- Airt, *s.* art, i. 29, l. 22.
- Aith, *s.* oath, ii. 99, l. 15. As to the great oath, see note to i. 303, l. 18.
- Aith de calumnia, an oath by the pursuer that he has just cause to pursue his libel or to deny an exception, or by the defender that he has just cause to deny the libel or to state an exception, i. 189, l. 18.
- Aith in litem, an oath referred by the judge to the pursuer for determining the value or quantity of the goods taken from the defender without order of law, or for fixing the amount of the damages (Ersk., 'Inst.,' iv. 2, 18), i. 194, l. 29.
- Aith of veritie or oath of reference, where one of the parties refers the fact in dispute to the oath of the other, i. 193, l. 1.
- Aittis, *s.* oats, ii. 95, l. 1.
- Albis, *ln*, i. 73, l. 1. See note.
- Alia, *adj.* connected by marriage or descent, i. 293, l. 10.
- Alias, *adv.* otherwise, ii. 355, l. 32; otherwise called, ii. 182, l. 5.
- Aliementer, *adj.* relating to the provision of maintenance required by law, i. 145, l. 6.
- Allanerlie, *adv.* only, i. 57, l. 20.
- Allegit, *v.* founded upon in argument, i. 81, l. 8.
- Allegeance, *s.* duty of subject to king, ii. 187, l. 31.
- Allegeance, *s.* allegation, averment, ii. 60, l. 5; statements and arguments in court proceedings, i. 106, l. 29.
- Allow, *v.* approve, ii. 35, l. 17.
- Alluterlie, *adv.* wholly, entirely, ii. 108, l. 1; excessively, ii. 352, l. 1.
- Almouze, *s.* alms, donation for religious purposes, ii. 31, l. 26.
- Almouzehouis, *s.* almshouses, ii. 38, l. 11.
- Als, *adv.* also, i. 36, l. 12.
- Als, *conj.* as, ii. 262, l. 2.
- Als, *adv.* alias, i. 71, marginal note, ii. 333, l. 22.
- Alsmekill, *adv.* as much, ii. 70, l. 13.
- Alsome, *adv.* as soon, i. 153, l. 13.
- Alswell, *adv.* as well, ii. 101, l. 30.
- Alterage, *s.* a fund for the maintenance of an altar and priest to say masses thereat, ii. 139, l. 16.
- Alteratioun, *s.* distemper, physical disorder, i. 26, l. 22. See note.

- Alwyse, *conj.* notwithstanding, i. 192, l. 9; in any case, ii. 175, l. 22.
 Alyance, *s.* allies, ii. 222, l. 3.
 Alyantis, *adj.* alien, foreign, ii. 216, l. 7.
 Amand, *s.* fine, i. 266, l. 15.
 Amangis, *prep.* among, i. 10, l. 1.
 Amend, *v.* make amends for, ii. 248, l. 1; repair, ii. 242, l. 11; 244, l. 11; correct, ii. 139, l. 11.
 Amise, *adv.* amiss, ii. 355, l. 10.
 Amissioun, *s.* loss, ii. 272, l. 13.
 Amit, *v.* lose, i. 165, l. 12.
 Amplyfie, *v.* extend, i. 264, l. 29.
 And, *conj.* if, i. 134, l. 10.
 Ane, *adj.* a, an, i. 3, l. 27.
 Ane, *adj.* one, i. 5, l. 17; the same, ii. 305, l. 18.
 Anentis, *prep.* concerning, i. 63, l. 10.
 Aneuch, *adv.* enough, i. 84, l. 14.
 Anis, *gen.* of ane, i. 15, l. 8.
 Anis, *adv.* once, i. 235, l. 11.
 Anker, *s.* anchor, ii. 245, l. 27.
 Annaliare, *s.* one who alienates property, ii. 145, l. 27.
 Annalie, *v.* dispose of, alienate, i. 85, l. 3.
 Annatt, *s.*, ii. 89, l. 9. See note to ii. 89, l. 10.
 Annuel, *s.* feu-duty, i. 138, l. 8; yearly payment, i. 273, l. 26.
 Annuelrent, *s.* interest, i. 172, l. 25.
 Anseuir, *v.* be responsible for, ii. 220, l. 20; appear when summoned, i. 150, l. 13; give or do something when required, i. 129, l. 9.
 Anseuir, *s.* answer, ii. 373, l. 11.
 Answerabill, *adj.* adequate, i. 112, l. 8; to be answerabill, to make an adequate response, i. 158, l. 16.
 Antecessour, *s.* predecessor, i. 4, l. 30.
 Appase, *v.* pacify, i. 7, l. 6.
 Appeir, *v.* appear, ii. 192, l. 34; *pres. p.* appeirand, i. 309, l. 6.
 Appeirand, *adj.* apparent, i. 142, l. 24.
 Appellatioun, *s.* appeal, ii. 216, l. 25.
 Apperrel, *v.* equip, ii. 255, l. 12.
 Appertene, *v.* belong, ii. 206, l. 18; *appertenis of*, is peculiar to, ii. 252, l. 33; *as appertenis*, as is proper or due, ii. 218, l. 14.
 Apply to, *v.* appropriate to, ii. 226, l. 5.
 Appoyntment, *s.* agreement, ii. 253, l. 5.
 Appoynttare, *s.* one who devotes or destines something to a specific purpose, ii. 187, l. 2.
 Apprehend, *v.* arrest, i. 208, l. 4; cite, i. 136, l. 26, see note; take possession of, i. 94, l. 11; seize, i. 94, l. 11; ii. 255, l. 17.
 Approve, *v.* approve, ii. 37, l. 9; *pres. p.* apprevand, i. 108, l. 6; *past p.* approvin, i. 241, l. 28.
 Appryse, *v.* value, i. 299, l. 32.
 Apprysing, *s.* value, ii. 223, l. 4; a form of procedure. See Comprysing.
 Approbrious, *adj.* opprobrious, ii. 261, l. 15.
 Appropriate, *v.* make a thing over to a person as his own, i. 306, l. 24.
 Appruif, *v.* approve, i. 93, l. 14.
 Apud Acta. The expression means "in the course of procedure" and refers to orders judicially pronounced in the presence of parties (Trayner, 'Latin Maxims and Phrases,' fourth ed., Edinburgh, 1894, p. 51), ii. 72, l. 15. See Act of Court.
 Arare, *adv.* rather, i. 51, l. 24.
 Arbitrall, *adj.* discretionary, ii. 240, l. 2.
 Archadicien, *adj.*, i. 77, l. 20. See note.
 Archibischoprie, *s.* archbishopric, ii. 52, l. 11.
 Archidene, *s.* archdeacon, ii. 109, l. 18.
 Argoun, *v.* argue, i. 221, l. 30; argue with, i. 221, l. 9.
 Armyes, *s.* armies applied to naval forces, ii. 216, l. 14.
 Arreist, *v.*, i. 244, l. 24. See Arreistment.
 Arreistment, *s.* the command of a judge prohibiting the debtor to a moveable obligation to the arrester's debtor to pay his debt or perform his obligation until the debt due to the arrester is paid or secured, i. 263, l. 3.
 Arrois, *pret.* arose, ii. 280, l. 29.
 Articulate, *v.* to put in the form of articles, i. 200, l. 24.
 Ascryue, *v.* ascribe, ii. 111, l. 9.
 Askare, *s.* one who asks, i. 70, l. 9.
 Assedation, *s.* lease, ii. 145, l. 13.
 Asses, *s.* ashes, ii. 293, l. 25.
 Assistare, *s.* one who joins with others in a course of action, ii. 182, l. 28.
 Assoilze, *v.* absolve, i. 115, l. 1.
 Assuir, *v.* assure, ii. 180, l. 1.
 Assyth, *v.*, ii. 227, l. 2. See note to i. 128, l. 15.

- Assythment, *s.* i. 128, l. 18. See note.
- Athir, Æthir. See Ether.
- Attaynis, *adv.* at once, ii. 203, l. 28.
- Attachment, *s.* attachment, i. 286, l. 2. See p. 54 note above.
- Attemptat, *s.* a wicked enterprise, i. 95, l. 25.
- Attendance, *s.* attention, i. 29, l. 37.
- Attene, *v.* attain, ii. 191, l. 11.
- Attent, *past p.* accused, ii. 213, l. 13.
- Attoure, *prep.* in spite of, i. 299, l. 19. See By and attoure.
- Attoure, *adv.* moreover, i. 113, l. 12.
- Aucht, *adj.* eight, i. 6, l. 19.
- Aucht, *pret. of Aw.* ought, should, i. 245, l. 9; ii. 256, l. 25.
- Aucht, *v.* own, ii. 222, l. 13.
- Aucht, *v.* owe, ii. 248, l. 24; *pres. p.* auchtand, i. 52, l. 31.
- Auchtene, *adj.* eighteenth, i. 4, l. 13.
- Audience, Haill, whole court, i. 269, l. 5; *Inner Audience*, the Inner House, i. 155, l. 6; *Utter Audience*, the Outer House, i. 155, l. 7.
- Augment, *v.* add, ii. 387, l. 22.
- Auld, *adj.* old, ii. 193, l. 9.
- Autenticall, *adj.* authentic, ii. 311, l. 10.
- Autentictlie, *adv.* with due attestation, ii. 137, l. 29.
- Autenticnes, *s.* authenticity, ii. 353, l. 23.
- Autentik, *adj.* authentic, i. 36, l. 32.
- Avaracie, *s.* avarice, i. 31, l. 37.
- Avisandum, to take a cause to avisandum is to take time to consider it with the view of forming a deliberate judgment, i. 222, l. 30.
- Avise, *v.*, i. 194, l. 17. See Advise.
- Avise, *s.* advice, counsel, i. 122, l. 2. See Advise.
- Aw, *v.* own, ii. 243, l. 26; owe, i. 52, l. 31; *pres. p.* awand, i. 193, l. 16.
- Aw, *v.* ought, ii. 244, l. 23.
- Awail, *s.* amount, i. 243, l. 1; value, ii. 241, l. 22; *of awail*, effective, i. 300, l. 9; *awail of marriage*, i. 127, l. 19. See note.
- Await, *v.* be in attendance, i. 157, l. 14.
- Awarde, *v.* give judgment, i. 303, l. 31.
- Awin, *adj.* own, i. 96, l. 18.
- Awnare, *s.* owner, i. 43, l. 33.
- Aworaige, *s.* share of pillage (?), ii. 259, l. 19. See note.
- Awow, *v.* vow, ii. 366, l. 14.
- Awsteir, *adj.* stern, ii. 61, l. 1.
- Baig, *s.* badge, ii. 157, l. 4.
- Bailliearie, *s.*, i. 241, l. 12. See note.
- Bair, *s.* boar, i. 28, l. 33.
- Bairman, *s.* bankrupt, i. 269, l. 18.
- Bait, *pret.* bit, i. 29, l. 8.
- Baith, Bayth, *adv.* and *adj.* both, ii. 294, l. 7; 291, l. 9.
- Bak, *s.* back, ii. 321, l. 22.
- Balme, *v.* embalm, ii. 180, l. 25.
- Band, *pret.* bound, ii. 248, l. 6.
- Band, *s.* bond, obligation, tie, i. 111, l. 12; ii. 387, l. 14. See Mak band; surety, i. 16, l. 9.
- Baneis, Banis, *v.* banish, i. 56, l. 17; ii. 286, l. 24.
- Bangstare, *s.* a violent and lawless person, i. 17, l. 20.
- Baptese, *v.* baptize, ii. 281, l. 7.
- Baptis, Bapteist, *s.* the Baptist, ii. 312, l. 25; 316, l. 22.
- Barne, *s.* a child, ii. 77, l. 25.
- Barnispairt, ii. 92, l. 10. See note.
- Base, *adj.* lowly, ii. 357, l. 7.
- Battell, *s.* battle, ii. 157, l. 32; *punik battell*, punic war, ii. 199, l. 28.
- Batter, *v.* paste, i. 126, l. 28. See note.
- Bauld, *adj.* bold, ii. 230, l. 18.
- Be, *prep.* by, ii. 338, l. 29.
- Be with, belong to, ii. 234, l. 26. See Bene.
- Beand, *pres. p.* ii. 157, l. 20.
- Bear, *s.* a kind of barley, ii. 210, l. 8.
- Become, *pret.* became, i. 4, ll. 23, 35; ii. 173, l. 28.
- Befall, *v.* fall to (of an inheritance), i. 39, l. 17.
- Befoir, Of, *adv.* formerly, in former times, i. 37, l. 4.
- Begatt, *pret.* begot, i. 59, l. 31.
- Begin, *v.* originate, ii. 199, l. 2; *past p.* begoune, begun, ii. 176, l. 13; *pret.* begang, ii. 214, l. 17.
- Behald, *v.* behold, ii. 342, l. 1.
- Beheid, *v.* behead, ii. 283, l. 21.
- Behove, *v.* ought, ii. 97, l. 18.
- Behuif, *v.* behave, ii. 242, l. 34.
- Beidman, *s.* beadsman, ii. 38, l. 9.
- Beir, *s.* beer, ii. 209, l. 27.
- Beir, *s.* bear, i. 28, l. 33.
- Beir, *v.* bear, ii. 58, l. 16; purport, testify to, i. 8, l. 26; ii. 207, l. 23; 263, l. 33; purports to be, i. 103, l. 22; *beir a bak*, thrust back, i. 112, l. 25; used of an instrument having words written in or inscribed on it, i. 171, l. 31; ii. 58, l. 30; *beir cuir*, have charge or superintendence of, ii. 225, l. 23;

- pres. p.* beirand, i. 45, l. 5;
berand, i. 103, l. 25; ii. 58, l. 16;
110, l. 9.
- Beirare, *s.* one who gives birth to, ii.
364, l. 3.
- Beist, *s.* beast, ii. 199, l. 14.
- Belang, *v.* belong to, ii. 230, l. 14;
relating to, i. 307, l. 4; *pres. p.*
belangand, ii. 177, l. 30.
- Beleid, *v.* give the lie to, ii. 247, l.
19.
- Beleif, Beleve, *v.* believe, ii. 285, l.
10; ii. 355, l. 16.
- Belovittis, *s.* lovites, a term express-
ing the royal regard for the person
to whom the kings writ is addressed
(Jamieson, 'Dict.,' *s.v.* "Loveit"),
i. 40, l. 14.
- Beme, *s.* beam of wood, ii. 292, l. 3;
of light, ii. 182, l. 21.
- Bene to, *v.* to be the concern of, ii.
245, l. 12.
- Benevolence, *s.* good will, i. 30, l.
22.
- Bening, *adj.* benign, i. 34, l. 8.
- Benorth, *prep.* to the northward of,
i. 240, l. 14.
- Berand. See Beir.
- Besaige, *v.* besiege, ii. 428, l. 13.
- Beseik, *v.* beseech, ii. 355, l. 3.
- Be south, *prep.* to the southward of,
i. 238, l. 10.
- Bestiall, *s.* a collective term for all
the animals on a farm, i. 28, l. 35.
- Bestow, *v.* expend, ii. 255, l. 13.
- Besynes, *s.* business, ii. 255, l. 8.
- Betreated, *past. p.* betrothed, ii. 174,
l. 12.
- Betuix, *prep.* between, ii. 196, l. 36.
- Bibilliothekis, *s.* libraries, i. 23, l. 12.
- Big, *v.* build, i. 269, l. 29.
- Bigging, *s.* building, i. 57, l. 19.
- Bill, *s.*, i. 127, l. 10. See note to l. 8.
- Birand, *part.* burning, ii. 189, l. 20.
- Birning, *s.* burning, ii. 214, l. 22.
- Birth, *s.* produce, i. 44, l. 15.
- Birth, *s.* size, bulk, ii. 220, l. 15.
- Bischopin (of children), *s.* confirm-
ation, ii. 323, l. 8.
- Bischoprie, *s.* bishopric, ii. 45, l. 27.
- Bisselie, *adv.* carefully, minutely, i.
314, l. 28.
- Bissied, *past. p.* much occupied, i.
100, l. 24.
- Blanche ferme, i. 277, l. 35. See
note.
- Blise, *v.* bless, ii. 180, l. 2.
- Blissing, *s.* blessing, ii. 180, l. 1.
- Bludie, *adj.* bloody, ii. 165, l. 3.
- Bluid, *s.* blood, i. 7, l. 10.
- Bocht, *past. p.* bought, ii. 420, l. 18.
- Bodin, *past. p.* provided with, ii. 218,
l. 13.
- Boist, *v.* threaten, ii. 352, l. 15.
- Boit, *s.* boat, ii. 200, l. 4.
- Boittisman, *s.* boatman, ii. 251,
l. 14.
- Boll, *s.* bale, ii. 223, l. 28.
- Bony quhyle, A, a considerable time,
i. 288, l. 34.
- Borde, *s.* See Monthis borde.
- Bordollare, *s.* frequenter of brothels,
i. 46, l. 22.
- Borgh, *s.* surety, i. 285, l. 4. See p.
54 note 1 above; *lat. it. to borgh*, i.
303, l. 37. See note.
- Borne legattis, i. 88, l. 28. See note.
- Borrowing, *s.*, i. 306, l. 18. See note
to i. 303, l. 37.
- Bot, *conj.* but, i. 4, l. 35.
- Bot, *prep.* See But.
- Bot, *s.* boat, ii. 199, l. 7.
- Bot, *past. p.* bought, ii. 254, l. 18.
- Bot and, *adv.* unless, ii. 252, l. 21.
- Bot gif, *conj.* unless, i. 42, l. 36.
- Boundand charter, a charter in which
the property is limited by boundar-
ies, i. 296, l. 7.
- Bounding, *s.* specification of boundar-
ies, i. 246, l. 23.
- Boutting, *s.*, ii. 244, l. 31. See note
to l. 30.
- Braith, *s.* breath, i. 19, l. 7.
- Braith, *v.* breathe, ii. 287, l. 19.
- Brak, *pret.* broke, ii. 332, l. 29.
- Bred, *s.* bread, ii. 381, l. 26.
- Breidth, *s.* breadth, ii. 50, l. 20.
- Brek, *v.* break, ii. 267, l. 30; *pret.*
brak, ii. 332, l. 29.
- Brek, *s.* breach, i. 158, l. 15.
- Brether, *s.* brethren, i. 67, l. 11.
- Breve, *v.* enter in writing, i. 152, l.
26.
- Breve, *s.* a royal writ addressed to a
judge directing him to try the
cause to which it related, i. 12, l.
15. See pp. 40 ff. above; a letter
addressed to sheriffs or messengers
in place of sheriffs to cite parties to
answer to a complaint. See pp. 40
ff. above; *brevis pleidabill* were
breives which initiated suits before
the judge ordinary, i. 286, l. 14.
See p. 42 and note 1 above.
- Breve, *adv.* concisely, i. 16, l. 25.
- Breviatric, *s.* breviary, ii. 340, l. 5.
- Brig, *s.* gangway, ii. 212, l. 12.
- Bring hame. See Hame.

- Bringare, *s.* one who brings in or introduces another, i. 64, l. 22.
- Brocht, *past p.* brought, i. 21, l. 9.
- Brodgore, *s.* oar with broad blades (translation of "remi latitudo"), ii. 200, l. 6.
- Brugh, *s.* burgh, ii. 56, l. 9.
- Bruk, *v.* enjoy, possess, i. 37, l. 17; *bruiking of his fame*, i. 315, l. 5. See note.
- Bruit, *s.* report, ii. 107, l. 5.
- Brychtnes, *s.* brightness, ii. 342, l. 1.
- Brynt, *past p.* burnt, ii. 429, l. 1; 431, l. 25.
- Bud, *s.* gift, generally a gift meant as a bribe, i. 86, l. 19.
- Buik, *s.* book, i. 2, l. 17. See Sederunt buikis.
- Buik, *v.* record in an official register, i. 83, l. 21.
- Buir, *pret.* bore, i. 62, l. 21; ii. 174, l. 9.
- Buird, *s.* board, i. 46, l. 16; *in schip buird*, on board ship, i. 205, l. 77.
- Buird, To, on board, ii. 257, l. 8.
- Buitting, *s.* booty, ii. 236, l. 24.
- Bund, *past p.* bound, i. 57, l. 27; ii. 303, l. 2.
- Bundin, *past p.* bound, ii. 248, l. 4.
- Bur, *pret.* bore, ii. 203, l. 28.
- Burde, On, on board, ii. 235, l. 18.
- Burgaige, *s.* the tenure by which royal burghs hold of the king the lands and houses that lie within the limits described in their charters of erection, i. 250, l. 23.
- Burrowes, *s.* burghs, i. 13, l. 17; ii. 270, l. 24.
- Buryall, *s.* burial-place, ii. 163, l. 19; 394, l. 30.
- Busch, *s.* a large fishing-boat, ii. 211, l. 21.
- But, *prep.* without, i. 31, l. 28.
- But, *adv.* towards the outer part of the house, i. 145, l. 3.
- Buy, *s.* buoy, ii. 246, l. 25.
- By, *prep.* beyond, ii. 160, l. 7; apart from, ii. 99, l. 5; contrary to, ii. 220, l. 3; *by and all, by and attour*, over and above, i. 39, l. 32; 134, l. 22.
- By, *v.* buy, i. 249, l. 15; *pres. p.* byand, ii. 272, l. 14; *past p.* bocht, ii. 420, l. 18; bot, ii. 254, l. 18.
- Byare, *s.* buyer, i. 252, l. 14.
- Byde, *v.* await, i. 159, l. 26; remain, ii. 247, l. 34; *past p.* biddin, *ib.*
- Bygane, *adj.* past, i. 20, l. 7.
- Byrun, *past p.* past, i. 278, l. 12.
- Cabar, *s.* a lighter (translation of "linter"), ii. 200, l. 3.
- Calculade, *v.* calculate, ii. 390, l. 13.
- Calfader, *s.* caulker, ii. 237, l. 22.
- Calfatter, *s.*, ii. 237, l. 30. See Calfader.
- Calfet, *v.* caulk, ii. 238, l. 22.
- Call, *v.* summon, i. 234, l. 7.
- Calsay, *s.* causeway, street, ii. 38, l. 12.
- Calumnia, Aith de. See Aith de Calumnia.
- Campyon, *s.* champion, i. 46, l. 29.
- Candred, Candredus, *s.* ii. 51, l. 1. See note.
- Cannoun, *s.* the official list of saints' names ('The Catholic Encyclopedia,' *s.v.* "The Canon of the Mass") i. 8, l. 26.
- Canonlicie, *adv.* according to the canons, i. 39, l. 6.
- Capill, *s.* horse, ii. 293, l. 22.
- Capital, *adj.* principal (court), ii. 134, l. 14.
- Capitan, *s.* captain, ii. 270, l. 2.
- Captioun, *s.* on a debtor's failure to make payment within the days of charge on letters of horning, the charger might, after getting him denounced rebel and registering the letters and executions, apply for letters of caption for laying hold of the debtor's person and securing it in prison, i. 204, l. 18.
- Captour, *s.* chapter, i. 178, l. 23; ii. 151, l. 29.
- Carie, *v.* bear (reverence), i. 100, l. 4.
- Carrectare, *s.* character, i. 71, marginal note.
- Carter, *s.* charter, i. 309, l. 35; ii. 26, l. 8; 222, l. 16.
- Caryare, *s.* carrier, ii. 200, l. 35.
- Cass, *v.* make void, i. 272, l. 23.
- Cassin, *past p.* cast, thrown, ii. 166, l. 20; throw overboard, *i.e.*, jettisoned, ii. 205, l. 22.
- Cast thame, set themselves resolutely, i. 83, l. 12; *cast peittis*, dig peats, i. 314, l. 16.
- Cater, *s.* caterer, i. 1, l. 2.
- Catalog, Cataloge, Catalog, *s.* catalogue, i. 143, l. 20; ii. 148, l. 20; 295, l. 29.
- Cauldnes, *s.* coldness, ii. 148, l. 17.
- Caution, *s.* security, i. 215, l. 6. See Cautioner.

- Cautioner, *s.* surety for payment or performance on failure of person primarily bound to pay or to perform, i. 171, l. 31.
- Cavellatioun, *s.* chicanery, i. 123, l. 4.
- Ceis, *v.* cease, ii. 388, l. 29; be of no effect, i. 294, l. 25.
- Celect, *v.* select, i. 17, l. 22.
- Cenceir, *adj.* sincere, genuine, ii. 342, l. 17.
- Certane, *s.* i. 118, l. 16. See note.
- Certificatioun, *s.* the certification of a summons is the penalty to be inflicted on the defender if he shall neither comply with the will nor show why he is not bound to comply with it (Ersk., 'Inst.,' iv. 1. 7), i. 204, l. 17.
- Certiorate, *v.* inform, i. 134, l. 19.
- Chaice, *s.* chase, i. 29, l. 3.
- Chaipeil, *s.* chapel, ii. 109, l. 35.
- Chaiplan, *s.* chaplain, ii. 145, l. 2.
- Chaiplanrie, *s.* ii. 139, l. 16. See note.
- Chaistatie, Chestitie, *s.* chastity, ii. 108, l. 19; 390, l. 28.
- Chalder, *s.* a chalder of oatmeal is sixteen bolls, at eight stone (Scotch Troy) weight to each boll (Ersk., 'Inst.,' ii. 10. 46., note*), ii. 210, l. 13.
- Challange, *s.* claim, charge, i. 254, l. 3; 314, l. 32.
- Challange, *v.* charge, sue, i. 253, l. 20.
- Chalmer, *s.* chamber, i. 135, l. 1.
- Chalmering, *s.* wantonness, ii. 194, l. 14.
- Chalmerlane, *s.* chamberlain, i. 288, l. 1.
- Chancellarie, *s.* chancery, i. 251, l. 31.
- Channon, *s.* canon, ii. 422, l. 13.
- Channorie, *s.* residence of the canons of a cathedral, ii. 38, l. 8.
- Chaptourlie kirkis, collegiate churches (a mistranslation of "capitulorum, ecclesiarum"), i. 91, l. 35.
- Chear, Cheir, *s.* chair, ii. 204, l. 10; 181, l. 25.
- Cheis, *v.* choose, i. 300, l. 6.
- Cheist, *adj.* chaste, ii. 415, l. 1.
- Chekker, *s.* exchequer, ii. 210, l. 4.
- Chemise, *s.* principal dwelling, i. 281, l. 30.
- Chenje, *s.* chain, ii. 259, l. 13.
- Chese, *v.* choose, i. 13, l. 18.
- Chevelrie, *s.* chivalry, ii. 165, l. 6.
- Chiftane, *s.* captains of ships of war, ii. 220, l. 18.
- Childring, *s.* children, ii. 323, l. 9.
- Choristarie, *s.* choir (?), ii. 146, l. 5.
- Choronologie, *s.* chronology, ii. 157, l. 11.
- Chuisse, *s.* choice, ii. 287, l. 11.
- Chuisse, Chuse, *v.* choose, ii. 322, l. 6; 269, l. 25.
- Cietie, Citie, *s.* city, ii. 347, l. 27; 289, l. 12.
- Circumduce, *v.* i. 210, l. 16. See note l. 9.
- Circumductioun, *s.* i. 210, l. 9. See note.
- Citician, *s.* citizen, ii. 342, l. 30.
- Cituate, *adj.* situated, ii. 119, l. 29; 201, l. 3.
- Cituatioun, *s.* situation, ii. 433, l. 7.
- Claithing, *s.* clothing, i. 45, l. 4.
- Clange, *v.* cleanse, ii. 354, l. 25.
- Clare constatt, i. 177, l. 26. See note.
- Clargie, *s.* clergy, i. 65, l. 20.
- Clauchan toun, a village in which there is a church, ii. 195, l. 27.
- Claythis, *s.* clothes, ii. 225, l. 15.
- Claytht, *s.* cloth, ii. 342, l. 3.
- Cled, *part p.* clad, ii. 351, l. 30; endowed, ii. 82, l. 30.
- Cleir, *v.* make clear the meaning of, i. 142, l. 12.
- Cleithing, *s.* clothing, ii. 225, l. 7.
- Clene, *adj.* pure, ii. 335, l. 3; free from guilt, i. 119, l. 14.
- Clenging, *s.* cleansing, ii. 395, l. 3.
- Clethingis, *s.* clothing, ii. 127, l. 24.
- Cloik, *s.* cloak, ii. 99, l. 27.
- Cloise, *adj.* closed, ii. 223, l. 25; decked, ii. 200, l. 11.
- Closteris, *s.* cloisters, ii. 390, l. 30.
- Cod, *s.* code, i. 27, l. 33.
- Coff, *v.* buy, ii. 230, l. 11.
- Cognitionis, i. 315, l. 31. See note.
- Cognosce, *v.* to investigate with the view of giving judgment, i. 90, l. 26; ii. 69, l. 23; 216, l. 18.
- Coif, *s.* cave, ii. 153, l. 28.
- Coip, *s.* cope, ii. 125, l. 23.
- Coise, *v.* exchange, ii. 239, l. 18.
- Coist, *s.* cost, expense, i. 288, l. 29.
- Coist, *s.* duty payable in kind (Orkney), ii. 210, l. 12.
- Coist, Cost, *s.* coast, ii. 219, l. 7; 201, l. 10.
- Coistlie, *adj.* costly, i. 50, l. 31.
- Coit, *s.* coat, ii. 157, l. 4.
- Cok boit, *s.* small ship's boat (translation of "scapha"), ii. 200, l. 4.
- Cokquett, *s.* ii. 206, l. 3. See note.

- Collationate, *part.* collated, i. 41, l. 5.
 Collatioun, *s.* appointment of a clergyman to a benefice, ii. 101, l. 9.
 College kirk, *s.* collegiate church, ii. 48, l. 24.
 Collegitant, *s.* opponent in a law-suit (a translation of Boece's "litigantem secum"), i. 44, l. 3.
 Collig, *s.* colleague, ii. 104, l. 17.
 Come, *past p.* came, i. 4, l. 5.
 Commend, *s.* commendation, ii. 181, l. 27.
 Commendataris, *s.* commentaries, ii. 293, l. 12.
 Commissare, *s.* commissary, ii. 67, l. 10. See note to ii. 59, l. 6.
 Commissariatis, *s.* commissariots, ii. 57, l. 12. See note to ii. 53, l. 20; commissary, i. 13, l. 11; ii. 52, ll. 20, 23.
 Commisser, *s.* commissary, ii. 67, l. 5. See note to ii. 59, l. 6.
 Committ, *v.* deliver a thing to be dealt with in a certain way, ii. 254, l. 2.
 Committare, *s.* perpetrator, i. 43, l. 30; 126, l. 22.
 Commodity, *s.* benefit, i. 55, l. 14.
 Commoned. See Commoun.
 Commoun, *v.* discuss, i. 70, l. 20; *past p.* commoned, i. 154, l. 7.
 Commoun guid. See Guid, Commoun.
 Commounties, *s.* commons, ii. 273, l. 32.
 Commove, *v.* displease, i. 33, l. 28.
 Companzeon, *s.* companion, ii. 309, l. 1.
 Compeditour, *s.* competitor, ii. 111, l. 28.
 Compeir, *v.* appear, i. 244, l. 9; appear in court on being cited, i. 95, l. 8; i. 133, l. 26; *pres. p.* compeirand, i. 113, l. 17.
 Compeirance, *s.* appearance in court on being cited, i. 140, l. 30.
 Compleit, *v.* complete, ii. 279, l. 31.
 Complice, *s.* partner in crime, ii. 230, l. 1.
 Complinand, *part.* complaining, i. 119, l. 15.
 Complinare, *s.* he who presents a bill of suspension, i. 130, l. 21.
 Compone, *v.* compose, ii. 51, l. 3; compound, settle, ii. 104, l. 2; 89, l. 21.
 Composed, *past p.* compassed, ii. 182, l. 26.
 Comprehend, *v.* include, i. 16, l. 26; compassed, overtaken, i. 220, l. 23.
 Compryse, *v.* i. 243, l. 28. See Comprysing.
 Comprysing, *s.* i. 242, l. 23. See note to i. 137, l. 23.
 Compt, *s.* account, ii. 273, l. 14; method of reckoning, i. 215, l. 32.
 Compt, *v.* account, regard, i. 15, l. 31.
 Comptes, *s.* countess, ii. 183, l. 25.
 Comptroll, Comptroll, *v.* check, test the accuracy of, i. 11, l. 7; ii. 273, l. 18.
 Conbat, *v.* combat, ii. 237, l. 17.
 Conclude, *v.* convince, i. 27, l. 12.
 Condamnatoure, *s.* judgment against a party to a suit, i. 187, l. 19. See note to i. 180, l. 2.
 Condem, *v.* ii. 60, l. 2. See Condamnatoure.
 Conding, *adj.* condign, ii. 389, l. 8.
 Condiscend, *v.* specify, i. 16, marginal note.
 Condiscend, *v.* agree, ii. 204, l. 19.
 Condition, *s.* contract, covenant, ii. 231, l. 15.
 Conditionalte, *past p.* stipulated, ii. 254, l. 21.
 Conduce, *v.* hire, ii. 250, l. 28.
 Conducer, *s.* hirer, ii. 250, l. 27.
 Conduct, ii. 234, l. 4. See Seill.
 Confer, *v.* compare, ii. 137, l. 8.
 Conferm, *v.* confirm, ii. 88, l. 28. See note to l. 3.
 Confideratioun, *s.* confederation, ii. 196, l. 36.
 Confiderattis, *s.* accomplices, ii. 229, l. 24.
 Confirmatioun, *s.* ii. 88, l. 3. See note.
 Confiscatt, *part.* confiscated, i. 33, l. 26; 57, l. 12.
 Conform, *v.* harmonize, bring into accord, i. 12, l. 22; 19, l. 20; 21, l. 5.
 Conform, Letters, i. 128, l. 8. See note to i. 231, l. 25.
 Confuit, *v.* confute, i. 26, l. 32.
 Coniunct, *adj.* joint, i. 239, l. 22. As to the meaning of the word in the act 1620 c, see note to i. 270, l. 24.
 Coniunctlie, *adv.* jointly, i. 239, l. 22.
 Conqueis, *v.* acquire, i. 33, l. 18; *past p.* conquesed, conquest, ii. 391, l. 1; 234, l. 24.
 Conquerioure, *s.* conqueror, i. 3, l. 24.
 Consait, *s.* device, i. 64, l. 2.
 Consave, *v.* conceive, ii. 279, l. 21.

- Conscience, To have, to acquaint oneself with (translation of "s'informer"), ii. 222, l. 20.
- Consequens, Be the, in the result, i. 218, l. 21.
- Consequentlie, *adv.* successively, i. 81, l. 3; 82, l. 7.
- Consign, *v.* consign, i. 261, l. 31.
- Contemptioun, *s.* contempt, i. 51, l. 12; disobedience, i. 57, l. 8.
- Contene, *v.* contain, ii. 109, l. 11; *pres. p.* contendant, ii. 212, l. 6.
- Content and pay, satisfy by full payment, i. 229, l. 12.
- Contigue, *adv.* contiguously, ii. 204, l. 29.
- Continew, *v.* continue, ii. 388, l. 6.
- Continewall, *adj.* permanent, ii. 387, l. 29.
- Contradictour, *s.* objector (translation of "contradictor"), i. 102, l. 19.
- Contrare, *adj.* opposed, ii. 243, l. 4.
- Contrare, *prep.* against, i. 175, l. 28.
- Contrare, Be, Be the contrare, on the contrary, i. 34, l. 30; ii. 198, l. 3; *in the contrare*, to the contrary, i. 216, l. 17.
- Contraretie, *s.* contrariety, ii. 282, l. 17.
- Contrarie, ii. 387, l. 23. See note to l. 20.
- Contrarius, *adj.* contrary, ii. 340, l. 23; contradictory, ii. 41, l. 15.
- Controvention, *s.* any act done against law burrows, i. 144, l. 21.
- Convales, *v.* cure, i. 29, l. 27. See note.
- Convene, *v.* agree, ii. 62, l. 31; summon, ii. 60, l. 7. *Past p.* conventtit, i. 91, l. 21.
- Convert, *v.* apply to another purpose, divert, i. 94, l. 12.
- Convocatioun, *s.* unlawful assembly, i. 246, l. 32.
- Convoy, *v.* direct, ii. 237, l. 32. See note.
- Convoy away, perhaps carry away in safety clandestinely, i. 51, l. 14.
- Convoyare, *s.* one who directs, ii. 238, l. 5.
- Copist, *s.* copyist, i. 83, l. 33.
- Cornicill, *s.* chronicle, ii. 158, l. 27.
- Corniclare, *s.* chronicler, ii. 160, l. 15.
- Cornicle, *s.* chronicle, ii. 311, l. 19.
- Coronall, *s.* coroner, ii. 213, l. 2. See note.
- Coronologie, *s.* chronology, i. 73, l. 37.
- Counsall, Counsale, *s.* council, ii. 138, l. 5; advice, ii. 155, l. 22.
- Counterfut, *v.* counterfeit, i. 218, l. 26.
- Counterfuttare, *s.* one who counterfeits, i. 218, l. 34.
- Countermaister, *s.* boatswain, ii. 225, l. 26.
- Course be course, ii. 256, l. 27. See note; *be thair coursis*, in turn, i. 124, l. 24.
- Cousing, *s.* cousin, ii. 298, l. 20.
- Credeit, *s.* care, charge, i. 268, l. 14.
- Criminabill, *adj.* liable to a criminal charge, i. 32, l. 26.
- Crist, *s.* crest, ii. 157, l. 4.
- Croce, *s.* cross, ii. 195, l. 25.
- Croce pece, ship's yard, ii. 200, l. 9. See Ree.
- Croppin, *past p.* crept, i. 110, l. 17.
- Croun, *s.* crown, ii. 177, l. 19.
- Crowall, *adj.* cruel, i. 9, l. 22.
- Crown of the Sone. A French coin so called from the mint mark, and current at about 14s. ('Accounts of the Lord High Treasurer of Scotland,' i. 410), ii. 225, l. 10.
- Cryed upoun, called (said of parties to a suit, called by the court officer to appear in court), i. 155, l. 9.
- Cubiculare, *s.* a chamber servant, groom of the chamber, ii. 169, l. 21.
- Cuik, *s.* cook, ii. 259, l. 8.
- Cuir, Cure, *v.* cure, ii. 355, l. 25; 356, l. 25.
- Cuir, Cair, *s.* task, i. 84, l. 9; care, charge, ii. 87, l. 22; 251, l. 28; 255, l. 30; office, ii. 225, l. 23; cure (of souls), i. 94, l. 17; cure (of disease), ii. 354, l. 22.
- Cullour, *v.* colour, ii. 317, l. 18.
- Culloure, *s.* colour, ii. 387, l. 24; fraudulent pretence, ii. 227, l. 9; *under cullour*, with fraudulent intent, ii. 211, l. 10; under pretext, ii. 223, l. 17.
- Cullured fraude, fraudulent pretence, i. 86, l. 19.
- Cum, *v.* come, i. 28, l. 14; *cum about*, come round in turn to, i. 201, l. 13; *cum equalie*, have an equal share, ii. 249, l. 8; *pret. cummed*, ii. 256, l. 14.
- Cuming, *s.* coming, ii. 177, l. 17.
- Cuntrie, *s.* country, ii. 150, l. 30.
- Cunzie, *v.* coin, ii. 225, l. 19.
- Curagius, *adj.*, ii. 191, l. 32.
- Curaige, *s.* courage, i. 19, l. 8.

- Cured, *part.* disembowelled, i. 29, l. 9. See note.
- Curia Christianitatis, i. 87, l. 11. See note.
- Curious, *adj.* particular about details, ii. 398, l. 17.
- Cursit, *past p.* under sentence of excommunication, i. 57, l. 9. See pp. 26 ff. and note 5 above.
- Customare, *s.* collector of tribute, ii. 290, l. 1.
- Cwragius, *adj.* courageous, ii. 165, l. 6.
- Dait, *s.* age, ii. 96, l. 10.
- Daker, *s.* a set of ten, ii. 209, l. 23.
- Dammaige. See Damage.
- Danton, *v.* subdue, ii. 352, l. 9.
- Darrest, *adj.* dearest, ii. 175, l. 34.
- Dative, *adj.*, ii. 88, l. 2. See note to l. 3.
- Datives, *s.* powers granted to one to act as executor under a testament not confirmed by the proper heirs, ii. 67, l. 15. See Testament.
- Day, Frie, see Frie day.
- Deacones of craftis, presidents of certain Scottish corporations, ii. 269, l. 31.
- Deceis, Decese, *s.* and *v.* decease, ii. 151, l. 11; 152, l. 20; 352, l. 26.
- Decerne, *v.* grant decree, i. 212, l. 10; declare (lawful prize), ii. 221, l. 26; *decernit on*, made the subject of decision, i. 84, l. 11.
- Declaratour, *s.* judicial declaration, i. 267, l. 26.
- Decoir, *v.* adorn, i. 19, l. 6; perhaps, make illustrious, i. 62, l. 5; *past p.* decored, ii. 435, l. 17.
- Decreit, *s.* decree, i. 272, l. 8.
- Deduce, *v.* conduct, "lead" (of proof by witnesses, &c.), i. 13, l. 10; derive from, i. 91, l. 30; deduct, ii. 228, l. 24.
- Deductioun, *s.* the course of proceeding, procedure, i. 19, l. 20; 74, l. 31; 86, l. 13; 138, l. 26; detailed account or narrative, i. 77, l. 4.
- Defalk, *v.* deduct, i. 189, l. 14.
- Default, *s.* failure (to appear in court), i. 303, l. 26.
- Defeas, *v.* deduct, i. 189, l. 15.
- Defend, *v.* forbid, prohibit, ii. 252, l. 8.
- Defens, *s.* defence, ii. 390, l. 25.
- Deflore, *v.* deflower, ii. 167, l. 19.
- Deforcementis, *s.*, i. 128, l. 7. See note.
- Deforse, *v.* force, ravish, i. 43, l. 11.
- Defraude, *s.* act of defrauding, fraud, ii. 191, l. 3.
- Degraduate, *v.* degrade, ii. 165, l. 23; 167, l. 26.
- Deid, *s.* act, i. 231, l. 15; *deid knarwin*, ascertainment of what has been done, ii. 237, l. 5. See note.
- Deid, *s.* death, i. 43, l. 22; a person deceased, ii. 80, l. 9; the death penalty, i. 15, l. 22.
- Deid, *adj.* dead, i. 8, l. 2.
- Deid, *pret.* died, ii. 173, l. 24.
- Deidis pairt, *s.*, ii. 92, l. 23. See note.
- Deidlie, *adv.* deadly, ii. 178, l. 22.
- Deip, *s.* depth, i. 21, l. 14; the deep, ii. 239, l. 12, but see note.
- Deit, *pret.* died, i. 61, l. 12.
- Deith, *s.* death, ii. 160, l. 31.
- Dejected, *part.* thrown down, i. 22, l. 17.
- Delait, *v.* relate, i. 21, l. 3.
- Delfe, *v.* dig, i. 314, l. 17; *pres. p.* delfand, *ib.*
- Deliberate, To be, *v.* to be resolved, ii. 351, l. 29.
- Deminisch, *v.* curtail, i. 31, l. 7; subtract, i. 4, l. 30; *past p.* deminisit, *ib.*
- Dempster, *s.* the suitor (see p. 48 above) or official who pronounced the judgment of the court, i. 313, l. 16.
- Dene of Gyld, ii. 269, l. 30. See note.
- Deneir, *s.* a small copper coin valued at the tenth part of an English penny (Cotgrave, 'Dict.'), ii. 236, l. 30.
- Denude, *adj.* vacant (because of the deprivation or demission of the former holder), ii. 217, l. 5. See note.
- Denunce, *v.* intimate, i. 171, l. 15. See note; declare, i. 30, l. 10; ii. 378, l. 7.
- Denunciation, *s.* intimation, i. 171, l. 12. See note to i. 171, l. 23; *denunciatioun to the horn*, i. 204, l. 17. See note to l. 13.
- Deny, *s.* denial, ii. 58, l. 4; 60, l. 1.
- Denje himself, *v.* deign, ii. 387, l. 33.
- Depairt, *v.* depart, ii. 177, l. 35.
- Depairtoure, *s.* departure, ii. 235, l. 10.
- Dependence, *s.*, i. 171, l. 16. See note; the state of waiting by a litigant until further progress is made in the suit, i. 259, l. 14.

- Depone, *v.* to testify on oath, i. 204, l. 9; ii. 240, l. 10.
- Deprehend, *v.* detect, i. 253, l. 29.
- Derenzeid, *past p.* determined not to be the possessor by the establishment of a rival claim, i. 314, l. 19.
- Derogate, *v.* impair the authority or force of, i. 114, l. 21.
- Desert, *v.* abandon (a summons), i. 150, l. 19.
- Deserve, *v.* serve, i. 23, l. 5.
- Detbund, *part.* under obligation to pay, i. 268, l. 25; pledged, ii. 177, l. 23.
- Determinate, *v.* determine, decide, i. 91, l. 11.
- Detest, *v.* express abhorrence of, i. 49, l. 10 (represents Boeccc's "damnaret").
- Devillis, *adj.* devilish, ii. 166, l. 27.
- Devis, *s.* mechanical contrivance, ii. 249, l. 8.
- Devoid, *v.* withdraw, i. 299, l. 18.
- Devoir, *v.* destroy, i. 63, l. 27.
- Devoirare, *s.* one who devours, ii. 292, l. 18.
- Devoit, *adj.* devout, ii. 109, l. 27.
- Devorce, *v.* divorce, ii. 366, l. 12.
- Devosioun, *s.* devotion, ii. 360, l. 20.
- Devulgate, *v.* divulge, publish, i. 35, l. 12.
- Devysare, *s.* deviser, ii. 389, l. 4.
- Dew, *adj.* due, i. 21, l. 5.
- Dewilie, *adv.* duly, i. 41, l. 5.
- Dewitie, *s.* duty, ii. 258, l. 15; fee, charge, i. 29, l. 18; 130, l. 31; obligatory payment, i. 277, l. 31; ii. 82, l. 27.
- Dewitiefull, *adj.* dutiful, i. 74, l. 24.
- Diclinatoure, Exceptionioun, an exception in which objection is taken to the judge, i. 173, l. 16.
- Dictionare, *s.* vocabulary, i. 77, l. 35.
- Difficill, *adj.* difficult, i. 97, l. 8.
- Dilatoure exception, an exception which, without touching the merits of the case, suspended further procedure until it was disposed of, i. 173, l. 9.
- Diligence, Diligence, Diligens, *s.* dispatch, i. 268, l. 14; diligence, ii. 255, l. 30; legal diligence, i. 127, l. 32. See note; *incident diligence*, i. 196, l. 27. See note.
- Diosie, Dyocie, *s.* diocese, ii. 365, l. 3; 123, l. 5.
- Disagysing, *s.* altering appearance so as to deceive, disguising, ii. 239, l. 16.
- Discend, *v.* descend, ii. 175, l. 19.
- Discharge, *v.* unload, ii. 245, l. 10; relieve of liability for, i. 52, l. 30; abolish, i. 233, l. 32; prohibit, i. 269, l. 9.
- Discharge, *s.* performance (on trial of qualifications for a post), i. 114, l. 8; unloading, ii. 243, l. 9; port of discharge, ii. 245, l. 10; 258, l. 1.
- Disclame, *v.*, i. 316, l. 23. See note to i. 127, l. 17.
- Disclamation, *s.*, i. 127, l. 17. See note.
- Disconfesed, *part., adj.* overcome, ii. 155, l. 10.
- Disconforme, *adj.* not in conformity with, ii. 343, l. 7.
- Disconfute, *v.* discomfit, overthrow, rout, ii. 309, l. 18.
- Discontiguc, *adj.* not contiguous, i. 247, l. 31.
- Discryve, *v.* describe, i. 48, l. 30.
- Discuss, *v.* to do diligence or exhaust legal proceedings against the person primarily liable before proceeding against the person secondarily liable, i. 246, l. 18.
- Diseaseth, *past p.* diseased, ii. 354, l. 27.
- Disherys, *v.* disinherit, perhaps rather deprive one of his heritage, i. 58, l. 6.
- Dispasch, *v.* dispatch, ii. 289, l. 21.
- Dispense with, grant exemption to, i. 39, l. 33.
- Disparatioun, *s.* desperation, i. 8, l. 14.
- Displesoure, *s.* grief, ii. 149, l. 17; trouble, i. 33, l. 13; angry feelings, ii. 325, l. 1.
- Dispone, *v.* convey in legal form, i. 37, l. 19; dispose, i. 83, l. 1.
- Disproffett, *s.* loss, ii. 95, l. 10.
- Dissait, *s.* deceit, ii. 166, l. 23.
- Dissave, *v.* deceive, ii. 156, l. 16.
- Dissaver, *s.* deceiver, ii. 386, l. 8.
- Dissobeyare, *s.* one who disobeys, ii. 218, l. 16.
- Distinct, *adj.* distinguished, i. 125, l. 30.
- Distrenze, *v.* distraint, i. 104, l. 36.
- Distrest, *past p.* constrained, i. 172, l. 10.
- Divise, *s.* division, boundary, i. 289, l. 33.
- Do, *v.* thrive, i. 17, l. 19.
- Doar, *s.* one who performs some action, i. 35, l. 29; factor, agent, ii. 255, l. 8.

- Dochter, *s.* daughter, ii. 174, l. 6.
 Dois, *3rd pers. sing., pres. indic.* does, ii. 194, l. 18.
 Doit, *v.* give as a donation, ii. 128, l. 4.
 Doloure, *s.* grief, ii. 172, l. 8.
 Dolphene, *s.* dauphin, i. 61, l. 18.
 Dolphines, *s.* dauphiness, i. 38, l. 9.
 Domage, *v.* damage, ii. 245, l. 30.
 Domaige, Dommage, Dammaige, Domaig, *s.* damage, ii. 257, l. 9; 223, l. 20; 244, l. 20; 249, l. 9.
 Dome, *v.* to pronounce doom, i. 314, l. 25.
 Dome, *s.* doom, judgment, i. 279, l. 25.
 Domester, *s.*, i. 308, l. 24. See Dempster.
 Donatoure, *s.* one to whom escheated property is made over, i. 128, l. 14.
 Dote, *v.* endow, i. 56, l. 1.
 Douk, *v.* duck, ii. 261, l. 13.
 Douk, *s.* ducking, ii. 261, l. 14.
 Doun, *adv.* down, ii. 281, l. 11.
 Dout, *s.* doubt, i. 148, l. 18.
 Doutsum, *adj.* doubtful, i. 42, l. 14.
 Dowbill, *s.* duplicate, ii. 197, l. 3.
 Dowbill, *adj.* twice as much, ii. 236, l. 29; twofold, ii. 251, l. 5; false, deceitful, ii. 156, l. 17.
 Dowbill horning, i. 227, l. 16. See note.
 Dowbill poynding, i. 274, l. 10. See note to i. 227, l. 16.
 Dowble, *v.* make a copy of, ii. 2, l. 7.
 Dowriare, *s.* dowager, i. 37, l. 24.
 Draw, *v.* bring to trial, i. 47, l. 11; *cp.*, i. 34, l. 15; forced to draw ("ad aratrum . . . trahendum adigentur," Boece), i. 58, l. 3; *draw into*, lead into, involve in, i. 235, l. 31.
 Draware, *s.* one who draws (wreckage from the sea), ii. 213, l. 28.
 Dred, *adj.* dread, ii. 178, l. 6.
 Dreddoure, *s.* dread, apprehension, i. 58, l. 33; ii. 270, l. 34.
 Dreid, *v.* dread, apprehend, i. 50, l. 11; *pres. p.* dreidand, i. 53, l. 26.
 Drevin, *past p.* driven, ii. 235, l. 31.
 Drevin, *Far*, far-fetched, i. 77, l. 14.
 Drink silver, gratuity, ii. 211, l. 2.
 Drog, *s.* drug, ii. 259, l. 32.
 Dry brughis, inland burghs, ii. 273, l. 23.
 Dryve, *v.* delay, i. 163, l. 31.
 Duche, *s.* dutch, ii. 201, l. 16.
 Duell, *v.* dwell, ii. 201, l. 14.
 Duik, *s.* duke, ii. 265, l. 11.
 Duply, *s.* defender's answer to pursuer's reply, i. 183, l. 7. See Reply.
 Dur, *s.* door, i. 156, l. 6.
 Dyet, *s.* the time fixed for appearance in response to a summons, i. 160, l. 5.
 Dyse, *s.* dice, i. 52, l. 11.
 Dyvorie, *s.* bankruptcy, i. 270, l. 9.
 Dyvoure, *s.* bankrupt, i. 270, l. 13.
 Ead, *s.* aid, i. 93, l. 5.
 Ear, *v.* plough, till, cultivate, i. 313, l. 9.
 Eard, *s.*, i. 314, l. 17. See Erd.
 Ease, *At* his, relieving his bowels, ii. 166, l. 29.
 Edition, *s.* publication, i. 75, l. 20.
 Editioun, *s.* addition, ii. 266, l. 8.
 Edification, *s.* building, ii. 190, l. 10.
 Ee, *s.* eye, ii. 177, l. 20; *plur.* eis, ii. 173, l. 24; ene, ii. 172, l. 6.
 Effair, *s.* affair, ii. 272, l. 22.
 Effected, *past p.* actuated, i. 51, l. 7; *effected with ane aith*, to which an oath is attached, i. 87, l. 14.
 Effectioun, *s.* affection, i. 158, l. 12; ii. 266, l. 11.
 Effeirand, *adv.* proportionately, i. 229, l. 10.
 Effeir, *v.* concern, i. 81, l. 32; 315, l. 6; to be fitting, ii. 229, l. 28; *effairs of*, belongs to, i. 310, l. 30.
 Eftir, *prep.* after, ii. 88, l. 18; according to, ii. 88, l. 6.
 Eik, *v.* add to, ii. 69, l. 31.
 Eild of zeiris, old age, i. 56, l. 13.
 Eird, *At*, i. 285, l. 30. See note.
 Eir, *v.*, i. 311, l. 20. See Ear.
 Eiroy, *s.* great grandson, i. 62, l. 28.
 Eis, *s.*, ii. 173, l. 24. See Ee.
 Eist, *adj.* east, ii. 192, l. 34.
 Eister, *s.* Easter, ii. 331, l. 9.
 Eister, *adj.* eastern, ii. 207, l. 32.
 Eit, *v.* eat, i. 44, l. 14.
 Ejection, *s.*, i. 127, l. 15.
 Elderis, *s.* ancestors, ii. 44, l. 12.
 Eldron, *adj.* old, i. 297, l. 2.
 Ellevint, *adj.* eleventh, i. 4, l. 20.
 Ellis, *adv.* already, ii. 63, l. 16.
 Ellis, *adv.* otherwise, i. 34, l. 26.
 Elne, *s.* ell, ii. 209, l. 36.
 Eme, *s.* uncle, ii. 44, l. 32.
 Emergent exception, an exception founded on something which came

- into existence after *litis-contestatio*, i. 276, l. 10.
- Emperour, emperor, ii. 321, l. 5.
- Empryce, s. empress, ii. 193, l. 31.
- Enbald, *v.* embolden, i. 259, l. 11.
- End, *v.* come to an end, i. 63, l. 34; die, ii. 367, l. 13; finish, i. 6, l. 29; ii. 115, l. 27; *pres. p.* endand, ii. 187, l. 7.
- Ene, *s.*, ii. 172, l. 6. See *Ee*.
- Eneuch, *s.* eunuch, ii. 290, l. 12.
- Enforce, Enforse, *v.* urge, i. 286, l. 25; compel, ii. 366, l. 10.
- Enschew, *v.* ensue, ii. 168, l. 4.
- Enteres, *s.* entrance, i. 156, l. 7; entry, ii. 343, l. 8.
- Enteres, *s.* interest (to act as charger, pursuer, &c.), i. 142, l. 17; ii. 93, l. 27; damages, i. 136, l. 21.
- Enundatioun, *s.* inundation, ii. 195, l. 3.
- Equippage of a ship. Those who are on board, more especially the sailors and soldiers (see *Cotgrave*), ii. 235, l. 15.
- Equippage, *v.* equip, ii. 221, l. 13.
- Erandis, *s.* business, ii. 255, l. 6.
- Erd, *s.* earth, ground, soil, i. 314, l. 15.
- Erdant, *adj.* ardent, ii. 189, l. 21.
- Erectare, *s.* founder, i. 1, l. 18.
- Erectioun, *s.* foundation, i. 88, l. 18; 278, l. 29.
- Erische, *adj.* Irish, ii. 131, l. 17.
- Erismen, *s.* Irishmen, ii. 346, l. 1.
- Erle, *s.* earl, ii. 175, l. 19.
- Eschaip, *v.* escape, ii. 242, l. 32.
- Eschew, *v.* avoid, ii. 203, l. 8; escape, i. 16, l. 1.
- Espagne, *s.* Treasury, i. 40, l. 33.
- Esperance, *s.* hope, i. 50, l. 21.
- Essys, *s.* assizes, i. 68, l. 21.
- Estait, *s.* rank, dignity, condition, i. 15, l. 1; 28, l. 10; ii. 268, l. 10; *estaitis*, the three estates in Scotland, i. 37, l. 24.
- Ester, *s.* Easter, ii. 325, l. 6.
- Ether, Ethir, Æthir, Athir, *adv.* and *pron.* either, i. 179, l. 1; 185, l. 28; ii. 253, l. 27; 256, l. 4; 383, l. 6.
- Evangelistis, *s.* gospel, ii. 42, l. 4.
- Eventoure, *s.*, ii. 256, l. 31. See *Adventour*.
- Ever ilk, *adj.* every, ii. 253, l. 23.
- Evident, *s.* written instrument, especially title-deed, i. 125, l. 20; ii. 70, l. 32; i. 196, l. 8.
- Evidentlie, *adv.* as established by proof, ii. 197, l. 36.
- Evill willare, *s.* one having ill-will towards another, i. 7, l. 32.
- Evir, *adv.* always, ii. 254, l. 26.
- Evire, *adj.* every, i. 27, l. 19.
- Examine, *v.* examine, i. 72, l. 25.
- Examinatour, *s.* examiner, i. 201, l. 26.
- Excambioun, *s.* exchange of lands, ii. 55, l. 25.
- Except, *v.* plead as an exception, i. 174, l. 22.
- Exception, *s.* plea stated by defender postponing or excluding the pursuer's action, claim, or petition, i. 178, l. 27.
- Excipient, *s.* he who pleads an exception, i. 203, l. 18.
- Excusioun, *s.* excuse, i. 83, l. 25.
- Executand, *pres. p.* executing, i. 234, l. 4; execute, *past p.* executed, i. 251, l. 11.
- Executoriallis, *s.*, i. 127, l. 29. See note.
- Executour, *s.* one charged to execute a summons, &c., ii. 58, l. 29; one directed by a testator to execute his will, ii. 77, l. 19. As to an executor dative see note to ii. 88, l. 3, and *Datives*, *supra*.
- Exeme, *v.* exempt, i. 94, l. 28.
- Exerce, *v.* perform, i. 81, l. 11.
- Exercese, Exercise, *s.* course of action, ii. 352, l. 5; performance of appointed duties, i. 94, l. 32.
- Exercesed, *past p.* employed, ii. 194, l. 15.
- Exercitioun, *s.* exercise, practice, i. 49, l. 22.
- Exped, *past p.* completed, ii. 216, l. 19.
- Expedient, *adj.* fitted, i. 109, l. 27.
- Expensive, *adj.* tending to consume (labour, time, &c.), i. 22, l. 23.
- Explicatioun, *s.* explanation, interpretation, i. 253, l. 1.
- Exploratour, *s.* one employed to collect information, i. 32, l. 33.
- Exponare, *s.* interpreter (of meaning of laws), ii. 202, l. 29.
- Expone, *v.* state, i. 92, l. 17; set forth, i. 74, l. 16; explain, interpret, ii. 301, l. 4; *pres. p.* exponand, i. 92, l. 17.
- Expreme, *v.* express, i. 240, l. 4.
- Exprementted (for experimented. See note); *past p.* experienced, i. 204, l. 27.
- Exquised, *adj.* careful, i. 25, l. 15. See note.

- Exquisiteitie, *adv.* carefully, minutely, thoroughly, ii. 178, l. 19.
- Extraniare, *adj.* not enjoying the liberties of a burgh, ii. 218, l. 5.
- Extremelie, *adv.* to the utmost, ii. 400, l. 17.
- Fail, *s.* failure, ii. 251, l. 7.
- Failze, *v.* fail, i. 115, l. 20; *the member that failzeit* — *i.e.*, the offending member, i. 43, l. 15; *pres. p.* failzeand, ii. 64, l. 21.
- Fairraige, *s.* market day, ii. 360, l. 5; 386, l. 31; 408, l. 18.
- Fais, Fais, *s.* foes, ii. 222, l. 11; 223, l. 17.
- Faith of bodie, i. 47, l. 14. See note to ii. 63, l. 20.
- Faith, mak, i. 244, l. 10. See Mak faith.
- Fall, *v.* be entitled to, ii. 102, l. 8. See note; *fall in merchandise*, be the subject of sale, ii. 225, l. 18. See note to l. 17; *fallis out*, happens to occur, i. 152, l. 10; *fallis out over upon*, falls foul of, ii. 253, l. 14.
- Fallow, *s.* fellow, ii. 248, l. 2.
- Fals a doom, to assert that a judgment is bad, as the first stage in an appeal, i. 279, l. 21. See pp. 90 ff. above.
- Falsed, *part.* guilty of falsehood, or forgery, i. 218, l. 22.
- Falsefear, *s.*, i. 218, l. 34. See Falsier.
- Falser, Dome, *s.* one who falses a doom, i. 286, l. 25. See Fals.
- Falsett, *s.* falsehood, forgery, i. 42, l. 18; 128, l. 3.
- Falsier, *s.* one who forges or falsifies documents, i. 218, l. 17.
- Falsife a doom, i. 279, l. 23. See Fals.
- Falsing of a doom, i. 279, l. 1. See Fals, and pp. 90 ff. above.
- Faltoure, *s.* he who fails to perform a duty, ii. 219, l. 8; an offender, ii. 221, l. 20.
- Familiar, *s.* intimate or confidential friend, ii. 352, l. 8.
- Famos, Famous, *adj.* celebrated, ii. 201, l. 6; of good character, i. 189, l. 14.
- Famouslie, *adv.* in good repute, ii. 194, l. 3.
- Fand, Fande, *pret.* found, i. 201, l. 3; ii. 101, l. 10; invented, ii. 199, l. 17.
- Farrest, *adv.* farthest, i. 181, l. 2.
- Fasson, Fassoun, *s.* fashion, i. 89, l. 18; ii. 239, l. 19.
- Fatell chair, chair of destiny, ii. 160, l. 2.
- Fatt, *s.* tub, i. 61, l. 34.
- Faucht, *pret.* fought, i. 59, l. 21.
- Fault, Faut, *s.* error, fault, i. 126, l. 3; ii. 237, l. 27; crime, ii. 232, l. 1; fine for default of presence, i. 116, l. 23; default, ii. 219, l. 13.
- Favourare, *s.* one who favours or countenances, i. 51, l. 24.
- Favoureabill, *adj.* regarded with favour, i. 264, l. 27.
- Feautie, *s.* fealty, ii. 159, l. 5.
- Febill, *s.* fable, ii. 305, l. 15.
- Fecht, *v.* fight, i. 36, l. 13, *pres. p.* fechtand, ii. 172, l. 5.
- Fecht, *v.* fetch, ii. 233, l. 5. See note to l. 4.
- Fedder, *s.* feather, ii. 261, l. 22.
- Feid, *s.* enmity, i. 86, l. 19.
- Feild, *s.* field of battle, ii. 345, l. 24; field (Heraldic), ii. 387, l. 21.
- Feill, *v.* experience, i. 109, l. 10.
- Feimell, *adj.* female, ii. 175, l. 27.
- Feir, *s.* fear, ii. 189, l. 8.
- Feir, *v.* fear, ii. 222, l. 9; *pres. p.* feirand, *ib.*
- Feist, *s.* feast, ii. 249, l. 23.
- Feit, *s.* feet, ii. 312, l. 16.
- Fensing of Courtis, i. 67, l. 1. See note to i. 248, l. 10.
- Fenze, *v.* feign, i. 56, l. 17; counterfeit, i. 213, l. 29; invent (a fiction), i. 77, l. 19.
- Feodatare, *s.* feudatory, ii. 159, l. 14.
- Ferce, *s.* fierce, ii. 54, l. 27.
- Ferd, *adj.* fourth, i. 306, l. 6.
- Fere, *v.* fear, ii. 285, l. 6.
- Feria Sexta, Friday, ii. 280, l. 1.
- Feriete tymes, holidays, i. 119, l. 18.
- Fermelie, *adv.* constantly, i. 101, l. 26.
- Ferne, *s.* rent, ii. 82, l. 25. See Blanche ferme, Few ferme.
- Ferriare, *s.* ferryman, ii. 212, l. 14.
- Fesynnet, Fesned, Festhynned, Fesned, *part.* fastened, ii. 317, ll. 15, 21; 289, l. 3; 134, l. 18.
- Festuell, *s.* festival, i. 44, l. 26.
- Fevare, *s.* fever, ii. 168, l. 4.
- Few ferme, i. 277, l. 35. See note.
- Fidder, *s.* a certain weight of lead, ii. 209, l. 34.
- Fide Media, ii. 63, l. 20. See note.
- Fideill, *adj.* faithful, i. 41, l. 6.

- Fie, *s.* wages, i. 29, l. 18; 177, l. 7; fee, ii. 237, l. 29.
- Fie, i. 140, l. 12. See Mair of fee.
- Fie, *v.* hire, ii. 248, l. 20.
- Figour, *s.* figure, ii. 320, l. 16.
- Firmance, *s.* confinement, i. 240, l. 34.
- Fialles, *s.* flukes of an anchor (translation of "ancoram bidentem"), ii. 200, l. 13.
- Flayne, *past p.* flayed, ii. 288, l. 22.
- Fleicheoure, *s.* flatterer, i. 49, l. 15.
- Flic, *v.* flee, ii. 160, l. 32.
- Floit, *v.* float, ii. 213, l. 27.
- Floit boit, translation of "petit bateau," ii. 222, l. 10.
- Floit, win of. See Win of floit.
- Floitraipis, ropes attached to floats, ii. 213, l. 26.
- Floitt, *v.* float, ii. 213, l. 27.
- Flureis, *v.* flourish, i. 18, l. 10.
- Fochin, *part.* fought, ii. 154, l. 36; 400, l. 17.
- Foiranentis, *prep.* over against, directly opposite to, i. 30, l. 15; ii. 416, l. 26.
- Foirbearis, Foirbeiraris, *s.* ancestors, ii. 147, l. 30; i. 107, l. 11.
- Foirfalt, *s.* forfeiture, i. 313, l. 21.
- Foirfalt, *v.* forfeit, i. 313, l. 11.
- Foirrynnar, *s.* forerunner, ii. 313, l. 1.
- Foirsee, *v.* provide against, i. 107, l. 12; *past p.* foirsene, provided for, ii. 69, l. 26; acquainted with, i. 134, l. 33.
- Foirspeiker, *s.* one who acts as counsel for another, i. 280, l. 15. See note to i. 157, l. 20.
- Foirtauld, *past p. and pret.* foretold, ii. 177, l. 3; 319, l. 10.
- Follow, *v.* to pursue (a defender in an action), i. 229, l. 24; *to follow furth*, to conduct an undertaking to completion, i. 71, l. 10.
- Follower, The partie, the pursuer or plaintiff, i. 286, l. 1.
- Followes, *s.* fellows, ii. 246, l. 30.
- Following, *s.* pursuit of an action, i. 314, l. 12.
- Folly, *s.* See Furiositie.
- Forde, for it, i. 297, l. 6.
- Forfaltie, *s.* something forfeited, ii. 233, l. 28.
- Forisfamiat, *adj.* said of a child who has renounced his share of legitim. or who has received and discharged it, ii. 85, l. 15.
- Forsamekill, *conj.* forasmuch, i. 141, l. 30.
- Forther, *adv.* further, ii. 358, l. 23.
- Forsuik, *pret.* forsook, ii. 304, l. 25.
- Forthir, *adj.* farther, i. 21, l. 11.
- Forjet, Forjett, *past p.* forgotten, i. 56, l. 11; ii. 148, l. 15.
- Forjetfull, *adj.* forgetful, ii. 352, l. 6.
- Foud, *s.*, i. 150, l. 6. See note.
- Foundament, *s.* foundation, ii. 106, l. 12.
- Foundatare, Foundatour, *s.* founder, ii. 105, l. 25; 113, l. 5.
- Fourre Formes, Letters of, i. 240, l. 15. See p. 26 and note 5 above.
- Four half. See note to i. 299, l. 28.
- Fourt, *adj.* fourth, i. 4, l. 1.
- Fra, *prep.* from, i. 11, l. 31.
- Fra hand, *adv.* forthwith, i. 11, l. 32.
- Fra this furth fra, *adv.* henceforward, i. 141, l. 19.
- Fra thyne furth, *adv.* thence forward, i. 150, l. 25.
- F'raising, *part. adj.* using exaggerated expressions (?), i. 77, l. 20.
- Franche, *adj.* French, ii. 201, l. 15.
- Franches, *s.* franchise, ii. 271, l. 14.
- Frank, free from restraint or compulsion, ii. 86, l. 7.
- Franktenement, *s.* i. 294, l. 32. See note.
- Fraucht, *s.* freight, ii. 205, l. 21.
- Freir, *s.* friar, ii. 127, l. 16.
- Freitt, *s.* omen, i. 63, l. 32.
- Freith, *v.* free, i. 39, l. 33.
- Frequent, *v.* use habitually, ii. 260, l. 2.
- Frevoull, *adj.* frivolous, ii. 61, l. 2; i. 163, l. 19.
- Frie, *adj.* free, i. 2, l. 32; *frie day*, a day not to be included in a term prescribed by law, i. 140, l. 31.
- Frustrate, *past p.* thwarted, ii. 226, l. 17.
- Fuid, *s.* food, ii. 318, l. 27.
- Fuilzie, *v.* defile, i. 43, l. 9.
- Fuir, *v.*, ii. 208, l. 2. See Fure.
- Fuit, *s.* foot, i. 43, l. 15.
- Fuit, *s.* fit, seizure, ii. 178, l. 26.
- Fuite grume. See Grume.
- Fullille, *adv.* fully, i. 40, l. 23.
- Fund, Fundin, *past p.* found, i. 294, l. 28; ii. 2, l. 10.
- Fundation, *s.* charter of foundation, i. 205, l. 27; 206, l. 27.
- Funerallis, *s.* funeral, ii. 97, l. 20.
- Furare, *s.* carrier, ii. 206, l. 23.
- Fure, *v.* carry, ii. 207, l. 36.
- Furie, *s.* madness, ii. 83, l. 13.
- Furing, *s.* freight, ii. 251, l. 15.
- Furious, *adj.* mad, ii. 83, l. 10.

- Furiositie, *s.* "madness as distinguished from *folly*, which expresses a lower degree or species of insanity" (Jamieson, 'Dict.'), i. 293, l. 20.
- Furisdav, *s.* Thursday, i. 280, l. 16.
- Furness, *v.* furnish, ii. 200, l. 19.
- Furneis, *v.* complete, ii. 242, l. 14; 256, l. 18.
- Furth, *adv.* out, ii. 197, l. 15; *mak furth cummand*, transfer and pay money arrested to arrester, i. 244, l. 30.
- Furtherance, *s.* aid, i. 25, l. 16.
- Fyft, *adj.* fifth, i. 4, l. 18.
- Fynance, *s.* ready money ("finance" in French original), i. 40, l. 1.
- Fynding, *s.* procuring, providing, ii. 256, l. 22.
- Fyne, *s.* end, i. 45, l. 33; *mak ane fyne*, settle the matter, ii. 257, l. 12.
- Fyre speir, a lance to which combustibles were attached, ii. 220, l. 14.
- Fyschear, *s.* fisherman, ii. 249, l. 7.
- Gadder, *v.* gather, i. 31, l. 37.
- Gadge, *s.* pledge, ii. 244, l. 1.
- Gadge, *v.* pledge, ii. 236, l. 15.
- Gaif, *pret.* gave, i. 41, l. 16; 119, l. 26.
- Gaird, *s.* guard, ii. 166, l. 6.
- Gait, *s.* way, i. 45, l. 10; road, ii. 273, l. 22.
- Gane, Gayne, *s.* profit, ii. 249, ll. 8, 12.
- Gang, *v.* go, i. 43, l. 32; *pres. p.* gangand, *ib.*
- Gar, *v.* cause, ii. 231, l. 1.
- Gardare, *s.* warden, ii. 240, l. 25.
- Gatherare, *s.* collector, ii. 290, l. 2.
- Gatt, *pret.* got, i. 59, l. 22.
- Geir, *s.* personal effects, i. 29, l. 20.
- Gener, *v.* beget, ii. 198, l. 23.
- Gentilisme, *s.* paganism, i. 6, l. 3.
- Gesture, With his, *s.* by signs, ii. 178, l. 5.
- Get knowlege, ascertain, ii. 131, l. 1.
- Geve, *v.* give, i. 16, l. 24; produce, ii. 252, l. 28; *pret.* gaif, ii. 195, l. 5; *pres. p.* gevand, i. 80, l. 28; *past p.* gevin, ii. 252, l. 28.
- Gif, *conj.* if, i. 5, l. 7.
- Gif quyte. See Quyte.
- Gloir, *s.* glory, i. 11, l. 27.
- Gluif, *s.* glove, ii. 209, l. 24.
- Goist, *s.* ghost, ii. 280, l. 5.
- Gottin, *past p.* got, i. 5, l. 28; be-
gotten, i. 59, l. 15; *gottin cuir*, put in charge, ii. 251, l. 28.
- Government, *s.* control, ii. 207, l. 6.
- Graif, *s.* grave, ii. 151, l. 19.
- Graith, *s.* equipment, ii. 213, l. 25; 259, ll. 12, 30, 32.
- Graithing, *s.* ship's equipment, ii. 219, l. 24.
- Grandshir, *s.* great-grandfather, i. 71, l. 9.
- Grang, *s.* grange, ii. 394, l. 26.
- Granis, *s.* seeds, i. 43, l. 24.
- Grant, *s.* admission, ii. 58, l. 3.
- Grant, *v.* admit, i. 299, l. 22.
- Grappill, *s.* grapnel (translation of "harpage"), ii. 200, l. 15.
- Gredie, *adj.* greedy, ii. 168, l. 28.
- Gredynes, *s.* greediness, ii. 235, l. 22.
- Greif, *s.* suffering, injury, i. 15, l. 10.
- Greit, *adj.* great, i. 2, l. 22; *comp.* greittare, ii. 61, l. 21.
- Greittumlie, *adv.* greatly, i. 267, l. 7.
- Gres, *s.* grass, i. 44, l. 21.
- Gretianis, *s.* Greeks, i. 3, l. 22.
- Greve, *v.* injure, i. 16, l. 27.
- Grevous, *adj.* grievous, ii. 355, l. 4.
- Ground, *s.* bottom (of the sea), ii. 214, l. 6; territory, ii. 233, l. 14.
- Grume, Fuite, *s.* footman, ii. 386, l. 5.
- Guardone, *s.* reward, recompense (form of *guedon*), i. 112, l. 23. See note.
- Gudames, Guidame, *s.* grandmother, i. 72, l. 11; ii. 98, l. 13.
- Gudschir, Guidschir, *s.* grandfather, i. 13, l. 29; i. 72, l. 11.
- Guid, Gud, *adj.* good, i. 31, l. 24; 29, l. 32.
- Guid, Commoun, ii. 271, l. 28. See note.
- Guid aige, Guid 3eris, old age, i. 33, l. 13; ii. 390, l. 26.
- Guid sone, son-in-law, ii. 275, l. 23.
- Guidis, Guid, *s.* goods, i. 29, l. 20; ii. 208, l. 29.
- Guidlie, *adv.* with propriety, i. 148, ll. 18, 20; *guidly of the law*, in conformity with the law, i. 178, l. 3.
- Guidnes, Gudnes, *s.* goodness, i. 6, l. 1; ii. 390, l. 11.
- Guidwyfe, *s.* wife, ii. 98, l. 5.
- Guild, *s.* the corn marigold, i. 43, l. 25. See note.
- Guise, *s.* goose, ii. 210, l. 27.
- Gurmundere, *s.* glutton, ii. 292, l. 18.
- Gutt, *s.* gout, ii. 356, l. 29.

- Gydare, *s.* commander (translation of "gouverneur"), ii. 225, l. 26.
- Gyid, *v.* guide, ii. 231, l. 19.
- Gyse, *s.* mode, manner, i. 50, l. 11.
- Habilitie, *s.* ability, i. 159, l. 14.
- Habill, *adj.* able, i. 177, l. 32; 46, l. 17; qualified, ii. 221, l. 22. See note.
- Haif, *v.* have, i. 15, l. 8; *pres. p.* haifand, ii. 192, l. 22.
- Haifare, *s.* possessor, ii. 254, l. 33; haver, i. 196, l. 28. See note.
- Haill, *adj.* whole, i. 70, l. 18; unbroken, unopened, ii. 259, l. 29; *haill and feir*, whole and entire, i. 309, l. 33.
- Haill, *adv.* wholly, ii. 234, l. 26.
- Haill, *v.* cure, ii. 248, l. 14.
- Haist, *s.* haste, ii. 257, l. 29.
- Hait, *v.* hate, i. 26, l. 32.
- Haitrent, *s.* hatred, i. 54, l. 11.
- Hald, *v.* hold, ii. 218, l. 1; keep (silence), i. 221, l. 3; to hold liable, ii. 229, l. 34; *pres. p.* haldand, i. 221, l. 3.
- Halding, *s.* tenure, i. 300, l. 34; *schawing of halding*, exhibition of title-deeds, i. 137, l. 24. See note.
- Half, Foure. See Foure half.
- Halie, Haly, *adj.* holy, ii. 327, l. 5; ii. 293, l. 28.
- Halynes, *s.* holiness, ii. 360, l. 20.
- Hame, Hame cuming, *s.* return, ii. 255, l. 22; bring, *v.* bring into a country, i. 37, l. 36.
- Hand, Fra. See Fra hand.
- Handsenzie, *s.* ensign, ii. 220, l. 8.
- Hanker, *s.* anchor, ii. 246, l. 27.
- Hant, *s.* habitual use, i. 52, l. 11.
- Hant, *v.* frequent, ii. 253, l. 7.
- Harbrie, *s.* harbour, ii. 220, l. 3.
- Hard, Harde, *pret. past p.* heard, ii. 294, l. 1; ii. 355, l. 5.
- Hardis, *s.* oakum (translation of "estouppes"), ii. 238, l. 22.
- Hardlie, *adv.* vigorously, ii. 166, l. 12.
- Harnes, *s.* defensive armour, ii. 225, l. 7.
- Harnest barrellis, casks that have a lid guarded by a rim, which comes a small way down on the outside of the vessel (Jamieson), ii. 258, l. 27.
- Hart, *s.* heart, i. 18, l. 11.
- Hartlie, *adv.* heartily, i. 108, l. 35.
- Hat, *pret.* hit, struck, ii. 246, l. 5.
- Haugh, *s.* low-lying flat ground, property on the border of a river, i. 297, l. 4.
- Havelie, *adv.* seriously, gravely, i. 105, l. 8.
- Haysarde, *s.* hazard, ii. 179, l. 33.
- Heast, *adj.* highest, i. 250, l. 30.
- Heavyn, *s.* haven, ii. 273, l. 24.
- Hecht, Heicht, *s.* height, i. 21, l. 13; ii. 317, l. 3.
- Hecht, promise, ii. 257, l. 23.
- Heich, *adj.* high, i. 153, l. 29; *comp.* heichare, ii. 110, l. 5.
- Heichlie, *adv.* highly, i. 21, l. 8.
- Heid, *s.* head, ii. 321, l. 22; top, i. 269, l. 31; article (in a petition), i. 132, l. 22; superior officer, ii. 221, l. 15.
- Heidisman, *s.* superior officer, ii. 221, l. 14.
- Heidit, *past p.* beheaded, i. 42, l. 21.
- Heidrovme, *s.* the ground lying between a flat and the top of a hill, i. 297, l. 1.
- Height, *adj.* high, i. 21, l. 18.
- Heir, *v.* hear, i. 51, l. 35; *pres. p.* heirand, *id.*
- Heir, *adv.* here, ii. 355, l. 22.
- Heirare, *s.* hearer, ii. 392, l. 7.
- Heis, *v.* hoist, ii. 244, l. 12. See Hies, Hois.
- Helth, *s.* health, ii. 354, l. 27.
- Hempt, *s.* hemp, ii. 209, l. 1.
- Hepdomadare, *adj.* appointed for the week, i. 226, l. 15.
- Herbistare, *s.* herbalist, i. 29, l. 32.
- Heremeit, *s.* eremite, hermit, ii. 106, l. 11.
- Heretaige, *s.* landed property, i. 107, l. 8; the subject of inheritance, i. 57, l. 21.
- Heretoure, Heritoure, *s.* landholder, i. 227, l. 10; heir, i. 55, ll. 12, 15.
- Heretrice, Heretrix, *s.* landholder (of a female), ii. 98, l. 14; heiress, ii. 193, l. 14.
- Herschip, *s.* act of plundering, i. 31, l. 13.
- Hery, *v.* rob, subject to extortion, i. 50, l. 35.
- Hes, *1st and 3rd pers. pres. indic.*, have, i. 2, l. 16; 3, l. 20.
- Hethin, *s.* heathen, ii. 289, l. 19.
- Hettir, All in anc, seems to mean altogether, without observance of proper order, i. 251, l. 6. See Jamieson, 'Dict.,' *s.v.* Hatter.
- Hevin, *s.* haven, ii. 220, l. 3.
- Hevin, *s.* heaven, ii. 295, l. 18.
- Hevin, *past p.* hewn, i. 269, l. 30.
- Hevynlie, *adj.* heavenly, ii. 293, l. 7.
- Hew, *s.* hue, ii. 125, l. 24.

- Hidder, *adv.* hither, ii. 226, l. 16.
 Hie, *adj.* high, i. 31, l. 9; *comp.*
 hyer, i. 21, l. 10; *superl.* hieast,
 heast, i. 251, l. 10; 250, l. 30.
 Hienes, *s.* highness, i. 5, l. 19.
 Hies, *v.* hoist, ii. 244, l. 27. See
 Heis, Hois.
 Hir, *pron.* her, ii. 311, l. 15.
 Hoip, *s.* hope, i. 259, l. 12.
 Hois, *v.* hoist, ii. 244, l. 10. See
 Heis, Hies.
 Hoist, *s.* host, ii. 286, l. 18.
 Hoit, *adj.* hot, ii. 287, l. 5.
 Homyll, *adj.* without horns, i. 44, l. 11.
 Honest, *adj.* honourable, i. 104, l. 12.
 Horning, i. 205, ll. 13, 15. See notes
 to i. 204, l. 13; 231, l. 25. *Dowbill*
horning, i. 227, l. 16. See note.
 Horrable, *adv.* horribly, ii. 433, l. 16.
 Hostillare, *s.* innkeeper, ii. 236, l. 13.
 Howbeit, *conj.* although, i. 58, l. 4.
 Huik, *s.* hook, ii. 258, l. 21.
 Humelic, *adv.* humbly, i. 159, l. 1.
 Humill, *adj.* humble, i. 11, l. 23; ii.
 357, l. 8.
 Humled, *pret.* humbled, ii. 357, l. 9.
 Hundreth, Hundretht, *adj.* hundred,
 i. 3, l. 26; 5, l. 37.
 Hungar, *v.a.* starve, ii. 339, l. 12.
 Hyrare, *s.* hirer, ii. 254, l. 26.
- Idand, *adj.* steady, unceasing (of fire),
 ii. 189, l. 21.
 Idill preist, Idoll preist, *s.* priest of an
 idol, ii. 289, l. 17; 304, l. 26.
 Ile, Yle, Iland, *s.* island, ii. 110, ll.
 25, 23; 128, l. 7.
 Ilk, *adj., pron.* each, every, i. 131, l.
 25. See Every ilk.
 Ilk, *adj.* same, i. 299, l. 34.
 Illustrate, *adj.* illustrious, i. 52, l. 26.
 Imbrace, *v.* embrace, i. 4, l. 37.
 Impert, *v.* communicate, i. 113, l. 8.
 Impignoriatioun, *s.* giving in pledge,
 ii. 197, l. 9.
 Impoise, *v.* impose, i. 259, l. 26.
 Importabill, *adj.* intolerable, i. 49, l.
 29.
 Impreif, *v.*, ii. 59, l. 12. See
 Improve.
 Imprint, *v.* imprint, ii. 342, l. 4;
 print, i. 72, l. 30.
 Improbation, ii. 76, l. 28. See Im-
 prove, and note to i. 128, l. 2.
 Improve, *v.* to challenge an instru-
 ment on the ground that it has been
 forged, or has not been legally exe-
 cuted, i. 215, l. 3. See note to i.
 128, l. 2; to charge with an offence,
 i. 234, l. 15; i. 218, l. 21; *past p.*
 improvin, i. 213, l. 30.
 Impung, *v.* impugn, ii. 398, l. 7.
 Impute, *v.* put in a certain position,
e.g., that of an agent, ii. 254, l. 7;
 impose, i. 164, l. 5.
 Impyre, *s.* empire, ii. 193, l. 36.
 In, *prep.* into, ii. 195, l. 17.
 Inbring, *v.* pay in, i. 230, l. 24;
past p. inbrocht, i. 207, l. 29.
 Incarned, *past p.* became incarnate,
 ii. 279, l. 20.
 Incens, *v.* incite, ii. 389, l. 7; ani-
 mate, ii. 185, l. 22.
 Incident diligence, i. 196, l. 27. See
 note.
 Incontinent, *adv.* forthwith, ii. 59, l.
 31.
 Inconvenient, *s.* inconvenience, i. 136,
 l. 18.
 Incess, *v.* increase, i. 17, l. 19; *pres.*
p. incessand, i. 107, l. 13.
 Indevour, *v.* endeavour, i. 26, l. 32.
 Indew, *v.* endue, ii. 302, l. 3.
 Indifficient, *adj.* plenteous, i. 42, l. 7.
 Indirect, *adj.* biassed, i. 123, l. 4.
 Indorsate, *past p.*, ii. 59, l. 4. See
 note to i. 302, l. 3.
 Indorsatioun, *s.*, i. 302, l. 3. See
 note.
 Inductioun, *s.* introduction, i. 48,
 l. 34.
 Indurate, *adj.* obstinate, i. 57, l. 11.
 Induring, *prep.* during, i. 219, l. 16.
 Indyte, *v.* compose, i. 17, l. 7; dic-
 tate, ii. 303, l. 29.
 Ingadge, *v.* engage, i. 254, l. 4.
 Ingeve, *v.* give in, i. 145, l. 4.
 Inglis, *s.* English, i. 10, l. 8.
 Ingyne, *s.* disposition, i. 33, l. 19;
 genius, i. 14, l. 28; scientific know-
 ledge, ii. 372, l. 33.
 Ingyne, *s.* engine, instrument, appli-
 cation, ii. 249, l. 7.
 Ingyre, *v.* obtrude, thrust oneself for-
 ward, i. 162, l. 17.
 Inhabit, *pret.* inhabited, ii. 204, l. 7.
 Inhibit, *past p.* forbidden, ii. 229,
 l. 14.
 Inhibition, *s.*, i. 128, l. 7. See note.
 Inioyse, *v.* enjoy, i. 54, l. 14.
 Iniurious, *adj.* causing injury or hurt,
 i. 43, l. 14.
 Injoyne, *v.* enjoin, prescribe, i. 113,
 l. 11.
 Injoyne, Injone, *v.* add, i. 103, l. 30;
 conjoin (translation of "annecti-
 mus"), i. 94, l. 20.
 Inlaik, *s.* want, lack, i. 8, l. 33.

- Inlaik, *v.* fail, die, i. 109, l. 29; be deficient, ii. 221, l. 9.
- Innative, *adj.* innate, i. 58, l. 30.
- Innimie, *s.* enemy, i. 26, l. 37.
- Inobedience, *s.* disobedience, i. 79, l. 28.
- Inordinate, *adj.* irregular, i. 176, l. 31.
- Inquiett, *v.* disturb, i. 95, l. 20.
- Inquyre, *v.* interrogate, i. 204, l. 24.
- Inradged, *past p.* enraged, ii. 352, l. 1.
- Inraiging eftir, made furious by, i. 259, l. 13.
- Inrin, *v.* incur, i. 282, l. 9.
- Inschewand, *part.* ensuing, ii. 77, l. 24.
- Insicht, *s.* furniture of a house, implements of a farm, i. 299, l. 27.
- Insist, *v.* persevere, ii. 188, l. 18.
- Institutour, *s.* founder, ii. 124, l. 6.
- Instruction of lybell, furnishing the materials necessary for the foundation of the libel, i. 168, l. 1.
- Intensioun, *s.* pursuer's case or claim, i. 179, l. 27. See p. 83, note 1 above.
- Intent, *s.* the object of an action at law, i. 214, l. 28. See p. 83, note 1 above.
- Intent, *v.* to raise (an action at law), i. 134, l. 20.
- Interant, *s.* intransit, i. 92, l. 3.
- Interdiction, *s.*, i. 128, l. 6. See note.
- Interdyte, *v.* interdict, i. 100, l. 10.
- Interese, *s.*, ii. 230, l. 8. See Enteres.
- Intergo, *v.* undergo, i. 100, l. 12.
- Interloquoutoure, *s.* a judgment pronounced in the course of an action, i. 219, l. 14.
- Interpone, *v.* interpose, i. 227, l. 29.
- Interpreit, *v.* translate, i. 74, l. 16.
- Interpritatoure, *s.* interpreter, ii. 263, l. 25.
- Interpryse, *s.* enterprise, ii. 389, l. 4.
- Intertainment, *s.* entertainment, i. 6, l. 11.
- Intertenye, *v.* entertain, ii. 290, l. 12.
- Intested, *adj.* intestate, ii. 86, l. 21.
- Intitulate, *past p.* intitled, i. 252, l. 32.
- Intreat upoun, to make the subject of treatment, i. 113, l. 5.
- Intromett, *v.* to assume the possession and management of another's property, i. 195, l. 9.
- Intromettoure, *s.* one who intromits, ii. 68, l. 12. See Intromett.
- Intromissioun, *s.*, i. 195, l. 18. See Intromett.
- Intrusare, *s.* intruder, usurper, ii. 156, l. 13.
- Intruse, *v.* to thrust a person into a position to which he has no claim, ii. 173, l. 7; 184, l. 3; 185, l. 33; *pres. p.* intrusand, ii. 185, l. 24.
- Intumb, *v.* entomb, ii. 343, l. 24.
- Intyise, *v.* entice, ii. 250, l. 33.
- Invade, Invaid, *v.* assault, attack, i. 44, l. 5; 54, l. 7.
- Invadour, *s.* plunderer, spoiler (translation of Boeace's "depopulator"), i. 42, l. 32.
- Inventare, *s.* inventor, ii. 389, l. 4.
- Inventare, *s.* inventory, ii. 80, l. 10.
- Inviron, *v.* environ, ii. 387, l. 27.
- Invy, *s.* envy, i. 7, l. 31.
- Inwith, *prep.* within, i. 299, l. 26.
- Irne, *s.* iron, ii. 239, l. 18.
- Ische, *s.* expiration, i. 53, l. 18; egress, i. 52, l. 7.
- Ische, *v.* to pass out, i. 156, l. 20; to clear a place by driving out those within it, i. 157, l. 2.
- Ischu, *s.* issue, ii. 174, l. 29.
- Jakis, *s.* privy, ii. 166, l. 21.
- Javilling, *s.* javelin, ii. 289, l. 13.
- Jayloure, *s.* jailor, ii. 332, l. 28.
- Jebat, *s.* gibbet, i. 43, l. 17.
- Joise, juoyse, *v.* enjoy, ii. 19, l. 6; i. 7, l. 30.
- Jornay, *s.* expedition, ii. 352, l. 10.
- Jowell, *s.* jewel, ii. 160, l. 5.
- Jowes, *s.* Jews, i. 7, l. 34.
- Joysing, *s.* enjoyment, i. 39, l. 31.
- Judgement, *s.* place of judgment, ii. 169, l. 16.
- Judicatorie, *adj.* having the function of judging, i. 85, l. 24.
- Juge, *s.* judge, i. 4, l. 25.
- Justiciar, *s.* an administrator of justice, i. 28, l. 16.
- Kaist, *pret.* cast, i. 64, l. 35; ii. 166, l. 30.
- Keill, *s.* skiff (translation of "cymba," ii. 200, l. 3).
- Keip, *v.* keep, maintain, i. 17, l. 16; take charge of, ii. 211, l. 7; ii. 248, l. 20; detain, ii. 257, l. 18; observe, ii. 206, l. 15; *keip congruittie*, preserve consistency, ii. 159, l. 29; practise habitually, ii. 194, l. 10; *keip to*, limit to, ii. 225, l. 12.
- Ken, *v.* ascertain, ii. 207, l. 8; to

- recognise a person's claim to a share and adjudge it to him, i. 298, l. 16.
- Kinrik, *s.* kingdom, i. 301, l. 6.
- Kippaige, *s.*, ii. 236, l. 28, has same meaning as equipage. See Equipage.
- Kirkwark, *s.* the reparation of churches, ii. 205, l. 26.
- Kirkzaird, *s.* churchyard, ii. 110, l. 3.
- Kirtill, *s.* kirtle, ii. 360, l. 17.
- Kist, *s.* chest, ii. 256, l. 16.
- Kitching, *s.* solid food as opposed to liquids, ii. 256, l. 9.
- Knaw, *v.* know, ii. 187, l. 26; ascertain, ii. 216, l. 8.
- Knowlege, Get, ascertain, ii. 131, l. 1.
- Knit, *past p.* tied together, ii. 134, l. 18.
- Knok, *s.* clock, i. 153, l. 17.
- Kow, *s.* cow, i. 17, l. 16.
- Ky, *s.* cows, i. 245, l. 14.
- Kythe, *v.* show, i. 22, l. 12; perform, ii. 44, l. 13.
- Kythe, *v.* to be manifest, i. 56, l. 36.
- Labour, *v.* plough, i. 245, l. 9.
- Laid, *v.* put cargo on board, ii. 229, l. 13.
- Laidnand, leidnand, *pres. p.* taking in cargo, ii. 253, l. 11; 254, l. 1.
- Laidned, *past p.* laden, ii. 253, l. 8.
- Laidning, *s.* act of putting cargo on board, ii. 229, l. 10.
- Laik, *adj.* laic, ii. 146, l. 20.
- Laik, *s.* lack, ii. 257, l. 11.
- Laik, *v.* lack, be free from, i. 89, l. 21; *pres. p.* laikand, *ib.*
- Lair, *s.* learning, i. 18, l. 24.
- Lait, laithie, *adv.* lately, i. 73, l. 9; i. 3, l. 13.
- Lait, *adj.* late, ii. 137, l. 26.
- Laith, *adj.* loth, i. 109, l. 4.
- Lak, *v.* depreciate, i. 77, l. 25.
- Lamanaige, *s.* pilot's fee, ii. 245, l. 22.
- Lang, At, at length, i. 113, l. 17.
- Lang, *adv.* for a long time, i. 4, l. 35; *comp.* langare, ii. 335, l. 14.
- Lang, *adj.* long, ii. 174, l. 25.
- Langage, Langaig, *s.* language, i. 6, l. 32; ii. 177, l. 21.
- Langlandis, *adv.* along, ii. 219, l. 7.
- Langsum, *adj.* tedious, i. 86, l. 6.
- Lantrone, *s.* lantern, i. 11, l. 30.
- Last, *s.* a measure, ii. 208, l. 29.
- Lat, *v.* let, ii. 287, l. 11; *let to understand*, give you to understand (translation of "scauir faisons"), i. 38, l. 30; *let to borgh*, i. 303, l. 37. See note.
- Lat, *v.* hire, ii. 254, l. 16.
- Lat, *s.* hindrance, ii. 356, l. 17.
- Lating, *adj.* Latin, ii. 176, l. 7.
- Lauch, *s.* law, i. 314, l. 14.
- Lavick, *adj.* laic, ii. 145, l. 24.
- Law, *adj.* low, i. 156, l. 25.
- Laware, *s.* lawyer, ii. 275, l. 33.
- Lawborrowes, *s.* security bound by a man that he will not injure another in his person or property, i. 235, l. 33.
- Lawlie, *adj.* lowly, i. 27, l. 3.
- Lay in agane, restore a thing to the state from which it had been altered, ii. 274, l. 6.
- Leage, *s.* liege, i. 11, l. 31.
- Leage, *s.* league, ii. 388, l. 24.
- Lear, *s.* liar, i. 26, l. 32.
- Led, *past p.*, i. 86, l. 14. See Leid.
- Ledder, *s.* leather, ii. 360, l. 17.
- Legatoor, *s.* legate, ambassador, ii. 433, l. 13.
- Legatoure, *s.* legatee, ii. 80, l. 30.
- Leid, *v.* conduct, ii. 234, l. 18; direct, i. 81, l. 16; pilot, ii. 258, l. 6; set in motion and conduct an action at law through its various stages, i. 138, l. 26; 197, l. 12; adduce (proof), i. 86, l. 14.
- Leid, *pret.* lied, ii. 247, l. 17.
- Leif, *s.* leaf (of a book), ii. 265, l. 6.
- Leif, *s.* leave, permission, i. 17, l. 18; ii. 179, l. 4.
- Leif, Leve, *v.* leave, ii. 179, l. 34; abandon, i. 162, l. 12; desist, ii. 243, l. 6; permit, i. 311, ll. 2, 25; *pres. p.* leifand, ii. 84, l. 2.
- Leif, *v.* live, i. 26, l. 16. See note.
- Leill, *adj.* loyal, faithful, i. 243, l. 30; true, ii. 222, l. 24.
- Leir, *v.* learn, i. 18, l. 7.
- Leirnest, *adj.* most learned, i. 66, l. 20.
- Leische pund, a weight used in Orkney, containing 18 lb. Scots, ii. 210, l. 20.
- Leist, *adj.* least, i. 4, l. 28.
- Lekkaige, Lekkaige, *s.* leakage, ii. 244, ll. 5, 7.
- Len, *v.* lend, ii. 255, l. 10; *past p.* lend, ii. 95, l. 2.
- Lenner, *s.* lender, ii. 254, l. 4.
- Lenning, *s.* advance of money, ii. 235, l. 19. See note.
- Lese, *adv.* less, ii. 258, l. 3.
- Lesing, *s.* calumny, i. 42, l. 26.

- Lest, *v.* last, endure, continue, i. 83, l. 18; ii. 330, l. 21; *pres. p.* lestand, i. 83, l. 18.
- Lesum, *adj.* permissible, i. 58, l. 22.
- Letteres Conform, i. 145, l. 6. See note to i. 231, l. 25; 'Letteres of Foure Formes,' i. 240, l. 15.
- Lettir, *adj.* latter, i. 287, l. 19.
- Levare, *s.* one who lives, ii. 106, l. 16.
- Leve, *s.* leave, i. 16, l. 22.
- Leve, *v.* trust, i. 112, l. 26.
- Leve, *v.* live, ii. 311, l. 6; *pret.* leved, levin, ii. 311, ll. 14, 18; *pres. p.* levand, i. 57, l. 28; ii. 89, l. 26.
- Lewing, *s.* means of living, income, estate, possession, ii. 189, l. 29.
- Levis, *v.*, i. 311, l. 2; form of leifis. See Leif.
- Licenciate, *v.* allow, permit, i. 156, l. 34.
- Licented, *pret.* permitted, ii. 377, l. 28.
- Lichearie, *s.* lechery, ii. 165, l. 15.
- Licherus, *adj.* lecherous, ii. 165, l. 3.
- Licht, *adj.* unimportant, ii. 63, l. 6.
- Lichter, *s.* lighter, ii. 200, l. 1.
- Lichtlie, *v.* slight, i. 119, l. 28.
- Lift, *v.* collect, i. 94, l. 4.
- Limitate, *v.* designate, i. 113, l. 12.
- Lippyn on, put trust in, i. 63, l. 32.
- Liquidate, *past p.* fixed, legally constituted, ii. 64, l. 9.
- Liquidatioun, *s.* legal constitution (of a debt), i. 245, l. 2.
- Literature, *s.* literary culture, i. 107, l. 17.
- Litiscontestatioun, *s.*, i. 183, l. 30. See note.
- Loidisman, Loidman, *s.*, ii. 258, l. 6; ii. 245, l. 11. See note to l. 9.
- Loise, *v.* lose, i. 6, l. 28; perish, ii. 244, l. 12. See note.
- Loise, Lose, *s.* loss, ii. 246, l. 1; 257, l. 10.
- Loise, *v.* discharge cargo, ii. 232, l. 6; 244, l. 2; 253, l. 9; *pres. p.* loissand, ii. 253, l. 10.
- Loithsum, *adj.* loathsome, ii. 188, l. 31.
- Loomall, *s.* cask, ii. 259, l. 29. See note.
- Lott. See Skatt.
- Louk warme, lukewarm, ii. 147, l. 32.
- Lovittis, *s.*, ii. 58, l. 28. See Belovittis.
- Lowse, Louse, *v.* loose, ii. 281, l. 8; release, ii. 262, l. 3; *lowused out*, teased (oakum), ii. 238, l. 25.
- Luce, *s.* brightness, ii. 387, l. 24.
- Ludge, *v.* lodge, ii. 394, l. 27.
- Ludgeing, *s.* lodging, i. 8, l. 7.
- Luif, *s.* love, ii. 387, l. 34.
- Luifare, *s.* lover, ii. 181, l. 17.
- Luik, *s.* and *v.* look, ii. 320, l. 17; 179, l. 22.
- Lume, *s.* vessel of any kind, ii. 223, l. 25.
- Lust, *s.* greediness, i. 31, l. 18.
- Luxurius, *adj.* lewd, luxurious, ii. 170, l. 1.
- Luxuriousnes, *s.*, ii. 170, l. 30. See Luxurius.
- Ly, *v.* lie, i. 251, l. 22; *ly out*, to delay (to enter upon property as heir), i. 278, l. 6; *ly upoun land*, pass the night on land, ii. 252, l. 9; *pres. p.* lyand, i. 251, l. 22; *past p.* lyne, ii. 191, l. 14.
- Lybell, *v.* to specify as party to the action, ii. 95, l. 16.
- Lybell, *s.* in a civil action a statement of the grounds and nature of pursuer's claim, i. 135, l. 29.
- Lychtned, *past p.* enlightened, ii. 355, l. 9.
- Lyke as, *adv.* moreover, ii. 180, l. 23.
- Lymed, *past p.* appointed, ii. 66, l. 25.
- Lymmer, *s.* scoundrel, i. 49, l. 30.
- Lynning, *adj.* linen, ii. 360, l. 18.
- Lynnaige, *s.* lineage, i. 33, l. 14.
- Lyoun, *s.* lion, ii. 390, l. 15; the Lyon King-of-Arms, i. 234, l. 18.
- Lyve. See On lyve.
- Ma, *adj.* more, i. 94, l. 4.
- Madin, *s.* maiden, ii. 174, l. 10.
- Maill, *s.* meal, ii. 256, l. 6.
- Maill, *s.* rent, i. 245, l. 25.
- Maill, *s.* a trunk case, ii. 223, l. 28.
- Maill, *s.* a measure of weight in Orkney, ii. 210, l. 11.
- Maill, *adj.* male, ii. 175, l. 24.
- Maillere, *s.* one who pays rent, i. 245, l. 22.
- Mair, *adj.* more, i. 4, l. 8; additional, ii. 269, l. 21; larger, ii. 51, l. 12.
- Mair, With the, "It may signify 'with the overplus' whatever more" (Jamieson, 'Dict.'), i. 75, l. 33.
- Mair of fee, i. 140, l. 12. See note, i. 281, l. 19.
- Mairattoure, *adv.* moreover, i. 160, l. 32.

- Maisser, *s.* officer of court who keeps order, &c., i. 153, l. 27. See note to l. 22.
 Maist, *adv.* most, i. 1, l. 14.
 Maist, *adj.* greatest, i. 54, l. 9.
 Maist, *s.* mast, ii. 200, l. 8.
 Maister, *s.* master, ii. 237, l. 23.
 Maisteris steik, a piece of work serving as a sample of a workman's skill in his craft, ii. 237, l. 24.
 Maisterskaip, Maisterschip, *s.* controlling influence, superiority in power, ii. 270, l. 19, and footnote; ii. 223, l. 14.
 Mak, *v.* make, i. 118, l. 13; *mak hand*, swear allegiance, i. 57, l. 25; *mak costis*, expenses or fine, pay costs, &c., i. 70, l. 26; ii. 257, l. 12; *mak ane fyne*, see Fyne; *mak a use*, see Use; *mak faith*, swear a judicial oath, i. 192, l. 3; 244, l. 10. See note to ii. 63, l. 20; *mak na faith* (of an instrument), be of no evidential value, i. 140, l. 24; *mak furth*, prosecute (a voyage), ii. 250, l. 24; *mak harbrie*, enter a harbour, ii. 234, l. 27; *mak penny*, convert into money by sale, i. 242, l. 32; *mak relation*, report, i. 113, l. 26; *maid sic wayis*, took such measures, i. 52, l. 12; *mak with*, be in favour of, i. 286, l. 7; *past p.* maid, ii. 199, l. 7; i. 166, l. 5; *pres. p.* makand, i. 51, l. 19.
 Makar, *s.* maker, i. 26, l. 34.
 Man, *v.* must, ii. 254, l. 8.
 Mand, *s.* penalty, i. 165, l. 1.
 Manlie, *adv.* human, i. 83, l. 2.
 Mannass, *v.* threaten, i. 50, l. 22.
 Mansweir, *v.* perjure, i. 48, l. 17.
 Mantein, *v.* maintain, ii. 178, l. 3.
 Manure, Manuire, *s.* cultivation, i. 314, l. 30; 315, l. 3.
 Manure, *v.* cultivate, i. 299, l. 12.
 Marbell, Marbill, *adj.* marble, ii. 160, l. 2; 203, l. 30.
 Marborrie, Marbrie, *s.* marble, ii. 228, ll. 6, 8.
 Marie, *v.* marry, ii. 414, l. 31.
 Mark, *s.* a measure of weight in Orkney, ii. 210, l. 10.
 Maraige, *s.* a payment made to the superior by his former vassal's heir who had not been married before his ancestor's death, at his age of puberty (Ersk., 'Inst.,' ii. 5, 18), i. 55, l. 12.
 Marrow, *s.* companion, i. 116, l. 31; the opposite party in an action at law, i. 293, l. 3.
 Martarise, *v.* martyr, ii. 12, l. 20.
 Marter, *s.* martyr, ii. 185, l. 4.
 Martiloge, *s.* martyrology, ii. 361, l. 1.
 Masendew, *s.* hospital, ii. 189, l. 29.
 Mass, *s.* mace, i. 153, l. 28.
 Matriologe, *s.* martyrology, ii. 340, l. 5.
 Mauch, *s.* a near relative by marriage. Here the word probably means a son-in-law, i. 58, l. 22.
 Maw, *v.* mow, i. 314, l. 17; *pres. p.* mawand, *ib.*
 Meane, *adj.* common to all, i. 111, l. 13.
 Mease, *s.* portion of food, ii. 257, l. 3.
 Meat, Meit, *s.* comrade, i. 19, l. 8; ii. 241, l. 17.
 Medicionare, *s.* physician, ii. 373, l. 2.
 Medicionell, *adj.* medical, ii. 372, l. 33.
 Medill, *v.* meddle, ii. 227, l. 5; interfere with, ii. 230, l. 33.
 Meik, *adj.*, ii. 194, l. 11. See Meiknes.
 Meiknes, *s.* mildness, clemency, i. 58, l. 30.
 Meill, *s.* meal, ii. 210, l. 8.
 Meit, *s.* food, ii. 257, l. 2.
 Meit, *v.* meet, ii. 352, l. 1; *meit thame*, i. 221, l. 14. See note.
 Meit, *adj.* fit, suitable, ii. 268, l. 11.
 Meith, *s.* boundary, i. 298, l. 6.
 Meladie, Malladie, *s.* malady, ii. 373, ll. 3, 5.
 Memoriall, *s.* note, memorandum, ii. 147, l. 19.
 Memoriall, *adj.* serving to commemorate, ii. 264, l. 27.
 Mend, *v.* amend, i. 126, l. 20.
 Mendiment, *s.* amendment, i. 69, l. 26.
 Mene, *v.* mean, i. 15, l. 5.
 Menis, *s.* means, ii. 171, l. 13.
 Mensworne, *past p.*, i. 293, l. 14. See Mansweir.
 Mentionate, *v.* mention, ii. 201, l. 27.
 Mercer, *s.* merchant, ii. 200, l. 35.
 Merch, *s.* boundary, i. 289, l. 31.
 Mergene, Mergin, *s.* margin, ii. 215, l. 25; 320, l. 16.
 Meriting, *adj.* deserving of reward, i. 112, l. 23.
 Mertymes, *s.* Martinmas (November 11th), i. 237, l. 20.

- Mervel, *s.* marvel, ii. 357, l. 5.
 Messaige, *s.* message, ii. 357, l. 3.
 Messe, *s.* mass, ii. 392, l. 7.
 Messeldeu, Misseldeu, *s.* mistletoe, ii. 51, l. 31; ii. 163, l. 9.
 Micht, *v.* might, i. 5, l. 28.
 Middis, Middist, *s.* middle, i. 191, l. 10; ii. 255, l. 3.
 Ministerie, *s.* place where a minister of religion was settled, ii. 105, l. 23.
 Ministrare, *v.* administer, i. 30, l. 1; ii. 180, l. 7; officiate, ii. 298, l. 17.
 Minȝearde, *adj.* mincing, i. 77, l. 21. See note.
 Mischeif, *v.* harm, ii. 355, l. 7.
 Misdoare, *s.* evil-doer, l. 33, l. 26.
 Misknawlaige, *s.* ignorance, i. 79, l. 26.
 Misordoure, *s.* disorder, ii. 221, l. 17.
 Mo, *adj.* more, ii. 310, l. 20.
 Moir, *adj.* greater, i. 51, l. 16.
 Moist, *adv.* most, i. 11, l. 29.
 Moist, *v.* must, ii. 246, l. 23.
 Molestation, *s.*, i. 315, l. 32. See note.
 Mone, *s.* moon, ii. 331, l. 11.
 Moneth, *s.* month, ii. 440, l. 3.
 Monisteriall, *adj.* relating to monasteries, i. 96, l. 24.
 Monitioun, *s.* warning, ii. 178, l. 7; legal notice, premonition, ii. 64, l. 5.
 Monnonday, *s.* Monday, i. 144, l. 15.
 Montan, Monttan, *s.* mountain, i. 25, l. 32; ii. 414, l. 22.
 Monthis borde, the ridge of a mountain, i. 297, l. 1.
 Mony, *adj.* many, ii. 311, l. 2.
 Monyest, *adv.* most, i. 200, l. 18.
 Mortifiare, *s.* one who mortifies land, ii. 148, l. 16. See note to ii. 139, l. 14.
 Mortificatioun, ii. 139, l. 14. See note.
 Mortifie, *v.* to mortify land, ii. 128, l. 4. See note to ii. 139, l. 14.
 Mos, *s.* moss, i. 298, l. 27.
 Mosicall, *adj.* Mosaic, ii. 202, l. 30.
 Mote, *v.* may, i. 18, l. 12.
 Mounk, Munk, *s.* monk, ii. 380, l. 24; 345, l. 26.
 Movare, *s.* source, ii. 389, l. 11.
 Moyane, *s.* means, property, i. 38, l. 25; 110, l. 6; undue means, i. 16, l. 1.
 Mudie, ii. 335, l. 2. See note.
 Mur, *s.* moor, i. 298, l. 27.
 Murdrest, Murdreist, *past p.* murdered, ii. 149, l. 33; 154, l. 27.
 Murmoure, *v.* defame, i. 119, l. 10. See note; complain, i. 105, l. 8.
 Murthoure, *s.* murder, ii. 171, l. 7.
 Mutulate, *past p.* mutilated, i. 237, l. 32.
 Mychtlie, *adv.* mightily, ii. 390, l. 9.
 Myln, *s.* mill, i. 298, l. 28.
 Na, Næ, *adj.* no, i. 260, l. 15; i. 226, l. 11.
 Naim, *s.* and *v.* name, ii. 58, l. 16; 295, l. 30.
 Naipkin, *s.* napkin, ii. 342, l. 2.
 Nale, *v.* nail, ii. 280, l. 4.
 Nane, *pron.* none, i. 5, l. 9.
 Narrest, *adj.* nearest, ii. 372, l. 19.
 Natour, *s.* nature, ii. 255, l. 29.
 Naturalitie, *s.* naturalization, i. 37, l. 21.
 Natyve, *s.*, ii. 32, l. 9. See note.
 Nebait, represents "rabbatu" (deducted) in the original, ii. 222, l. 25.
 Necessar, *adj.* necessary, ii. 203, l. 10; *ar nocht necessor*, have no need, i. 110, l. 7.
 Neir, *adv.* near, ii. 246, l. 16.
 Nemmed, *past p.* named, ii. 215, l. 36.
 Nepheu, Nephu, *s.* grandson, ii. 174, l. 19; granddaughter, ii. 174, l. 11.
 Nepott, *s.* grandson, i. 53, l. 3; nephew, i. 53, l. 8.
 Nethir, *adv.* neither, i. 15, l. 6.
 New thingis, i. 286, l. 1. See note.
 Nice, *s.* apparently a form of "nece," a nephew, ii. 370, l. 10.
 Nidines, *s.* want, ii. 332, l. 27.
 Nifferring, *s.* bartering, i. 29, l. 20.
 Nobilnes, *s.* seignorial rights ("noblesses" in the original), ii. 234, l. 25.
 Nocht, *s.* nothing, ii. 247, l. 2.
 Nocht, *adv.* not, i. 4, l. 29.
 Nochttheles, *adv.* nevertheless, i. 51, l. 21.
 Nomenclatores, *s.* applied to court-officers who call the names of parties to an action when their presence in court is required, i. 153, l. 30.
 None, *s.* noon, ii. 280, l. 2.
 Nonentrie, *s.*, i. 277, l. 32. See note.
 Nor, *conj.* than, ii. 100, l. 19.
 Northland, *adj.* belonging to the north country, i. 71, l. 15.
 Notabill, *adj.* well-known, i. 70, l. 6.

- Nother, *adv.* neither, i. 30, l. 10.
 Nott, *s.* note, ii. 275, l. 18.
 Noy, *s.* grief, i. 54, l. 16.
 Noyes, *s.* sound, ii. 388, l. 22.
 Numbe, *s.*, ii. 217, l. 17. See note.
 Numer, Nowmer, Number, *s.* and *v.*
 number, ii. 182, l. 13; i. 15, l. 32;
 ii. 280, l. 16; 292, l. 14.
 Numeraris ordinare, i. 115, l. 17.
 See note to i. 114, l. 25.
 Nureis, Nurisch, *v.* maintain, i. 45,
 l. 36; 51, l. 2; rear, i. 29, l. 2.
 Nychtboure *s.* neighbour, ii. 194,
 l. 23.
 Nychtboure, *adj.* neighbouring, ii.
 217, l. 23.
 Nynt, *adj.* ninth, ii. 280, l. 5.

 Oæsiàn, *s.* ocean, ii. 202, i. 20.
 Obedience, Obediens, *s.* authority,
 i. 39, l. 14; 109, l. 2; ii. 158, l. 8;
 361, l. 15.
 Obdured, *adj.* obdurate, i. 100, l. 15.
 Obleis, *v.* oblige, i. 182, l. 9; *pres. p.*
 obleisand, i. 255, l. 14.
 Oblesment, *s.* obligation, i. 276, l. 26.
 Observe, *v.* attend to, ii. 271, l. 29.
 Obsolve, *v.* absolve, ii. 99, l. 20.
 See Absolution.
 Obtemper, *v.* obey, i. 264, l. 4.
 Obtenare, *s.* one who obtains, i. 229,
 l. 14.
 Obtene, *v.* obtain, ii. 389, l. 25.
 Occien, *s.* ocean, ii. 249, l. 31.
 Occisioun, *s.* slaughter, ii. 196, l. 11.
 Ocht, *s.* aught, anything, i. 295, l. 9.
 Ociane, *s.* ocean, ii. 388, l. 27.
 Ocker, *s.* usury, i. 206, l. 34.
 Od, *adj.* odd, ii. 94, l. 12.
 Of before. See Before.
 Offend, *v.* act on the offensive, ii. 221,
 l. 12.
 Officemen, *s.* burgh officials, i. 76,
 l. 9; officers of ship, ii. 263, l. 6.
 Officers of arms, messengers at arms,
i.e., officers employed to execute
 writs proceeding from the Court
 of Session and Court of Justiciary,
 i. 154, l. 15.
 Official, *s.*, ii. 147, l. 14. See note to
 ii. 59, l. 6.
 Oiris, *s.* bank of oars, ii. 199, l. 24.
 Oist, *s.* host, ii. 286, l. 16.
 On lyve, alive, ii. 280, l. 4.
 On nawyse, in no manner, ii. 176,
 l. 22.
 Onlie, *adv.* alone, ii. 99, l. 6; 216,
 l. 18.
 Onstrukkin up, said of a cask of
 which the head has not been struck
 off, ii. 259, l. 29.
 Ony, *adj.* any, i. 13, l. 25.
 Oppin, *adj.* open, i. 26, l. 13.
 Oppyn, *v.* open, i. 201, l. 32.
 Oppone, *v.* oppose, i. 227, l. 9;
 plead an exception, defence, or
 ground of suspension, i. 203, l. 12;
 ii. 76, l. 1; 98, l. 28.
 Or, *adv.* before, ii. 207, l. 8.
 Or than, *conj.* else, otherwise, ii. 259,
 l. 26.
 Ordane, *v.* provide, ii. 199, l. 11;
 361, l. 12; confer holy orders, ii.
 315, l. 14.
 Ordinand, *pres. p.* ordaining, ii. 392,
 l. 12.
 Ordinare, Ordiner, *adj.* and *adv.* ordi-
 nary, ordinarily, i. 1, l. 21; 160,
 l. 7; 156, l. 32.
 Ordinar, Lord, a judge who by the
 nature of his office had a fixed and
 determined jurisdiction in all actions
 of the same general nature (Ersk.,
 'Inst.,' i. 2, 15). See 1487, c. 10
 ('A. P.,' ii. 177), i. 147, l. 9.
 Ordiner, *s.* a public meal provided at
 a tavern, i. 177, l. 6.
 Ordiner, *s.* a title given to Church
 dignitaries having original juris-
 diction; lay bishop of a diocese
 (Jamieson), ii. 101, l. 2.
 Ordour, *v.* to regulate a person's
 conduct, i. 47, l. 6; marshall, i.
 50, l. 5.
 Ordoure, *s.* order (religious), ii. 112,
 l. 5; *taking ordoure*, ii. 276, l. 33.
 See Tak.
 Ordourlie, *adv.* in order, i. 221, l. 7;
 in due course or regular succession,
 i. 146, l. 29; in accordance with
 law or practice, i. 124, l. 7; 228,
 l. 6; 268, l. 22.
 Orysonc, *s.* oration, i. 48, l. 32.
 Ould, *adj.* old, i. 1, l. 8.
 Oulk, *s.* week, i. 116, l. 23.
 Oulklie, *adv.* weekly, i. 153, l. 12.
 Ourgang, *v.* oppress, i. 16, l. 20.
 Our pas, pass over, ii. 241, l. 19.
 Outbraid, *v.* upbraid, i. 77, l. 25.
 Out face, *v.* defy, i. 22, l. 2.
 Outher, *adv.* either, i. 33, l. 5.
 Outrun, *v.* expire, i. 235, l. 15.
 Outset, *s.* publication of a book, i. 84,
 l. 16.
 Outtreding, *s.* fitting out, ii. 255,
 l. 12.
 Outwith, *prep.* outside of, i. 299, l. 26.
 Ovartis, i. 157, l. 30. See note.

- Overgaif, *past p.* renounced in favour of another, ii. 196, l. 5.
- Overloft, *s.* upper deck, ii. 205, l. 21.
- Overlord, *s.*, i. 308, l. 34. See Superior.
- Overslyde, *v.* slip from memory, i. 15, l. 23. See note.
- Oververie, *v.* tire out, i. 259, l. 13.
- Oy, *s.* grandson, ii. 27, l. 16; nephew, i. 53, l. 8.
- Oyle, *s.* oil, ii. 287, l. 5.
- Pace, *s.* peace, ii. 198, l. 30.
- Paciens, *s.* patience, ii. 373, l. 11.
- Pactioun, *s.* compact, i. 237, l. 13.
- Paip, *s.* Pope, ii. 2, l. 33.
- Paiprie, *s.* office of Pope, ii. 41, l. 29.
- Pair, *v.* diminish, ii. 69, l. 31.
- Pairst, *s.* part, i. 12, l. 26; share, ii. 244, l. 23; point to be observed, i. 86, l. 6; *in that pairst*, on that account, i. 282, l. 9; 301, l. 10; *sheriffs in that part*. See p. 43, note 6 above.
- Pairst, *v.* distribute in shares, ii. 243, l. 18; *pairst with*, share in, ii. 244, l. 6.
- Pairst, *v.* depart, i. 287, l. 18.
- Pak, *s.* an old measure of quantity, ii. 209, l. 2.
- Pak or peill, ii. 266, l. 30. See note.
- Palion, *s.*, ii. 230, l. 27. See note.
- Pallice, Pallace, *s.* palace, ii. 180, l. 15; 420, l. 11.
- Pane, *s.* trouble, i. 7, l. 10; ii. 242, l. 26; punishment, penalty, i. 115, l. 29; ii. 61, l. 11.
- Panefull, *adj.* laborious, i. 5, l. 34.
- Panianis, *s.*, ii. 288, l. 3. See note.
- Panzelamen, ii. 245, l. 14; represents "Painz la main." See note to l. 9.
- Papistrie, *s.* Popery, i. 87, l. 10.
- Parrallous, *adj.* perilous, ii. 233, l. 8.
- Parroche, Parrochin, Paroche, *s.* parish, i. 239, l. 9; ii. 195, l. 27; 218, l. 11.
- Parrochynare, *s.* parishioner, i. 97, l. 5; ii. 219, l. 3.
- Partaige, *s.* division, ii. 224, l. 8.
- Partesing, *s.* division, i. 297, l. 27.
- Partiall counsall, i. 175, l. 6, note.
- Particulare, *adj.* private, ii. 272, l. 26.
- Particularis, *your awin*, matters affecting yourselves, i. 316, l. 36.
- Partinar, *s.* partner, ii. 241, l. 7.
- Parting, *s.* division, ii. 260, l. 7.
- Partising, *s.* division, ii. 224, l. 9.
- Party, *v.* take part with, i. 7, l. 15.
- Pas, Pase, *v.* go, i. 172, l. 35; 292, l. 24; ii. 214, l. 6; depart, ii. 207, l. 8; give (judgment), ii. 73, l. 31; pass (a bill), i. 258, l. 1; *pas fra*, *pas bak frome*, abandon, i. 172, l. 34; ii. 352, l. 4; *fase away*, put away, ii. 251, l. 32; *pres. p.* pass-and, i. 57, l. 32.
- Pasche, *s.* Easter, ii. 331, l. 9.
- Pase, *v.* weigh, i. 47, l. 37.
- Passaige, *s.* passage, ii. 273, l. 22; ii. 203, l. 14. See note to ii. 234, l. 5.
- Passer, *s.* one who passes (a bill), i. 258, l. 3.
- Pat, *pret.* put, i. 33, l. 26.
- Patent, *adj.* open, i. 156, l. 19; exposed to view, i. 239, l. 15.
- Patrene, *s.* pattern, ii. 199, l. 20.
- Patron, *s.* shipmaster, ii. 220, l. 21.
- Patrone, *s.* patron, founder, ii. 127, l. 3; one who has right of presentation to a benefice, ii. 101, l. 1.
- Paveis, *s.* a large shield. These shields were ranged along the sides of a ship as a protection against missiles, ii. 220, l. 13.
- Peax, *s.* peace, ii. 219, l. 5.
- Pece, *s.* piece, ii. 200, l. 4; *peces*, the documents in a case, i. 168, l. 23.
- Peciabill, *adj.* peaceable, ii. 182, l. 16.
- Pecuniall, *adj.* pecuniary, i. 87, l. 24.
- Peill, *v.*, ii. 266, l. 30. See note.
- Peittis, *s.* peats, i. 314, l. 17.
- Pendactis, *s.* pandects, ii. 363, l. 1.
- Penny, To mak, to convert into money by sale, i. 242, l. 32.
- Penny, Thrid, i. 299, l. 33. See note.
- Pension, *s.* salary, i. 92, l. 27.
- Perambulate, Perambule, *v.*, i. 290, l. 23; 292, l. 5. See note to i. 137, l. 23.
- Perambulation, *s.*, i. 137, l. 23. See note.
- Pereir, *s.* survey, i. 23, l. 22.
- Pereische, Pereise, *v.* perish, ii. 238, l. 28; 241, l. 23.
- Peremptoure exception, an exception which relates to the merits of the case and, if sustained, ends it for all time, i. 173, l. 10.
- Peremptourlie, *adj.* and *adv.* peremptory, applied to a term at which the party cited must appear, i. 98, l. 26; peremptorily, i. 98, l. 14.
- Perfyte age, full age, ii. 95, l. 30.
- Perrell, *s.* peril, ii. 226, l. 14.
- Perse, *v.* pierce, ii. 423, l. 18.

- Persew, *v.* sue, ii. 88, l. 15; prosecute, ii. 168, l. 31, *pres. p.* persewand, ii. 168, l. 31.
- Persewer, Perseware, *s.* pursuer, plaintiff, i. 165, l. 20; assailant, ii. 188, l. 14.
- Person, *s.* parson, i. 100, l. 33.
- Persuade, *v.* assure, i. 54, l. 22.
- Persuite, *s.* attack, assault, ii. 188, l. 13; 388, l. 32; prosecution (of a summons), i. 165, l. 6.
- Pertene, *v.* belong, ii. 258, l. 31.
- Perventare, *s.* one who hinders or makes to cease, ii. 107, l. 27.
- Phisik, *s.* physic, ii. 373, l. 1.
- Phisitiene, *s.* physician, ii. 294, l. 6.
- Pictoure, *s.* likeness, ii. 342, l. 12.
- Pik, *s.* pitch, ii. 209, l. 9.
- Plaidge, *s.* plague, ii. 203, l. 8.
- Plane, *adj.* open, i. 299, l. 24.
- Planelic, *adv.* plainly, ii. 391, l. 10.
- Plasing, *s.* placing, ii. 55, l. 32.
- Pleidabill, *adj.* See Breve.
- Plaise, *v.* please, ii. 189, l. 9.
- Plennessing, *s.* household furniture, i. 245, l. 14.
- Plesour, *s.* pleasure, ii. 180, l. 13.
- Pleuch, *s.* plough, i. 245, l. 9.
- Pley, *s.* action at law, i. 167, l. 29; dispute, i. 291, l. 13; debate, i. 156, l. 34.
- Pley, *v.* plead, i. 164, l. 7; maintain an action in court, i. 190, l. 3.
- Pleydand, *pres. p.* litigating, i. 174, l. 10.
- Plundge, *v.* plunge, ii. 261, l. 13.
- Polacie, *s.* policy, ii. 276, l. 21.
- Polacie, *s.* alterations made in a town for improving its appearance, ii. 38, l. 14.
- Polk, *s.* poke, bag, ii. 134, l. 19.
- Pontificall, *s.* vestments and insignia of a bishop, ii. 351, l. 31.
- Pontificatioun, *s.* pontificate, ii. 364, l. 13.
- Poplosie, *s.* apoplexy, ii. 439, l. 15.
- Porculace, *s.* portcullis, i. 109, l. 2.
- Portaige, *s.* personal property brought on board ship by a passenger, ii. 247, l. 4. See note.
- Portioner, *s.* one who holds as undivided a joint or common right with others in the same subject, i. 297, l. 13.
- Pot, *s.* a pit filled with water, i. 64, l. 31.
- Poulder, *s.* powder, ii. 220, l. 13.
- Power, *s.* authority, i. 84, l. 7; 309, l. 15; force, i. 255, l. 26.
- Poyndabill, *adj.* liable to be distrained, ii. 254, l. 28.
- Poynding, *s.*, i. 227, l. 16. See note.
- Poynt, Put to ane, bring to a conclusion, i. 144, l. 30.
- Poyntis, *s.* laces for attaching hose to doublet, &c., ii. 209, l. 25.
- Practik, Practique, *s.* practice, i. 138, l. 14; i. 125, l. 9; experience, i. 107, l. 17.
- Prase, *v.* and *s.* praise, ii. 180, l. 19; 189, l. 2.
- Preacious, *adj.* precious, ii. 435, l. 17.
- Precedent, *s.* president, i. 72, l. 18.
- Preceise, *adj.* precise, ii. 106, l. 21.
- Prech, *v.* preach, ii. 179, l. 14.
- Preferred, *past p.* obtained by preferment, i. 89, l. 7.
- Prefigure, *v.* prefigure, ii. 182, l. 4.
- Preich, *v.* preach, i. 9, l. 10.
- Preichare, Preichear, Preicheour, *s.* preacher, i. 9, l. 13; ii. 299, l. 7; ii. 47, l. 31.
- Preiching, *s.* preaching, ii. 304, l. 24.
- Preif, *s.* proof, i. 150, l. 28.
- Preif, Prove, *v.* prove, i. 170, l. 17; *pres. p.* prevand, ii. 145, l. 16; preving, i. 170, l. 4; preifing, i. 170, l. 17.
- Preis, *v.* press forward, i. 164, l. 25; to make strenuous efforts, ii. 108, l. 10; attempt, i. 165, l. 5.
- Preise, *s.* throng, ii. 253, l. 11; violence of gale, ii. 155, l. 7.
- Preiudge, *v.* prejudice, i. 267, l. 8.
- Prent, *v.* and *s.* print, i. 71, l. 7; ii. 264, l. 30.
- Prenttare, *s.* printer, i. 71, l. 17.
- Prentting, *s.* printing, i. 70, l. 34.
- Present, *v.* represent, i. 119, l. 6.
- Presentlie, *adv.* at present, i. 74, l. 32.
- Presoning, *s.* imprisonment, ii. 239, l. 25.
- Presoun, *s.* prison, ii. 313, l. 2.
- Pretend, *v.* make a (baseless) claim, ii. 185, l. 17, *pres. p.* pretendand, ii. 185, l. 32.
- Pretendit regnne, reign by one who has no title to the throne, ii. 185, l. 19.
- Prevate, *adj.* private, ii. 200, l. 21.
- Previde, *v.* foresee, ii. 69, l. 26.
- Previe, *adj.* privy, secret, i. 14, l. 7; 26, l. 13.
- Price, *s.* value, ii. 80, l. 11; *tak price*, charge, i. 254, l. 30.
- Primasie, *s.* pre-eminence, ii. 339, l. 16.
- Printese, *s.* apprentice, ii. 238, l. 3.

- Priorlie, *adj.* relating to a priory, i. 96, l. 25.
- Probabill, *adj.* capable of proof, demonstrable, ii. 326, l. 18.
- Probatiou, *s.* proof, i. 135, l. 30.
- Problame, *s.* problem, ii. 388, l. 14.
- Procequite, *v.* strive to bring about, ii. 182, l. 27.
- Proceded, Ordourlie, having been the subjected of regular procedure, i. 228, l. 7; 268, l. 23.
- Procese, Proses, *s.* legal procedure, ii. 65, l. 28; i. 212, l. 29; form of such procedure, i. 12, l. 16; *to grant procese*, to authorize the case to be proceeded with, i. 166, l. 19.
- Procuir, *v.* to act as procurator, i. 161, l. 18. See note to i. 157, l. 20; endeavour to obtain, i. 15, l. 7. As to use of the word at i. 101, l. 22, see note.
- Procuratour, *s.*, i. 157, l. 21. See note. Procuratour fyschall, ii. 79, l. 9. See note.
- Profit full, *adj.* profitable, i. 22, l. 23.
- Progres, *s.* apparently an un-interrupted succession or continuous title, i. 59, l. 1.
- Proheme, *s.* proem, i. 11, l. 18.
- Prolong, *s.* delay, i. 289, l. 14. See note to l. 13.
- Promese, *s.* agreement, ii. 250, l. 25.
- Promiscue, *adv.* promiscuously, i. 152, l. 5.
- Promit, *s.* promise, i. 120, l. 1.
- Promit, *v.* promise, i. 51, l. 37.
- Promittit, *part.* (Bisset's rendering of 'promissa,') i. 100, l. 9.
- Promovare, *s.* promoter, ii. 343, l. 26.
- Pronepoy, *s.* great-grandson, i. 62, l. 28.
- Pronounce, *v.* to pronounce judgment, ii. 74, l. 23.
- Pronunciatioun, *s.* the act of pronouncing, i. 164, l. 18; 214, l. 11.
- Prophane, *adj.* secular, i. 57, l. 22.
- Propone, *v.* present, ii. 59, l. 29; 60, l. 19; propose, i. 310, l. 23, *pres. p.* proponand, ii. 60, l. 19.
- Proport, *v.* purport, ii. 208, l. 11; show, ii. 36, l. 31.
- Propyne, *v.* present, i. 18, l. 6.
- Prorogate, *v.* extend, i. 177, l. 2.
- Proctioun, *s.*, i. 271, l. 18. See note.
- Protestation, *s.*, i. 144, l. 29. See note.
- Provocare, *s.* one who incites, i. 46, l. 22.
- Provyded, *past p.* appointed by patron of benefice, ii. 145, l. 2.
- Pruif, *s.* proof, i. 159, l. 14.
- Prydefull, *adj.* proud, i. 26, l. 37.
- Pryse, *v.* value, ii. 241, l. 22.
- Pryse, *s.* prize, ii. 225, l. 8.
- Puir, *adj.* poor, i. 15, l. 8.
- Puir, *adj.* pure, ii. 31, l. 26; *comp.* puirare, ii. 287, l. 6.
- Pund, *s.* pound, ii. 208, l. 14.
- Punetioun, Punition, *s.* punishment, i. 34, l. 16; 49, l. 27.
- Pupularie, *s.* pupillarity, ii. 323, l. 10.
- Purdge, *v.* clear of suspicion, i. 173, l. 25.
- Purgatioun, *s.* clearing of suspicion, i. 173, l. 27.
- Puritance, *s.* puritans, ii. 335, l. 2. See note.
- Purpresture, Purprision, *s.*, i. 127, l. 18; 310, l. 29. See note to i. 310, l. 18.
- Purpryse, *v.* commit purpresture, i. 310, l. 31. See note to i. 310, l. 18.
- Pursewant, *s.* pursuivant, i. 233, l. 6.
- Pusant, *adj.* puissant, ii. 387, l. 32.
- Put on, blame, charge, ii. 245, l. 5; *put to ane poynt*, bring to a conclusion, i. 144, l. 30; *put surtie*, give security, ii. 256, l. 18; *put in respleit*. See Respleit.
- Pylze, *v.* rifle, ii. 224, l. 28.
- Quadruply, *s.* defender's answer to pursuer's triply, i. 183, l. 10. See Triply.
- Quair, *s.* book, i. 21, l. 3.
- Qualyfy, *v.* specify, i. 203, l. 16; *past p.* qualyfyed, competent, ii. 251, l. 17.
- Quantitie, *s.* amount involved, ii. 58, l. 9.
- Quene, *s.* queen, ii. 119, l. 14.
- Querrell, *v.* find fault with, i. 121, l. 24; challenge, i. 218, l. 36.
- Quha, *pron.* who, ii. 346, l. 27.
- Quhair, *adv.* where, ii. 389, l. 16.
- Quhairas, *adv.* where, ii. 250, l. 2.
- Quhairat, *adv.* whereat, ii. 396, l. 8.
- Quhais, Quhas, *pron.* whose, ii. 341, l. 4; i. 5, l. 25.
- Quhale, *s.* whale, ii. 213, l. 17.
- Quhat, *adj.* what, ii. 356, l. 36.
- Quhen as, *adv.* when, ii. 345, l. 5.
- Quhiche, *pron.* which, i. 253, l. 3.
- Quhiddel, *conj.* whether, ii. 398, l. 16.
- Quhill, Quhillis, *adv.* while, i. 21, l.

- 23; i. 122, l. 28; 123, l. 9; ii. 179, l. 14.
- Quhill, *conj.* until, ii. 265, l. 26.
- Quhill, *prep.* until, ii. 55, l. 7.
- Quhissill, *s.* whistle, ii. 259, l. 16.
- Quho, *pron.* who, ii. 390, l. 6.
- Quhow, *adv.* how, ii. 83, l. 20.
- Quhyle, *s.* while, i. 288, l. 34. See Bony quhyle.
- Quhyte, *adj.* white, i. 45, l. 5.
- Quiett, *adj.* retired, i. 50, l. 1.
- Quike, *adj.* alive, ii. 317, l. 9.
- Quod, *v.* quoth, i. 21, l. 17.
- Quott, Quote, ii. 78, l. 2; 97, l. 19. See note to ii. 53, l. 16.
- Quott, *v.* record, i. 17, l. 7.
- Quotted with, marked with (marginal) references to the authorities for the statements in the text, ii. 265, l. 21.
- Quyt, *v.* discharge, i. 40, l. 3.
- Quytclaim, *v.* renounce claim to, discharge, ii. 196, l. 4.
- Qyute, *adj.* acquitted of blame, ii. 245, l. 6; relieved of liability, i. 40, l. 5.
- Qyute, Gif, free from liability, ii. 89, l. 31.
- Qyute out, clear, redeem, i. 252, l. 12.
- Raid, *s.* roadstead, ii. 235, l. 19. See Read, Reid.
- Raidge, *v.* rage, ii. 285, l. 18.
- Raip, *s.* rope, ii. 244, l. 13.
- Rair, *adj.* rare, i. 21, l. 18.
- Rais, *pret.* arose, i. 29, l. 11.
- Raise, *v.* erase, i. 176, l. 18.
- Raise ane breve, commence proceedings by way of a brieve, i. 289, l. 32; *raise an instrument*, take it up from the notary who prepared it, i. 289, l. 16; *raise the lieges*, cause them to rebel, i. 57, l. 29.
- Rak, Rax, *v.* stretch, ii. 9, l. 29; ii. 3, l. 7.
- Rakning, *s.* reckoning, ii. 88, l. 8; method of computation, ii. 157, l. 9.
- Rakyn, *v.* reckon, ii. 390, l. 13.
- Rampand, *adj.* rampant, ii. 387, l. 21.
- Rander, *v.* give back, ii. 232, l. 21; surrender, ii. 237, l. 17.
- Rang, *pret.* reigned, i. 21, l. 23.
- Rasche bus, a tuft of rushes, i. 17, l. 16.
- Rasure, *s.* erasure, i. 126, l. 5.
- Rattiffeand, *pres. p.* ratifying, ii. 392, l. 8.
- Rattis, *s.*, ii. 239, l. 13. See note.
- Read, *s.* roadstead, ii. 235, l. 24. See Raid, Reid.
- Reat, *s.* rate, ii. 256, l. 27.
- Rebait, *v.* abate, ii. 229, l. 6; deduct, ii. 80, l. 6; *pres. p.* rebaittand, ii. 229, l. 6.
- Rebell, *s.*, i. 175, l. 21. See note to i. 204, l. 13.
- Rebellioun, *s.*, i. 204, l. 16. See note to i. 204, l. 13.
- Receill, *v.*, i. 218, l. 19. See Resyle.
- Receit, *v.* mention, ii. 41, l. 22.
- Reche, *s.* a dog that hunts by scent, i. 29, l. 2.
- Reches, *s.* riches, ii. 198, l. 24.
- Recidence, Resydenche, *s.* residence, i. 120, l. 33; ii. 269, l. 8; sitting of a judge in court, i. 115, l. 28.
- Reclamations, *s.*, ii. 232, l. 20. See Reclame.
- Reclame, *v.* ask that something be returned, ii. 232, l. 24.
- Recognition, *s.* i. 127, l. 17. See note.
- Recognosce, *v.*, i. 306, l. 24. See note to i. 127, l. 17.
- Recommend, *v.* commend, i. 65, l. 11; *pres. p.* recommendand.
- Recompance, *v.* make amends to, ii. 253, l. 23.
- Recompance, *s.* compensation, ii. 251, l. 30.
- Recounseil, *v.* reconcile, i. 57, l. 10.
- Recunnissing, *pres. p.*, ii. 131, l. 22. See Recognosce.
- Recuparioun, *s.* recovery (of lands), i. 138, l. 6.
- Recusatour, *adj.* refusing to submit to the jurisdiction of a judge on some specific ground, i. 173, l. 17; ii. 69, l. 18.
- Red, *past p.* read, ii. 293, l. 12.
- Redare, Reidare, *s.* reader, i. 9, l. 28; ii. 78, l. 19. See note.
- Redemare, Redimer, *s.* redeemer, ii. 278, l. 27; 279, l. 7.
- Reduction, *s.*, i. 128, l. 2. See note.
- Rec, *s.* sail-yard (translation of "antenna"), ii. 200, l. 9.
- Reedife, *v.* re-establish, ii. 192, l. 26.
- Refound, *v.* refund, ii. 223, l. 21.
- Refuit, *v.* refute, ii. 184, l. 13.
- Refuse, *s.* refusal, i. 262, l. 22.
- Regallitie, *s.*, i. 241, l. 12. See note.
- Regall burgh, royal burgh, ii. 56, l. 9.
- Regnne, *v.* reign, i. 3, l. 21; ii. 116, l. 1.

- Register, *Registere*, *s.* official register, ii. 277, l. 32; record, ii. 263, l. 22; *put in register*, put on record, i. 279, l. 10.
- Registrate, *past p.* registered, i. 145, l. 7; recorded, ii. 37, l. 28; 147, l. 22.
- Regoure, *s.* rigour, i. 119, l. 5.
- Reherse, *v.* tell, state, i. 114, l. 2; mention, quote, i. 81, l. 8.
- Reiched, *part.*, ii. 219, l. 22. See Rike.
- Reid, *adj.* red, ii. 387, l. 23.
- Reid, *s.* roadstead, ii. 245, l. 27. See Raid, Read.
- Reid, *v.* read, ii. 298, l. 22.
- Reidare, *s.*, ii. 78, l. 19. See note.
- Reif, *s.* robbery, i. 50, l. 25.
- Reik, *s.* smoke, ii. 218, l. 22.
- Reik, *v.* extend, i. 84, l. 9.
- Relaised, *past p.* surrendered a claim to, ii. 159, l. 3.
- Relatioun, *s.* reference, i. 66, ll. 27, 31; statement, account, i. 113, l. 27.
- Relax, *v.* relieve from denunciation, i. 241, l. 4. See note to i. 204, l. 13.
- Relaxatioun, *s.*, i. 266, l. 31. See Relax.
- Relief, *s.*, i. 55, l. 11. See note.
- Remane, *v.* remain, ii. 280, l. 4; *remanand on*, awaiting, i. 162, l. 22.
- Remanent, *s.* remainder, i. 58, l. 11.
- Remanent, *adj.* other, i. 82, l. 7; *the remanent nycht*, the remainder of the night, i. 54, l. 16.
- Remeid, *s.* remedy, redress, i. 96, l. 5.
- Remember, *v.* mention, ii. 300, l. 2.
- Remembrabill, *adj.* memorable, i. 76, l. 28.
- Remembrance, *s.* reminder, i. 13, l. 37.
- Remove, *v.* withdraw, ii. 180, l. 8.
- Renentis, *s.* rents, i. 90, l. 31.
- Renowm, *v.* make famous, ii. 370, l. 1.
- Rent, *s.* rent, i. 91, l. 31; estate, ii. 389, l. 22.
- Rentelled, ii. 19, l. 3. See note.
- Renuned, *past p.* renounced, ii. 159, l. 3.
- Repair, *s.* concourse, i. 160, l. 13.
- Repare, *v.* repair, ii. 332, l. 1.
- Repartore, Reportoir, *s.* repertory, ii. 274, l. 30; 275, l. 5.
- Repledge, *v.*, i. 31, l. 10. See note to, i. 241, l. 12.
- Reply, *s.* pursuer's answer to defender's exception, i. 182, l. 31.
- Repone, *v.* replace in former position, i. 234, l. 25.
- Reporte, *v.* give information regarding, ii. 264, l. 1.
- Reporte, *v.* obtain, i. 293, l. 22.
- Represe, *v.* repress, ii. 204, l. 27.
- Repruif, *s.* blame, ii. 385, l. 29.
- Repugn, *v.* oppose, i. 50, l. 24; feel distasteful, i. 18, l. 20; *pres. p.* repugnand, i. 50, l. 24.
- Requeist, *s.* request, ii. 428, l. 11.
- Requeistand, *pres. p.* requesting, ii. 428, l. 8.
- Requised, *adj.* requisite, necessary, i. 158, l. 30.
- Rerected, perhaps written *per incuriam* for re-erected, ii. 369, l. 9.
- Resemblit, *past p.* depicted, ii. 342, l. 13.
- Resignation, *s.*, i. 177, l. 26. See note.
- Reskewise, *s.* rescue, ii. 240, l. 21.
- Resolve, *v.* advise, i. 27, l. 12; *to be resolved*, to have made up one's mind, ii. 178, l. 32.
- Respect, *v.* consider, i. 141, l. 24; ii. 274, l. 18; regard, i. 239, l. 21.
- Respective, *adv.* respectively, ii. 250, l. 23.
- Respective of, in respect of, ii. 251, l. 23.
- Respeit, *v.* adjourn or continue to a later court, i. 306, l. 30.
- Respleit, Put in, adjourn or continue to a later court, i. 308, l. 17.
- Responde, *s.* the amount of the sum put in the Responde Book, i. 278, l. 14. See note to l. 1.
- Responde Buik, i. 278, l. 1. See note.
- Responsall, *adj.* responsible, answerable, i. 269, l. 20; ii. 90, l. 10; 103, l. 32.
- Ressait, *s.* receipt, i. 262, l. 22; 289, l. 24.
- Ressavare, *s.* receiver, ii. 139, l. 19.
- Ressave, Receave, *v.* receive, i. 11, l. 31; ii. 434, l. 19; *ressave lekcaige*, *i. e.*, sustained loss (of wine) by leakage, ii. 244, l. 4.
- Resson, Ressous, *s.* and *v.* reason, ii. 251, l. 11; 391, l. 23; 363, l. 25.
- Rest, *v.* remain, ii. 75, l. 16; remain undisposed of, i. 145, l. 28; *pres. p.* restand, ii. 84, l. 7.
- Restis, *s.* arrears, ii. 272, l. 1.
- Restoir, *v.* make restitution for, ii. 246, l. 23.

- Restrane, *v.* limit, confine, ii. 378, l. 12.
 Resyle, *v.* draw back, i. 194, l. 25.
 Retene, *v.* keep possession of, ii. 256, l. 16.
 Retour, *v.* make a return, i. 277, l. 36.
 Retreit, *v.* revoke, ii. 272, l. 30.
 Retreitting, *s.* recall, ii. 65, l. 15.
 Reule, *s.* rule, ii. 199, l. 5.
 Reule, Rewle, *v.* regulate, i. 153, l. 20; rule, ii. 199, l. 2.
 Revar, *s.* robber, ii. 228, l. 14.
 Revare, Revir, *s.* river, ii. 158, l. 2; 292, l. 17.
 Revelare, *s.* one who makes known the commission of an offence, i. 105, l. 26.
 Revele, *v.* reveal, ii. 311, l. 31.
 Reveling, *pres. p.* reviling, ii. 261, l. 16.
 Revenoure, *s.* voracious eater, ii. 292, l. 18.
 Revenow, Revinow, *s.* revenue, i. 90, l. 20; ii. 390, l. 33.
 Reversion, *s.*, i. 241, l. 20. See note to i. 273, l. 27.
 Reve, *v.* rob, i. 51, l. 2.
 Reviled, *past p.* revealed, ii. 177, l. 2.
 Revise, *v.* ravish, i. 43, l. 7.
 Revysche, *v.* ravish, take from life or sight, ii. 125, l. 7.
 Rewaird, Rewarde, *s.* and *v.* reward, ii. 177, l. 18; payment or fees (translation of "salaire"), ii. 231, l. 20.
 Reweill, *v.* disclose, ii. 227, l. 21.
 Rewynous, Rewynus, *adj.* ruinous, ii. 345, l. 14; 420, l. 7.
 Reywind, *adj.* ruined, ii. 433, l. 7.
 Richt, Rycht, *adv.* very, ii. 168, l. 2; 194, l. 26.
 Richt, Rycht, *s.* right, ii. 183, l. 30; 196, l. 5; 226, l. 15.
 Richt sua, *adv.* in the same manner, i. 56, l. 27.
 Richtious, Rychtius, *adj.* rightful, lawful, ii. 171, l. 9; 372, l. 19; 183, l. 28.
 Richtiouslie, *adv.* in conformity with law, i. 81, l. 16.
 Rig to, fit out, ii. 231, l. 18.
 Riike, *v.* fit out, ii. 216, l. 14.
 Ring, *v.* reign, i. 17, l. 30.
 Rins arreir. See Arreir.
 Rob, *s.* robe, ii. 127, l. 24.
 Rod, *s.* road, i. 296, l. 5.
 Roip, *s.* rope, ii. 293, l. 22.
 Roll, *v.* enroll, i. 145, l. 1.
 Rolment, *s.* record, i. 1, l. 12.
 Rome, Rowme, *s.* place, ii. 292, l. 15; 295, l. 16; i. 102, l. 8; ii. 298, l. 17; an estate in land, i. 58, l. 14.
 Rore, *v.* roar, ii. 285, l. 18.
 Rose nobill. The rose noble was an English gold coin at one time current in Scotland, ii. 259, l. 26.
 Round, *v.* whisper, i. 53, l. 31.
 Rowme, *s.* See Rome.
 Rowp, *v.* let or sell by auction, ii. 272, l. 20.
 Royaltie, *s.* territory immediately under royal jurisdiction, i. 247, l. 10.
 Ruit, *s.* root, i. 27, l. 10.
 Ruther, *s.* rudder, ii. 200, l. 6.
 Ry, *s.* rye, ii. 209, l. 16.
 Ryve out, *v.* break up land previously unploughed, ii. 274, l. 8.
 Sa, *conj.* so, ii. 159, l. 27.
 Sachrister, *s.* one who has charge of the utensils of a church, sacrist, i. 100, l. 31.
 Sacreit, *adj.* sacred, ii. 178, l. 6.
 Saet. See Seit.
 Saglag, *s.*, ii. 236, l. 26. See note.
 Saif, *adj.* safe, ii. 234, l. 30.
 Saif, Sauf, *v.* save, ii. 241, l. 24; ii. 234, l. 9; saiffand, *part.*, i. 41, l. 9.
 Saifgaird, *s.* protection, ii. 226, l. 8; safe custody, ii. 241, l. 34.
 Saifre richt, right to payment for saving cargo, ii. 233, l. 22. See note to l. 19, and Jamieson, 'Dict.,' *s.v.* "Safer."
 Saiftie, *s.* safety, ii. 169, l. 19.
 Saik, *s.* sake, ii. 182, l. 30.
 Saikles, *adj.*, innocent, i. 15, l. 25.
 Sait, ii. 166, l. 30. See Seit.
 Salamonicall, *adj.* Salomonic, ii. 183, l. 19.
 Sall, *v.* shall, ii. 229, l. 11.
 Salvouere, *s.* saviour, ii. 353, l. 19.
 Samekill, *quasi s.*, so much, ii. 66, l. 7.
 Samyn, *adj.* same, i. 16, l. 25.
 Sanct, *adj.* saint, ii. 333, l. 15.
 Sangleir, *s.* wild boar, i. 28, l. 34.
 Sasina successorio, ii. 145, l. 9. See note.
 Saterik, *adj.* satirical, i. 77, l. 22.
 Satisfearre, *s.* one who satisfies his debtor by payment, i. 249, l. 26.
 Sauf, *v.*, ii. 234, l. 9. See Saif.
 Sauld, *past p.* sold, i. 248, l. 31.
 Saule, *s.* soul, ii. 180, l. 18.

- Saw, *v.* sow, ii. 304, l. 23.
 Say, *v.* mention, ii. 301, l. 7; *say aganis*, contradict, i. 186, l. 2; *say with*, concur with, i. 286, l. 16; *pres. p.* sayand, i. 310, l. 7.
 Schaddou, Schaddow, Schaddo, *s.* shadow, ii. 122, l. 13; 414, ll. 22, 23.
 Schaik, *v.* shake, ii. 244, l. 30.
 Schaw, *v.* show, reveal, ii. 356, l. 8; *pret.* schewe, ii. 357, l. 1.
 Schaw, *s.* a wood, grove, ii. 163, l. 7.
 Schawing of halding, exhibition of title deeds, i. 137, l. 24. See note.
 Sche, *pron.* she, ii. 310, l. 28.
 Sched, *v.* spill, ii. 246, l. 1.
 Schedding, *s.* shedding, ii. 179, l. 20.
 Scheil, *s.* a hut, ii. 394, l. 28.
 Scheild, *s.* shield, ii. 387, l. 21.
 Scheine, *adj.* bright, beautiful, i. 19, l. 5.
 Schewe. See Schaw.
 Scheit, *s.* sheet, ii. 72, l. 32.
 Schip, *v.* apparently means to take a ship out into a certain position—*e.g.*, into a roadstead, ii. 235, l. 23.
 Schip meit, ii. 247, l. 6. See note to l. 4.
 Schip pund, a measure of weight, ii. 208, l. 35.
 Scho, *pron.* she, ii. 360, l. 16.
 Schoill, Scoill, *s.* school, ii. 277, l. 4; ii. 190, l. 2.
 Schoir, *s.* shore, ii. 228, l. 28.
 Scholesticlie, *adv.* in scholarly manner, ii. 265, l. 36.
 Schorte, *adj.* short, ii. 178, l. 12.
 Schorte, *v.* shorten, ii. 237, l. 1.
 Schortlic, *adv.* shortly, ii. 373, l. 4.
 Schott, *past p.* shot, ii. 168, l. 19.
 Schott, *s.* shot, ii. 168, l. 19.
 Schutting, *s.* shooting, ii. 237, l. 19.
 Schulder, *s.* shoulder, ii. 360, l. 18.
 Scoill. See Schoill.
 Scoir, *s.* score, ii. 194, l. 26.
 Scollar, *s.* scholar, ii. 107, l. 8.
 Seage. See Sege.
 Seasing, *s.* sasine—*i.e.*, according to the old law, delivery of possession by certain symbols (*Ersk.*, 'Inst.' ii. 3, 33 *et seq.*), i. 277, l. 29.
 Seclude, Seclud, *v.* remove, i. 155, l. 29; preclude, debar, i. 150, l. 29; ii. 75, l. 34; 98, l. 1; 260, l. 15.
 Secret, *adj.* concealed, i. 50, l. 3; *secret counsal*, privy council, ii. 138, l. 5.
 Sectis, ii. 234, l. 4. See note.
 Sederunt buiks, books containing rules of procedure enacted by the court, ii. 278, l. 19.
 See, *v.* see, consider, ii. 222, l. 19; *past p.* sene, ii. 177, l. 21; skilled, ii. 295, l. 3.
 Sege, Seage, *s.* the (papal) throne, ii. 320, l. 24; 398, l. 11.
 Seid, *conj.* from the time when, ii. 245, l. 15.
 Seid, *s.* seed, ii. 319, l. 9.
 Seik, *v.* seek, ii. 248, l. 17; *pres. p.* seikand, i. 144, l. 29; *past p.* socht, ii. 229, l. 23.
 Seik, *adj.* sick, ii. 325, l. 13.
 Seiknes, *s.* sickness, ii. 177, l. 35.
 Seill, *v.* and *s.* seal, i. 250, l. 5; i. 41, l. 5; a letter of safe conduct, ii. 233, l. 14; 234, l. 4.
 Seit, Saet, Sait, *s.* seat, i. 164, l. 24; ii. 285, l. 14; episcopate, ii. 321, l. 27.
 Sek, *s.* sack, ii. 208, l. 9.
 Sek, *s.* sect, ii. 298, l. 13.
 Seme, *v.* seem, ii. 282, l. 18.
 Semyng, To thair, as appeared to them, ii. 287, l. 14.
 Sen, *conj.* since, i. 3, l. 20.
 Send, *pret.* and *past p.* sent, ii. 204, l. 9; 357, l. 4.
 Sene. See See.
 Senode, *s.* synod, ii. 432, l. 11.
 Sence, *conj.* since, ii. 157, l. 2.
 Sensoure, Sensure, *s.* censure, ii. 319, l. 19; i. 92, l. 15.
 Sensyne, *conj.* since, i. 122, l. 12.
 Senjeorie, *s.* seignory, i. 39, l. 14.
 Sephare, Siphere, *s.* cipher, i. 77, l. 10; ii. 182, l. 15.
 Sepulture, Sepultuir, *s.* sepulchre, i. 29, l. 16; ii. 360, l. 36.
 Sercheour, *s.* one who searches after, i. 43, l. 33.
 Serplaith, eighty stones of wool, ii. 207, l. 7.
 Servand, *s.* servant, ii. 254, l. 10.
 Serve, *v.* to be suitable, ii. 225, l. 16; *pres. p.* servand, *ib.*
 Set, *v.* appoint (a convention) to be held, i. 47, l. 3; put down, deposit, ii. 81, l. 8; 244, l. 1; lease, ii. 254, l. 18; enter in (an inventory), ii. 81, l. 16; *sett at*, attribute to, ii. 256, l. 31; *set him self furth for*, represents himself to be, ii. 251, l. 13; *set first*, made a first charge, ii. 244, l. 16.
 Sett, *s.* a lease, ii. 254, l. 19.
 Sett, *v.* to except to (a judge's

- jurisdiction, ii. 69, l. 20 (see Jamieson, App., s.v. "Sit").
- Setting, *s.* a measure of weight in Orkney, ii. 210, l. 10.
- Setting, *s.* perhaps a regulation or ordinance, ii. 206, l. 25. See note to ii. 234, l. 4.
- Seveirle, *adv.* rigorously, i. 95, l. 31.
- Sevint, *adj.* seventh, ii. 106, l. 24.
- Sex, *adj.* six, ii. 280, l. 1.
- Sey, *s.* sea, i. 13, l. 16.
- Sib, *adj.* related by blood or marriage, i. 205, l. 9.
- Sic, *adj.* such, i. 11, l. 9.
- Sicht, *s.* inspection, i. 169, l. 16; regard, ii. 170, l. 16.
- Sicht, Sycht, *v.* examine, inspect, i. 80, l. 35; 12, l. 30.
- Sicker, *adj.* sure (defence), i. 50, l. 18; assured in mind, i. 309, l. 32.
- Sickerlie, *adv.* with certainty, i. 51, l. 17.
- Sicylke, *adv.* similarly, ii. 174, l. 9; in the same manner, ii. 196, l. 31.
- Sicylke, *adj.* of such a kind, i. 288, l. 22; 301, l. 6.
- Signatoure, *s.*, i. 124, l. 15. See note.
- Silver, *s.* money, i. 144, l. 22.
- Sindrie, *adj.* and *s.* several, ii. 251, l. 6; *all and sindrie*, each and all, i. 88, l. 24.
- Singulare, *adj.* single, ii. 155, l. 11; individual, i. 50, l. 23.
- Sinistrous, *adj.* wicked, flagitious, i. 112, l. 26.
- Siphre, *s.* See Sephare.
- Sit, *v.* continue to occupy, i. 299, l. 18; *pres. p.* sittand, i. 120, l. 31.
- Skaffar, *s.* parasite, i. 34, l. 25.
- Skaith, Skaytht, Skatt, *s.* scathe, or hurt, harm, injury, damage, i. 43, l. 12; 229, l. 20; ii. 239, l. 8; 243, l. 18.
- Skant wattr, low water, ii. 246, l. 15.
- Skantlie, *adv.* scarcely, ii. 233, l. 8.
- Skars, *adj.* scanty, i. 48, l. 2.
- Skatt, *s.* See Skaith.
- Skatt, *v.* to pay scot and lot—*i.e.*, pay share's proportion, ii. 205, l. 23.
- Skaytht in their purpose, injure by preventing them from carrying out their purpose, ii. 237, l. 1.
- Skeild, *adj.* skilled, ii. 181, l. 19.
- Skornare, *s.* scorner, ii. 162, l. 17.
- Skowrilitie, *s.* baseness, turpitude, i. 49, l. 13.
- Skrow, *s.* scroll, i. 127, l. 4.
- Skudlar, *s.* leader of band of maskers, i. 42, l. 34.
- Skurge, *v.* and *s.* scourge, ii. 317, l. 11; 351, l. 26.
- Sla, Slee, *v.* slay, i. 56, l. 16; ii. 171, l. 7; *past p.* slane, ii. 151, l. 34.
- Slaw, *adj.* slow, ii. 147, l. 32.
- Sleip, *s.* sleep, ii. 287, l. 16.
- Sleuth, *s.* sloth, i. 49, l. 22.
- Sleuthfull, *adj.* slothfull, i. 51, l. 26.
- Slicht, *s.* cunning device, i. 50, l. 19.
- Slumring, *part.*, slumbering, ii. 287, l. 19.
- Smoir, *v.* choke, suppress, i. 19, l. 7.
- Smuke, *s.* smoke, ii. 218, l. 22.
- Snye, *v.* check, ii. 61, l. 3.
- Sobir, *adj.* small, i. 15, l. 26.
- Socht. See Seik.
- Sodalis, *s.* comrades, i. 18, l. 18.
- Soir, *adj.* severe, ii. 178, l. 25.
- Soir, *adv.* severely, ii. 356, l. 26.
- Soleid, *adj.* fixed, established, ii. 208, l. 25.
- Solempnedlie, *adv.* solemnly, ii. 363, l. 24.
- Solist, *v.* importune, i. 147, l. 9; conduct business voluntarily on another's behalf, ii. 255, l. 8.
- Solistatioun, *s.* the act of importuning, i. 147, l. 7.
- Solister, *s.* one who importunes, i. 151, l. 1; a solicitor, i. 267, l. 17.
- Soliternes, *s.* solitariness, ii. 361, l. 1.
- Sunday, *s.* Sunday, ii. 349, l. 12.
- Sone, *s.* sun, ii. 225, l. 10.
- Soner, *adv.* sooner, ii. 287, l. 14.
- Sore, *v.* soar, i. 21, l. 10.
- Sosarie, *s.* sorcery, i. 58, l. 36.
- Souche, *adj.* such, ii. 301, l. 2.
- Souertie, Surtie, *s.* security, i. 263, l. 18; ii. 256, l. 18; surety, cautioner, i. 268, l. 25.
- Soverane, *adj.* sovereign, ii. 178, l. 6.
- Soveranitie, *s.* sovereignty, ii. 188, l. 29.
- Sowk, *s.* suck, i. 63, l. 22.
- Sowm, *s.* sum, ii. 196, l. 19.
- Sown, *v.* swoon, ii. 178, l. 26.
- Soyt, *s.* suit, i. 303, l. 1. See pp. 44 ff. above.
- Soyttour, *s.* one who is bound to attend court, or the representative of one so bound, i. 280, l. 10. See pp. 44 ff. above.
- Spaikis, *s.* shavings of wood (translation of "coppeaux"), ii. 238, l. 13. See note.
- Spait, Spate, *s.* flood, ii. 195, l. 3.
- Speche, *s.* speech, ii. 180, l. 11.

- Special, *s.* particular or principal persons, i. 14, l. 7.
- Speik, *v.* speak, mention, i. 32, l. 4; ii. 222, l. 26; *pret.* spak, ii. 283, l. 31.
- Speir, *v.* ask, i. 148, l. 12.
- Spend, *v.* expend, ii. 271, l. 31; destroy by wasting, ii. 189, l. 32.
- Spoliation, *s.* intermeddling with goods without the owner's consent, or without legal warrant, i. 244, l. 17.
- Spoused, *part.* espoused, ii. 111, l. 72.
- Spred, *pret.* spread, ii. 107, l. 4.
- Spreit, *s.* spirit, ii. 107, l. 27.
- Spruce stane, Prussian stone, an old measure, ii. 209, l. 4.
- Spulze, *s.* illegal taking away or intermeddling with goods, i. 127, l. 15. See note; spoil, ii. 225, l. 7.
- Staik, *s.* stake, ii. 317, l. 22.
- Stait, *s.* state, l. 16, l. 11.
- Stand, *v.* remain in a certain position (*e.g.*, under excommunication), i. 57, l. 8; *stand forde*, warrant, i. 297, l. 6; *stand for*, represent, i. 293, l. 30, see note: *stand into na steid*, be of no use or advantage, i. 15, l. 24; *pres. p.* standand, i. 153, l. 28; *pret.* stuid, i. 50, l. 9; i. 254, l. 4.
- Stane, *s.* and *v.* stone, ii. 134, l. 18; ii. 287, l. 25; measure of weight, ii. 208, l. 13.
- Stank, *s.* pool, pond, ii. 254, l. 31; 255, l. 3. See note.
- Starkar, *adj.* stronger, i. 26, l. 28.
- Starne, *s.* stern (represents "adminicula gubernandi"), ii. 200, l. 16.
- Statute, *v.* enact, i. 70, l. 12; 120, l. 14; ordain, ii. 219, l. 13.
- Stay, *v.* come to a standstill, i. 168, l. 31; stay for, await, i. 101, l. 18.
- Stay, *v.* hinder, ii. 240, l. 29.
- Stayare, *s.* one who hinders, i. 99, l. 23.
- Steid, *s.* place, i. 315, l. 15; stand into na steid, i. 15, l. 24. See Stand.
- Steidhauler, *s.*, deputy, substitute, i. 290, l. 21.
- Steik, *s.* a piece of work, ii. 237, l. 24. See Maisteris Steik.
- Steik, *v.* shut, i. 156, l. 22.
- Steilling, *s.* act of stealing, ii. 223, l. 9.
- Steir, *v.* See Stere.
- Stemmattis, *s.* genealogical tables, i. 5, l. 35.
- Stend, *v.* spring, perhaps vibrate, ii. 388, l. 21.
- Stere, Steir, *v.* stir, move, i. 25, l. 20; ii. 223, l. 25.
- Stewartrie, *s.*, i. 241, l. 12. See note.
- Stipill, *s.* steeple, i. 153, l. 18.
- Stope, *v.* stop, ii. 147, l. 2.
- Straik, *s.* stroke, ii. 188, l. 30; thrust, ii. 290, l. 6.
- Strait, *adj.* strict, ii. 170, l. 2.
- Straitlie, *adv.* strictly, i. 52, l. 5.
- Stramp, *v.* trample, i. 44, l. 33.
- Streik, Strek, *v.* strike, i. 44, l. 3; ii. 247, l. 24; fight (a battle). ii. 196, l. 10; *streak* (*the vanguard*), marshal (Bellenden's version of Boece's "aciei modera-men"), i. 64, l. 24; *struckin up*, opened up by force, ii. 224, l. 1; *past p.* strickin, struckin, strikin, ii. 153, l. 24; 157, l. 32; 224, l. 1.
- Strenth, *s.* stronghold, i. 65, l. 30.
- Streviling, *adj.* sterling, i. 91, l. 20.
- Strik, *adj.* strict, ii. 106, l. 21.
- Strowgeon, *s.* sturgeon, ii. 213, l. 18.
- Strype, *s.* strip, ii. 395, l. 2.
- Stubbroun, *adj.* stubborn, i. 17, l. 17.
- Stuid. See Stand.
- Sua, *adv.* and *conj.* so, i. 109, l. 32; provided that, ii. 253, l. 10.
- Subsryve, *v.* subscribe, i. 251, l. 19.
- Substantius, *adj.* substantial, ii. 270, l. 30.
- Succede, Succeid, Suicced, *v.* succeed, i. 4, l. 15; ii. 372, l. 20; turn out, i. 50, l. 13; 63, l. 11; *succeed in the vyce*, i. 128, l. 30. See note; *pres. p.* succedand, i. 4, l. 15.
- Suddan, *adj.* impetuous, ii. 173, l. 10.
- Suddantlie, *adv.* suddenly, ii. 155, l. 5.
- Sueir, *v.* swear, ii. 221, l. 14.
- Suicced. See Succede.
- Suich, Suiche, *adj.* such, ii. 301, l. 21; 308, l. 5.
- Suiouring, *s.* sojourn, i. 8, l. 4.
- Suir, *adj.* sure, i. 9, l. 29; *comp.* suirare, ii. 139, l. 1; *sup.* suirest, ii. 157, l. 10.
- Suit, *v.* crave, apply for, i. 225, l. 1; 261, l. 30.
- Suit, Suite, *s.* request, i. 247, l. 1; action at law, i. 259, l. 5.
- Suith, *s.* sooth, truth, i. 300, l. 8.

- Suittare, Suitter, *s.* applicant, petitioner, i. 132, l. 21; 256, ll. 12, 31.
- Suld, *v.* should, i. 17, l. 23.
- Suldioure, *s.* soldier, ii. 289, l. 20.
- Sum, *adj.* some, ii. 156, l. 1.
- Summare, *adj.* summary, ii. 191, l. 29.
- Sumptuous, *adj.* expensive, costly, i. 171, l. 2; ii. 352, l. 10.
- Supercede, *v.* defer taking action in respect of, i. 49, l. 35; 51, l. 15.
- Supercederie, *s.* i. 257, l. 19. See note to i. 271, l. 18.
- Superflew, *s.* superfluity, i. 46, l. 19.
- Superiour, *s.* the grantor of the feudal right, so called because he stands in a higher position than the grantee, who is styled the vassal (Ersk., 'Inst.,' ii. 3, 10), i. 250, l. 11.
- Supernumerall, *adj.* supernumerary, i. 114, l. 25. See note.
- Superplus, *s.* surplus, ii. 84, l. 18; 224, l. 15.
- Supertendence, *s.* superintendence, ii. 219, l. 21.
- Supplie, *v.* support, ii. 188, l. 18.
- Suppoise, *v.* suppose, ii. 199, l. 16.
- Suppone, *v.* suppose, ii. 51, l. 34.
- Suppryse, *v.* suppress, put down, crush, i. 123, l. 11.
- Supputatioun, *s.* computation, i. 20, l. 23.
- Surtie, Put. See Put.
- Susceptioun, *s.* taking under protection, i. 97, l. 18.
- Suspect, *adj.* suspected of partiality, i. 293, l. 2; open to suspicion, i. 176, l. 19.
- Suspension, *s.*, i. 127, l. 28. See note.
- Sustene, *v.* provide for, i. 29, l. 4.
- Swanis, *s.* Swedes, ii. 250, l. 19.
- Sweetnes, *s.* kindly feeling, i. 111, l. 14.
- Syke, *s.* rill, trench, i. 296, l. 5.
- Syne, *adv.* afterwards, i. 7, l. 23.
- Synkand paper, paper upon which ink when applied to it runs or spreads ('New Engl. Dict.,' *s.v.* "Sink"), i. 125, l. 8.
- Tabellion, *s.* notary, i. 101, l. 2.
- Tabill, *s.* court-roll, i. 144, l. 33; slab of wood, ii. 342, l. 12; *tabillis*, apparently the forty titles into which Bisset's 'Schort Form of Proces' is divided, i. 17, l. 8.
- Tacill, Taikling, *s.* tackle, ii. 200, l. 15; 241, l. 32.
- Taill, *s.* end (of a writ), i. 125, l. 15.
- Tailze, *s.* entail, i. 68, l. 14.
- Tak, *v.* undertake, i. 216, l. 15; ii. 232, l. 16; *tak ane end*, come to an end, i. 224, l. 31; *tak at*, choose, ii. 246, l. 34; *tak away*, put an end to, extinguish, nullify, i. 179, l. 23; 180, l. 18; 182, l. 30; *tak ordoure*, adopt a course for bringing under proper regulation, ii. 276, l. 33; *tak price*, charge, i. 254, l. 30; *tak purpose*, determine, i. 49, l. 25; *tak succes*, achieve success, i. 16, l. 19; *tak guid tryall*, thoroughly investigate, ii. 222, l. 12; *tak up*, collect, ii. 161, l. 4; 205, l. 9; *tak up agane*, get back, ii. 236, l. 29; *past p. tane*, ii. 225, l. 28; *pret. tuik*, i. 49, l. 25.
- Tak, *s.* lease, i. 226, l. 1.
- Takare, *s.* capturer, ii. 222, l. 13.
- Takin, *s.* token, ii. 387, l. 28; *tukynnis of great letteres*, letters signifying commencement of a new article, i. 125, l. 31.
- Talloun, *s.* tallow, ii. 248, l. 19.
- Tarie, *v.* delay, ii. 240, l. 29.
- Tavernare, *s.* scullion (Bellenden's and Bisset's translation of Boeace's "culinarius"), i. 46, l. 22.
- Taxt, *s.* impost, ii. 54, l. 18; fee, ii. 58, l. 22; *taxt roll*, table of fees, *ib.*
- Taxt, *v.* tax, ii. 62, l. 5.
- Teich, *v.* teach, ii. 281, l. 7.
- Teil, *v.* till, ii. 274, l. 1.
- Teinds, *s.* tenths, ii. 31, l. 19; tithes, ii. 147, l. 2.
- Teir, *s.* tear, ii. 389, l. 2.
- Temerarious, *adj.* reckless, i. 226, l. 26. See note to i. 227, l. 4.
- Temerarie, *s.* recklessness, i. 227, l. 5. See note to l. 4.
- Temperat, *v.* modify, i. 195, l. 23.
- Tenandrie, *s.* land held by a vassal of his superior, i. 300, l. 31. See Superior.
- Tend, *v.* intend, ii. 260, l. 15.
- Tent, *adj.* tenth, ii. 276, l. 34.
- Terrabill, *adj.* terrible, ii. 172, l. 27.
- Testament dative, testament where the executor is appointed by decree of court, ii. 78, l. 24; *testament testamentare*, testament in which the executor is named, iii. 78, l. 24.
- Testamentare, Executouris, ii. 88, l. 2. See note to l. 3.
- Tetrauch, *s.* tetrarch, ii. 316, l. 23.

- Thair, There, *adj.* their, i. 92, l. 19; i. 3, l. 4; ii. 116, l. 22.
- Thair, *adv.* there, ii. 372, l. 31.
- Than, *adv.* then, i. 6, l. 16.
- Than, *conj.* else, i. 109, l. 34; perhaps for *or than*, before, ii. 252, l. 1.
- Theame, *s.* theme, i. 18, l. 22.
- Therfra, Thairfra, *adv.* thence, ii. 108, l. 12; 203, l. 14.
- Thesaurare, *s.* treasurer, ii. 336, l. 19.
- Theve, *s.* thief, ii. 238, l. 27.
- They, *adj.* those, i. 292, l. 5; 296, l. 20; 300, l. 1; 301, l. 18.
- Thir, *adj.* this, these, i. 113, l. 26; i. 110, l. 13.
- Thocht, *past p.* thought, i. 21, l. 8.
- Thocht, *conj.* although, ii. 282, l. 18.
- Thotrom, *adj.* having a transverse direction, i. 297, l. 9.
- Thraw, *v.* throw, ii. 287, l. 4.
- Thread, Tred, *s.* trade, ii. 200, l. 29; 207, l. 27.
- Threttene, *adj.* thirteen, i. 5, l. 36.
- Threttie, *adj.* thirty, i. 3, l. 26.
- Threwowt, *prep.* throughout, ii. 213, l. 17.
- Thrid penny, i. 299, l. 33. See note.
- Thrissill, *s.* thistle, ii. 58, l. 13.
- Through, *s.* sheet of paper, ii. 70, l. 5.
- Throw, Through, *prep.* through, ii. 203, l. 14; 389, l. 29.
- Throwcht, *prep.* throughout, ii. 77, l. 24.
- Thyne furth, *adv.* thenceforward, i. 150, l. 25.
- Tikket, *s.* writ of citation, i. 203, l. 1.
- Till, sign of infin. to, i. 309, l. 9.
- Timerariouslie, *adv.* rashly, ii. 189, l. 30.
- Tirannie, *s.* tyranny, ii. 162, l. 2.
- Tirrant, Tiran, *s.* tyrant, ii. 156, l. 11; 352, l. 3.
- To, *prep.* until, i. 283, l. 28.
- Togidder, *adv.* together, i. 5, l. 14.
- Tolbuith, *s.* prison, ii. 168, l. 30. (Bellenden and Bisset translate Boece's "curia" by "tolbooth.")
- Tope, *v.* to sell by auction or outcry, or in small quantities, or by retail (see Jamieson, 'Dict.' s.v. "Tap," "Tape,"), ii. 266, l. 28.
- Torment, *s.* and *v.* torture, ii. 239, l. 13; 433, l. 16; that which causes suffering, ii. 338, l. 15; violent storm, tempest, ii. 242, l. 30.
- Toun, *s.* a small collection of houses, ii. 195, l. 27.
- Toung, Tung, *s.* tongue, i. 43, l. 16; ii. 177, l. 21.
- Tour, *s.* tower, ii. 332, l. 2.
- Tow, *s.* rope, ii. 238, l. 28.
- Towardis, As, *prep.* as regards, ii. 99, l. 7.
- Traist, *adj.* trusty, i. 80, l. 9.
- Traist, *v.* trust, i. 53, l. 21; expect, i. 58, l. 33.
- Transact, *v.* agree with a view to settle doubtful and disputed claims, ii. 104, l. 2.
- Transferringis, *s.*, i. 127, l. 15. See note.
- Transport, *v.* transfer, ii. 410, l. 20.
- Transsumyng' of evidentis, i. 144, l. 21. See note.
- Tratarous, *adj.* treacherous, ii. 162, l. 28.
- Tratoure, *s.* traitor, ii. 292, l. 15.
- Travell, *s.* labour, trouble, ii. 68, l. 7; 390, l. 24.
- Travell, *v.* pursue an occupation, i. 161, l. 32.
- Treasant, *s.*, ii. 387, l. 22. See note to l. 21.
- Treateis, *s.* treatise, ii. 176, l. 3.
- Tred, *s.* See Thread.
- Tree, Trie, *s.* wood, i. 71 margin; ii. 3, l. 8.
- Trespas, *s.* offence, ii. 248, l. 1.
- Treuth, *s.* truth, ii. 159, l. 28.
- Trew, *adj.* true, i. 4, l. 36.
- Trewilie, *adv.* truly, ii. 178, l. 19.
- Trewis, *s.* truce, ii. 231, l. 6; temporary cessation of legal proceedings, i. 168, l. 32.
- Trie, *s.* See Tree.
- Trie, *s.* barrel, ii. 209, l. 12.
- Triebut, *s.* tribute, i. 47, l. 9.
- Triply, *s.* pursuer's answer to defender's duply, i. 183, l. 9. See Duply.
- Trone wecht, the standard weight used at the trone. The trone was a balance set up in the market place, and used for weighing heavy wares, ii. 208, l. 21.
- Troupe, *s.* trope, ii. 182, l. 22.
- Troyis, Troyse, *adj.* of troy weight, ii. 208, ll. 27, 28.
- Trubilsum, *adj.* troublesome, ii. 174, l. 25.
- Trublare, *s.* disturber, ii. 386, l. 3.
- Truist, *s.* trust, ii. 179, l. 24.
- Try, *v.* prove, i. 11, l. 7; i. 110, l. 27; 121, l. 28; ascertain by in-

- vestigation, ii. 130, l. 25; prove to be (false), i. 259, l. 1; subject to examination, ii. 229, l. 28.
- Tryall, *s.* investigation, i. 158, l. 30.
- Tryare, Tryer, *s.* one who supplies proof, i. 105, l. 27; a searcher, investigator, i. 21, l. 12.
- Trynscheman, *s.* interpreter, ii. 263, l. 24.
- Tryumphe, *s.* pomp, i. 45, l. 2.
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