

The Figures refer to the Section not to the Page; the numbers previous to § 2205, being retained as in the former Edition.

Abandonment, in insurance, 484, must accompany claim for total loss, 485. Cases for abandonment, ib. Must be tempestive, 486. Abbey of Holyroodhouse, 2402. Sanctuary within, 2373. Abbreviate of adjudication, 825. Absence abroad, factor loco absentis in case of, 2120. Decree, in 2341. Absolute warrandice, 893 Abstracted multures, action of, 1030.

Acceptance of an offer, tacit or express, 75, 76. Where it differs from the offer, 77. It binds the engagement, 79.

78. Mora in accepting, 79.

of bills, 311. Equivalents, ib. Conditional, 316. By procuration, 321. On protest for honour, 335. Presentment for, 336. Effect of acceptance as cautioner, 318.

Accepter of a bill, 311.

Accessaries to land, 1473. See Heritable and Moveable, Parts and Per-

Accession, 1296. Natural, 1297. Industrial, 1298. Specification, ib. Confusion or commixion, ib. Acquisition

fusion or commixion, 10. Acquisition of land by, 934, et seq. Acommodation bills, 346, 357.

Account, stated, betwixt bank and agent, fixes debt against cautioners, 292, 293. In relation to a cash-credit, 302. Periodical accounts, settlement of inform narment 586. Triennial of, infers payment, 586. prescription of merchants' accounts, 629. Decennial, of tutorial accounts,

Accretion, doctrine of, 881. Its operation and effect, 882.

Accumulation of interest, 32,

Acknowledgment of debt without an obligation to repay not held a promissory-note, 307, secus when an obligation to pay, ib.

Acquiescence in encroachments on exclusive right, how inferred, 945, 946.

Act, 1701, 2035.

Act of Grace,
Adjudication for debt, transmission of land by, 823, 2298. Action and decree, 824. Abbreviate, 825. Completion of decree, 826. Against whom decree may proceed, 827. How the right rendered absolute, 829. Declarator, 830. Forty years' possession, 831,2301. Of estates to which debtor has succeeded, 2302. Of debtor's property after death, ib.

in security, 832, 2305.

general, 2299. Proceedings, ib. Abbreviate and recording, ib. Completion, ib. Expiry of legal,

on feigned bond, entry of heirs by, 824.

- in implement, 835. Com-

pletion of it, ib.

Adpromissor, 248. See Cautionary. Adultery, impediment to marriage by, 1526. Dissolution of marriage by divorce for, 1531; its effects, 1621. Adventure, joint, 392.

Advertisement of general ship, 162, 412, et seq.

Advocation, caution in, 276.

Affinity, relationship by, a bar to marriage, 1527.

Affreightment, contract of, its nature, 405. Constitution, ib. By charter-party, 406. Obligations on the shipowners and master, 408. Seaworthiness, ib. Sailing with convoy, ib. Obligations of the freighter, 409. Affreightment by bill of lading, 410. General ship, 411. Advertisement, 412. Receipt for goods, 414. Af-412. Receipt for goods, 414. Arrierightment for carriage of persons, 419. Freight, 420-434. When due, ib. Dead-freight, 430. Lay-days, 431. Demurrage, ib. Responsibility of ship-owners, 435. Exceptions, ib. General average, 437. Requisites to contribution, 439. Subjects of contribution, 440, 431. Valuing and ap-

Salportioning contribution, 442. vage, 443. Agent, or mandatary, 216. Law-agent's hypothec, 1388. Retention, 1437. Principle for taxing his account as wife's agent in action of aliment in separation or divorce, 1620. See Writer. Mercantile agent's lien, See Writer. Mercantile agent's lien, 1445. See Factor. Bank agent, implied power of, 231. Cautioner for, 290. See Bank Agent. Agnates, 2078, 2110. Agricultural lease, 1178.
Aid, extent in, 2076. See Extent. 2294.
Alien enemy cannot sue or recover debt, 43, 2135. Assignee of, ib. Excluded from succession to lands, 1644. Who are aliens, 2130. Recent regulations as to aliens, 2134. Registra-tion of aliens, ib. Friendly and hos-tile aliens, 2135. Their disabilities, 2136. Naturalization, 2136. Denization, ib. Alienation, prohibition against, in entails, its effects, 1749, et seq.

Aliment, action by wife for, 1538.

wife on a separation, 1545. Department During action of divorce, ib. 1620. Principle of taxing wife's agent's account, 1620. Reciprocal obligations to aliment between parents and children, 1634. By liferenter to fiar, 1064. To a bastard, 2062. See Parents and Children.Alimentary Provisions, 65. Fund declared to be alimentary is not arrestable, 2369. 72.46.
Alleguance of subjects, 2133. Alluvio, 935. Alteration of a policy of insurance, in what cases competent, 470. On bills, 328 Alternate holding, sasine on, 1818. Ancestor's creditors, preference of, 1931, On heritable estate, 1932. Diligence requisite, 1933. On moveable estate, 1934. Animals, wild, property of, 1289. Domesticated, 1290. Annexed property of the Crown, 673. Annuairent, infeftment of, 909.

Annuities, 1484. Annuity, whether payable de die in diem, or only at terms, 1498. See Heritable and Moveable. Annus deliberandi of apparent heirs, 1685. How privilege of lost, ib. Charges to enter within the year, 1687. Exhibition ad deliberandum, 1688. Must expire before declarator of non-entry, 714. Anonymous partnership, 359.

Antenuptial contract of marriage, 1942. Difference between it and postnuptial contract, ib. See Marriage-con-

Apparent heir, rights of, 1677. Rights

Anticipated rent, 1229, 1752, 1766

tracts.

vested in him without service, 1678. Titles of honour, 1679. Leases, 1680. Rights having tract of time, 1681. Continuing possession, 1682. Title Continuing possession, 1682. Title requisite to remove tenants, ib. To challenge on deathbed, 1683. To pursival in the control of the control sue judicial sale, 1684. Annus deli-berandi, ib. Death of heir during the annus deliberandi, ib. Privilege of next heir, ib. How privilege of, lost, Charges to enter intra annum, 1687. Exhibition ad deliberandum, 688. Possession by, 1690. Limited representation of apparent heir three years in possession, 1929. Requisites to infer this passive title, 1930. When it is not incurred, ib. Apprenticeship for freedom of corpora-tions, 2188. Different effects in Eng-land and in Scotland, ib. Reciprocal duty of apprentice and master, ib.

Approbate and reprobate, doctrine of, 1937. Depends on acceptance of deed, ib. Conditions raising the alternative of compelling to an elec-Express conditions, 1938. Implied, 1939. Appropriation, specific, bars compensation, 574. Bars retention, ib. Aqueduct, servitude of, 1011 Arable farms, hypothec in, 1235. Arbitration, clause of, in a contract, 391. Decree arbitral, 2350. Arrears of debts, funds, &c. themselves heritable, are moveable, 1479. rears of rents and feu-duties, ib. rears of rents and feu-duties, ib.

Arrestment and forthcoming, 2325.

Arrestment, its nature, 2337. For execution, 2338. For security, 2338. Subjects of arrestment, 2338. Effect, 2362. Recall and loosing, 2339, 2334, 2338. Forthcoming, 2337, 2338.

Artisans, hiring of, 190. Their obligation how enforced, 191. Their remedy for recovering wages 192. Commedy for recovering wages 192. medy for recovering wages, 192. Combination laws, 193. Artists, their responsibility for skill, 154, 155. Property of their works how protected, 1361. Assauli and battery, 2032. Assessment for poor rates, how regulated, 1135. See Poor. Assignation, transference of debt by, 1459. Completion of, 1461. Intimation, ib. 1462, 1464. Notarial not necessary in some cases, 1465. Equivalents of intimation, ib. Assignations not requiring intimation, 1466. Effect of assignation, 1467. Diligence by assignee, ib. Assignatus utitur jure auctoris, 1468. Defences pleadable against assignee, ib. dice, 1468. See Intimation. Warran-

255.

of money fund or debt by draft presented, 315, 339, 1465.

to a cautioner paying a debt.

Assignees and sub-tenants, exclusion of, presumed in agricultural lease, of, presumed in agricultura, 1216. Exceptions, ib. Creditors, ib. Improving leases, ib. Liferent leases, exclusion, its effect, 1218. Power to assign or sub-set in leases of urban and other subjects,

Assignment of a patent, 1354. Of copyright, 1360. Of ship in security, 1381.

Assythment for homicide, 2029. Rules of, ib. Right of action for, and di-

vision of it, ib.
Astriction, 1017. See Thirlage

Attestation of deeds, 19. See Deeds. Auction, sales by, 130. Exposure, 131. Biddings, ib. Obligations under the articles of sale, 132. Judicial sale by, 2425. Under a sequestration, 2430.

Augmentation of minister's stipend, 1163, 1164.

Average, petty, 101. General average and particular, 437. Contribution for general average, 438. Requisites to entitle to contribution, 439, et seq. Subjects of contribution, 440. Rules in valuing and apportioning the contribution, 441. Persons liable, 442. Average loss in insurance, 489. Hypothec on ship for, 1401. See Loss. Lien for, 1426. Avulsio, 936.

В

Back rent, 1499 Bail under, 1701, 2035. Bailable offences, ib.

Bailie in giving sasine, 764, 774.

Bailies of burgh, how elected, 2176.

Bairns of a marriage, 524, 525. Bairn's

part, 1582. Bank agent, his implied powers, 231. cautioner for, 290. Reciprocal obligations of bank and cautioners, 291. Extent of cautioner's obligation, 292. How amount of debt fixed, 293. Transmission of the obligation to heirs, 294.

. bonds, 68.

- checks or drafts, 308. Must be payable to bearer, ib. and drawn on a bank within ten miles, ib.

credit, cautioners for, 299, et See Cash account.

notes, 1377. Are moveable, ib. stock, liferenter's interest in, Property in, ib. Bank of England, ib. Bank of Scotland, 1345. Royal Bank, 1346. British Linen Company, 1347.

Banker, interest on banker's accounts, 32. Banker's retention, 1450.

Bankruptcy, dissolution of partnership by, 377. Whether equivalent to stopping in transitu, 1309. Charac-ter of bankruptcy as fixed by statute, 2323.Effect on voluntary prefer-

ences, 2324. Equalizing of diligence, 2328, et seq. Sequestration, 2341. Bans, proclamation of, 1510.

Bargains, verbal, of moveables, quinquennial prescription of. See Prescription, Sale, &c.

of land, evidence of, 889. See Sale.

Barony, its nature, pertinents, and privileges, 749. Charter of, what it carries, 750. Burgh of barony, its constitution and feudal holding, 849, 850. Sasine in, how taken, 850, 875. Powers, privileges, and jurisdiction, 2191, 2192.

Barratry, a risk in insurance, 479.

Base fees, transmission of, 816.
Bastards, 2059. Proof of paternity, 2061. Semiplena probatio, ib. Aliment for, 2062. How long it continues, ib. Where child insane or incapable, ib. Duration of father's obligation, ib. Custody of, ib. Cannot succeed, 2063. Their power of disposal, ib. Legitimation of, 2064. Curators to, ib. Bees, 1290.

Behaviour as heir, or gestio pro hærede, 1919.

Beneficium inventarii, 1926. See Ser-

vice cum beneficio. Bequest, 1870. See Legacy

Betting and Gaming, 36. p. 19.
Bill of lading referred to in charterparty, 414. Fixes goods on ship-master under a charter-party, ib. Its nature and requisites, 416. Stamp, ib. Bills of lading in sets, 417. Obligations under, as to delivery, 418. Indorsation of, ib.

Bills of exchange, their nature, 305. Promissory-note, ib. Inland bills, ib. Constitution of bill, 309, 310. Drawing, 311. Acceptance, 314; conditional, 316, 317; by procuration, 321. Bill drawn blank, ib.; on protest, 322. Subscription to bills and notes, 323. by marks or initials ib. Payer. 323; by marks or initials, ib. Payee, sum, time when payable, 324. Days of grace, 327. Stamp, 328. Indorsement, 329; in blank, ib.; in full, ib.; restrictive, 330; conditional, ib. Effect of indessement, 331, of a bill for fect of indorsement, 331; of a bill for money loan, ib. Effect of latent objections against indorsee, 332. When bill past due or dishonoured, ib. Negotiation, 334. Presentment for acceptance, 336; for payment, 337. Protest, 338. Notice of dishonour, 340. Waiving of notice, 341. Bankruptcy not equivalent to notice, ib. Extent of the demand, 343. Summary execution, 344. Accommodation bills and notes, 346, 347. Signature as cautioner to a bill, its effect, 348. Sexennial prescription of bills and notes, 349, 594. Proof after prescription, 594. Term from which it

runs, 595. How the limitation excluded, 596, 597. How bill preserved in force, ib. Blank or skeleton bills, 321. Bleacher's lien, 1435.
Bleach holding, 682. Duties, 693.
Blockade, effect of against neutrals trading with belligerents, 43. Blood, relationship by, a bar to marriage, 1527. Corruption of, a bar to succession, 1645. Full blood, 1664. Half blood, 1665. Collateral succession of full and half blood, 1661, et seq. See Succession. Bona fide payment, 561.
Bond, heritable, 910; moveable, its nature, 67, 68. Obligation must be definite, ib. Bank bonds, ib. Execu-tion on bonds, ib. Blank bonds, 1459. Bonds of presentation, 277. Interpretation and effect, ib. conding of goods, 1368. Objects of Bonding of goods, 1368. onding of goods, warehousing system, ib. Warehousing ports, 1869. Warehouses, 1370. Duties, how secured, 1371. Bond, general or special, ib. Pledge, 1373. Facilities for lodging, sorting, selling, &c., 1375, 1376. Preservation of &c., 1375, 1376. Preservation of rights of parties, 1377. How goods transferred, 1378. Book debts, triennial limitation of, 629. Borrowing; see Loan, 194. ter's power to borrow, 453. Bottomry and respondentia, contracts of, 452. Shipmaster's power to borrow on such contracts, ib. Form of obligation, 453. Peculiarity of these contracts, 456. Ranking of bottomry creditors, ib.

Bought and sold, note, 89. See Sale. Boundary by the sea or seashore, its effects, 642. Conveyance of land by boundaries; its effect, 738. Breaking bulk, 99. Breve testatum, 757. Brieve for special service, 780, 1828. Execution of, 1828. Objections to, General service, 781, 1848. of division of common property, 1081. Competition of brieves, 1842. For service of tutor-at-law, 2079. Of idiocy, 2107. Of furiosity, 2106. British Linen Company, stock of, 1347. Broker, sale by, 89. Bought and sold, note, ib. Broker's retention, 1451. Brothers, succession of, 1662. Bubble Act, 399. Buote Act, 535.

Building, power of proprietor to prevent encroachment by, 941; to build on his property, 966. Building plan, constitution of servitude by, 994. Servitude not to build, 1007. Building leases by heirs of entail, 1767.

Buildings on another's land go with the land, 937. Buildings by a tenant, ib. Buildings by owner of ground

with another's materials, ib.

Built of a ship, 1324.

Burdens on land, how discharged to a purchaser, 892. Whether a servitude held such, 895. General view of heritable securities, 896. Nature of a real burden in a conveyance 915. Force and effect of it, 916. Against the disponee, ib. Against third parties, ib. Its requisites, ib. Reserved burden, 917. How imposed, 918. Expression of it, 919. Must be in sasine, 922. Does not give right of possession, or action of maills and duties, 922. Requires no sasine, 923. How carried and conveyed, ib. Faculty to burden, 924. Nature of the power, 925. When exercised, 926. Must be specific, 927. Power before and after sasine, 928. Exercise of faculty by personal deed, 930. Power of heirs of entail to burden for improvements, 1767, 1768. For public improvements, 1771. For provisions to widows and children, 1773. For redemption of land-tax, 1774.

public and parochial, 1122, 1145.
Burdens on land by public taxation,
1122. See Taxation. Purchaser's
right to have burdens and incumbrances purged, 891.

Burgage holding, 685. Tenure and transmission, 838. Royal burgh, its constitution, 839. Charter of erection, ib. Constitution of burgage holding, 840. Title of burgage holder, how completed, 842. Sasine, how recorded, 843. Conveyance of burgage subjects to a purchaser, 844. Resignation, ib. Symbols, ib. Instrument, ib. Registration in burgh record, ib. Entry of heirs, ib. Cognition, ib. Sasine, ib. New sasine given when no magistrate or clerk, 840. Burgage subjects held feu of the magistrates, 846. See Burgh.

trates, 346. See Burgh.
Burgh.—Scottish burghs, classes of,
2173. New constitution for, ib.
Burgh police act, ib. Royal burghs,
2174. Convention of burghs, 2175.
Constitution of royal burghs, 2176.
Council and magistrates, by whom
anciently elected, ib. Deviation from
the ancient practice, ib. New mode
of election of town-councils and magistrates by 3 and 4 Will. IV. c. 76,
ib. Analysis of the act, ib. Power
of making by-laws, 2177. Privileges
of burgesses and guildbrethren, 2184,
6. Taxes, 2179. How its property
held, 2181. Exhibition of annual accounts, 2182. Corporations in burghs,
2183. Merchant guild, 2184. Crafts,
2185. Howfreedom of acquired, 2187.
Apprenticeship, 2188. King's freemen, 2189.

Burghs newly constituted, not being royal, 2190. Act of constitution, ib. Enumeration of the burghs,

ib. Councillors, provost, and magistrates, how elected, ib.

Burgh of regality and barony, 849, 2191. How created, ib. Property in, how held, 849. Sasine in, how taken and recorded, ib. Powers, privileges, and jurisdictions, 2191, 2192.

Representation of burghs, 2201. See Elective Franchise.

- courts, 2211. election, 2176, 2190

Burial place, patron's right to, 836. Busts, property in, 1361.

Buyer, in contract of sale, his obliga-tions, 127. His claim for damage on eviction, ib. Stopping in transitu on his failure, 1307. His rejection of goods, 1310.

# C.

Care requisite in contract of hiring, 145. In hiring of labour, 151. Of skilled labour, 154. In hiring of safe custody, 156. In hiring of carriage, 168, 170. See Diligence prestable.

Cargo, obligation of freighter to furnish 00 Round in respondents 453

99. Bound in respondentia, 453. Carriage of goods, seller's obligations

as to, under contract of sale, 161.

of persons, 170. Vigilance and sufficiency of vehicle, ib. Penal statutes relative to driving, ib.

of persons by sea, 419.

Hiring of, 157. By specific contract, 158. Hiring of ship, 407. By implied contract with common carrier 160. Constitution of the contract. rier, 160. Constitution of the contract against carrier, 161. carriage by advertisement and bill of lading, 163. Obligations on carrier, 165. Sufficiency of vehicle in land-carriage, 166. Sea-worthiness of ship in water-carriage, ib. Skilful packing, 167. Care and skill in car-riage and drivers, ib. Good seamanship, 168. Presumption against carrier, ib. Carriage of persons, ib. Obligations as to delivery, 169. Obligations under rules of public policy, 170. Lien for carriage, 369.

Carrier, his responsibility under the contract of hiring, 162, 235. Limitation of responsibility, 244-5. Retention, or lien of, 369. Carriage by sea, 435. Shipowner's responsibility, ib. 436. See Carriage, Nauta caupones,

Cash-account, cautionary obligation for, 299. Nature of a cash-account, ib. Bond for, 300, 914. How amount of debt fixed, 302. Obligation of bank as to collateral securities, 304. Casualties of superiority, 703. Subsisting casualties, ib. Non-entry, 704. Relief or composition, 715. Escheat, 729. Conditions in feudal grants for securing casualties, 862.

Cattle, landlord's hypothec over, 1235, 1241. Marking in sale, 1303.

Caution in suspending diligence, 68,

р. 33. Cautionary obligations, 245. Definition of cautionary, ib. Proper and improper, 246. Constitution of cautionry by writing, 247. Whether it may be for profit, ib. Exceptions, 250. Proof of parole engagement, ib. Nature and extent of cautionry, 251. Benefit of discussion, its import and extent, 252, et seq. Relief, 255. Assignation to cautioner on payment, ib.
Discharge of cautioner, 256; on payment, ib.; by creditor discharging or compounding without cautioner's concompounding without cautioner's consent, ib.; exception of discharge to debtor in bankruptcy, ib.; by creditor giving time to debtor, 262; by neglect of diligence, 263; by giving up funds on security, 264; whether bound to imprison debtor, 265. Joint cautionary engagements, 267. Obligation of co-cautioners by Roman law, 268. Relief to co-cautioners, 269. Benefit of division, ib. Communication of eases or securities, 270. New cautioner introduced where others already bound, his obligation and relief, 271, 272. Judicial cautionry, 273; judicio sisti, 274; judicatum solvi, 275; in suspension and advocation, 276; by bond of presentation, 277. Cautionary obligation by letter of credit, 279; by letter of recommenda-tion, 280. Verbal recommendations and introductions, 281. Guarantees, 282. Del credere guarantee, 286. Continuing or prospective cautionary obligations, 287. Cautioner for bank agent, 290; for trustee, 295; for a messenger, 296; for a notary, 298; for a cash-account, 299. Septennial limitation of cautionary obligations, 600. Requisites to have the benefit of it, 601. What cautioners excluded from it, 602. How the obligation may be prolonged, 603.

Coutioner or adpromissor, 247; his obligation, 251. Benefit of discussion, 252. Relief, 255. Discharge, 256. Co-cautioners, 267. Benefit of division, ib. Relief, 269. Cautioner by letter of credit or recommendation, 270. Causing 289. Cautioner for 279. Guarantee, 282. Cautioner for bank agent, 290; for a messenger, 296; for a notary, 298; for a cashaccount, 299. Cautionary obligations in a bill, 348. Septennial limitation of cautionary obligations, 600. Cautioner's right to landlord's hypothec, 1238. Lien or retention of, 1453. Cautioner for executor, 1895.

Certificate of registry of a ship, 1326-8. Provisions against abuse of, 1327. Loss of it, ib. Effect of it, ib. Cess, 1123.

Cessio bonorum, 2352.

Character to a servant, master not bound to grant, 189. Injuries to character, 2043. See Injuries. Charge against superior, 823.

- to confine executor, 1901 - to enter heir, 1855. General charge, its nature and use, 1856. Specharge, 185 hattre and use, 1650. Special charge, 1857. General special charge, 1858. Points to be observed relative to those charges, 1859. Charge to enter heir annum delibe-

randi, ib.

Charter, feudal, 757. Definition of, 758. Its requisites, 759. Dispositive clause, 760. Tenendas, 761. Reddendo, 762. Precept of sasine, 764. Charter of precipitation, 706, 709. 764. Charter of resignation, 796, 799. Of confirmation, 806, 815. Of adjudication, 826. Of sale and adjudication, 833. Of adjudication in implement, 836.

Charter party, hiring of ship by, 406. Obligations under the contract, 409. Obligations under the contract, 409. Sea-worthiness, 408. Sufficiency of crew and navigation, ib. Good seamanship, ib. Requisites of charterparty, 407. Stamp, ib. Obligations on the owners and master, 408. Obligations of the freighter, 409. Payment of freight, 420, 421, et seq. Dead freight, 430. Lay days and demurrage, 431. Responsibility of owners, 435. Average, 437. Salvage, 443. 443.

Chartered companies, 402.

Chaiterea companies, 322. Children, lawful, rights of, 1624. Character of lawful child, ib. Bona fides of parents, 1625. Presumption of racter of lawful child, ib. Bona fides of parents, 1625. Presumption of legitimacy, 1626; how defeated, ib. Legitimacy by subsequent marriage of parents, 1627. What if the children were born of an adulterous intercourse, ib. What if the children die before the marriage, ib. Impediments to legitimacy, ib. 1628. Rules on this subject, ib. Right of lawful children to aliment, 1629. Duration of aliment, 1630. Education, 1635; guardianship, 1636. Their obligation to aliment indigent parents, 1634. to aliment indigent parents, 1634. Provisions to, 1961, 1978, 1985. Father's power over, 1980. Nature and effect of money provisions to children, 1985; in a question with creditors, 1986; with the father's representatives, 1987. See Marriage-contracts, Bastards.

Chirographum apud debitorem repertum præsumitur solutum, 566.

Choses in action, 1338.

Churches and manses, building and repairing, who liable for, 1169.

Church, seat in, patron's right to, 836. Claim in a special service, 780; to vote in election of counties, 2199; of burghs, 2203. See Elective Franchise.

Clandestine marriage, 1514.

Clare constat, precept of, entry of heir by, 777, 1817. By whom it can be given, 778. To whom it can be given, 778. To whom it can be given, ib. Its requisites, 1818, 1819, 778. Is strictly personal, ib. By superior to himself, ib. Sasine on it, ib. Passive representation by this entry, 1823, 1916.

Clause of registration, 67. Clauses of a charter, 760. Of a disposition, 818. Of pre-emption, 864. Against sub-feuing, ib. Of return, 1705. Prohibitory, irritant, and resolutive of entails, 1720. See Conditions.

Clergy, provisions for, 1146. Teinds, or tithes, 1147. How formerly levied, ib. Teinds as a fund for the clergy, 1162. Augmented stipends, 1163. Localled stipends, ib. Fund for small stipends, 1164. Not now a privileged class, 2150. When their privileges abolished, ib. See *Teinds*.

Chergyman, how far protected by privi-lege of speech, 2052. Celebrating a marriage, 1511. May authenticate a testament, 21. Will not be named factor loco tutoris, 2115. Close time in salmon fishing, 1114. Craghes, mail and stage owners of

Coaches, mail and stage, owners of, their liability under the edict Nautæ caupones, &c. 236.

Coal does not accrue to a liferenter, 1051, 1043. Power of fiar to work, 1069.

- mines carried as pertinents of land, 740.

Co-cautioners, benefit of division to, 267. Relief among, 269. Communication of eases, 270. New cautioner,

Codicil, 1870. See Testament.

Cognates, 2079. Cognition and sale of pupil's estate, 2084. Cognition and sasine in burgage subjects, 845.

Coin, what, a legal tender, 1334, 1335. Collateral kindred, 1650. Collater Collateral

succession, 1661.
Collation, 1910. Right to collate, 1911. When excluded, ib. Right of heir to moveables without collation, 1912. Whether heir excluded from share of moveables, where he cannot collate, ib. Heir of entail, ib. Mode of giving effect to collation, 1913.

Collusive possession, 1316. Combination laws, 193. Common carrier. See Carrier. Commissaries, confirmation of testaments by, 1888.

Commission of teinds, 1161. Commission, 1298.

Commodate, contract of, 195, et seq. Completion of it, ib. Proof of it, ib. Obligation of the borrower, 198. On whom is the risk, 199. See Muwhom is the risk, 199. tuum.

Common property, its nature and effect, and distinction from common interest, 1071, et seq. Management of, 1074. Rights of co-proprietors, 1075. Operations on common subject, 1076, et seq. Common passage or stair, ib. Building or planting on common subject, ib. Rule where the parties differ, ib. Common wall, ib. Division, 1679, 1680. Brieve of division, jury, verdict, and decree, 1081. Action of declarator and division, ib. Division by private arrangement, ib. If subject indivisible, 1082. Indiviar subject indivisible, 1062. Indivisible subject goes to eldest heir-portioner, 1083. Custody of the title-deeds, 1085. Compensation by one taking an indivisible subject, 1084. Division of runridge, 1098. Custody of title-deeds, 1085. See Common Interest. Interest.

Common interest among owners of a subject held in parts, 1085. Wall of a tenement of several floors, ib. Obligations of the several proprietors, ib. Distinction between common interest and servitude, ib.; and pro-

perty, ib.

pasturage. See Commonty.
Commons, 2148. See Elective Fran-

Commonty, or common pasturage, right of, 1087. Distinguished from servioi, 1001. Distinguished from servitude, 1088. How created, 1089, et seq. Division of commonty, 1092. Title to pursue, 1093. Rules of division, 1096.

Communication of securities by creditor to cautioner paying debt, 254. By cautioners to each other, 270.

Communio Bonorum, 1547. Subjects comprehended, 1548. Exceptions, 1554. Paraphernalia, 1555. Peculium, 1560. Jus mariti, and administration of the common stock, 1561. Præpositura of wife, 1565. Charges on the fund, 1568. Division of it, 1574. See Marriage.

Commutation of thirlage, 1036.
Company. See Partnership, 350.
Compensation, its nature, 572. Rules of, 573. Bars to it, 574. Its operation, 575.

Competent and omitted, 2346.
Competition of brieves, 1842. Exclusive titles, ib. Objections to brief, 1844. Exceptions to claimant's right, 1845. Mode of opposition, 1846. Competition for executor, 1895, 1896. Composition for entry with superior, 715.

On entry of purchasers and creditors, 719. Entry of adjudger without composition, where debtor is superior, ib. 823. Year's rent, 720. Deductions, the superior of the superio ib. Rules in estimating the rent, 721. Retention of charter for composition, 726. Taxing of composition,

Composition on bankruptcy, 2351.

Compulsion. See Force and Fear, 12. Concealment fraudulently, gives redress in contracts, 13, 14. Of risk in in-surance, effect of, 474, 491. Concursus debiti et crediti, 573. See

Compensation.

Condictio indebiti, 531. See Restitution. Conditional institute, 1745. Conditional institution in a legacy, 1746. Conditional legacies, 1881. Conditional acceptance of bill, 316. Drawing must not be conditional, ib.

Conditions in feudal grants, 861. Legitimate, ib. Clause of pre-emption, 864. Prohibition to sub-feu, ib. Spe-864. Fronibition to sub-reu, in. Special stipulations for preserving superior's right, 865. How far they are effectual as conditions, ib. Condition for enforcing a building plan, 867. Conditions incorporated in the title, 868. Securities by force of a special strong qualifying the right of present the second title of the sec condition qualifying the right of property, 915. Conditions in settlement of land, 1775. Condition, si sine liberis decesserit, 1776, 1777, 1780. In a testament, 1865. Express condi-tion, 1781. In entails, 1724. See Burden.

in obligations, 49. Impossible conditions, ib. Potestative, casual, and mixed conditions, 50. Condition of time, ib. Precedent or subsequent condition, ib. Condition impeded by debtor, held accomplished, ib. What is implement of condition, ib. Conditions in sale, 93; as to quality of subject, 93–98. Implied condition of solvency where price on credit, 100; of usage of trade, 101. Special conditions as to payment of price, 102, 103. Suspensive and dissolving conditions, 109, 110.

- in legacies, 1881.

in provisions to children,

Confirmation by superior, 806. Sasine a me null till confirmed, 807. Requisites of complete title by confirmation. mation, 808. Conveyance, sasine, charter, ib. Effect and operation of confirmation, 810, 811, 812, et seq. Combination of resignation and confirmation, 822.

- of a testament, 1888. Use and effect of, 1890. When necessary, 1891, 1892. Proceedings in confirmation, 1893. Executor-nominate, ib. Executor-dative, 1894. Edict,

Executor-creditor, 1895, 2380. When double confirmation required. 1896. Confirmation ad omissa vel male appretiata, 1897. See Execu-

Confusion or commixtion, 1298.

extinction of debt by, 580.

Of servitude by, 997.

Conjunct rights between husband and wife, 1953. See Fee and Liferent,

Marriage-contracts.

Conquest 1656. Law of succession in, 1670. Difference between conquest and heritage, 1671. What it comprehends, 1672, 1674. When it becomes heritage, 1675. Succession to an heir of conquest, ib. Settlement of conquest in marriage-contracts, 1974. Description of conquest, 1975. Effect of provision of conquest, 1977.

Consanguinity, succession by, 1646. Impediment to marriage by, 1527.
Consensual contracts, 16, 85, 136, 217,

351.

Consent essential to obligations, 10. Invalidity of consent from error, 11; from force and fear, 12; from fraud,

13; in marriage, 1508.

Consideration, whether essential to obligations, 63.

Consignation of money, 215. Consignment of goods, 1456.

Consolidation of property and superiori-

ty, 821.

Construction of contracts. 524. Rules, ib. Of particular expressions in substitutions, 1694; in testaments, 1878; in rights of fee and liferent, 1951, et

Conterminous proprietors on the banks of a river, their rights and obligations, 1105, et seq.

Contingent debt, definition of, 47. ligence in security of, 48. Ranking of, in bankruptcy, ib. How far attachable by creditors, ib. note.

Contraband goods, contracts relative to, 42. Contraband of war, 43.

Contract, rights arising from, 5. Classification of contracts, 15. Consensual contracts, 16. Real contracts, 17. Written contracts, their nature, 18; their requisites, ib. Classes of written obligations and contracts, ib. Attested deeds, 19; their solemnities, ib. Holograph deeds, 20. Privileged deeds, 21. Stamp, 22. Delivery, 23. Legal or illegal contracts, 35. Contracts void by statute, 36. Rules in construing such statutes, ib. Immoral contracts, or contra bonos mores, 37. Contracts against public policy, 38. Restraints on mar-riage, ib. Marriage brocage bonds, ib. Restraints on natural liberty, ib. Restraints on natural inderty, 40. Contracts impeding the course of justice, 41. Contracts against the

revenue laws, 42. Smuggling, ib. Contracts relative to contraband goods, ib. Contracts against the goods, ib. war policy, 43. Conditions in contracts, 50. Mutual contracts defined, Reciprocal obligations of the 71. Recipiocal obligations of the parties, 71. Offer and acceptance, 72, et seq. Order, 80. Contract of sale, 85, et seq. Contract of hiring, 133. Loan, 194. Deposite, 210. Mandate, 216. Mercantile contracts, 305. Bills and notes, 207. Partnership, 350. Maritime contracts, 404. Affreightment, 405. Repairs to ships, 447, et seq. Bottomry and respondentia, 453. Insurance, 457. Constructs of contracts wheefor 524. struction of contracts, rules for, 524. Quasi contracts, 525. See Diligence prestable.

Contracts of marriage, and family set-tlements, 1941. See Marriage-con-

tracts, Settlements.

Contribution for loss at sea by general average, 437. See Average.

Convention of burghs, 2175. Conventional obligations, 7

Conveyance of moveables, 1299; by tradition, 1300. Written conveyance of corporeal moveables, when requisite, 1454. Of debts by assignation, 1459.

1494. Of debts by assignation, 1499. See Assignation, Sale, Delivery. Conveyancing of land, principles by which it is regulated, 756. Feudal title by charter and sasine, 757, et seq. Transmission to heirs and purchasers, 755. Transmission to creditors, 823. See Charter, Sasine, Disposition, Resignation, Confirmation, Superior, Conditions, Personal Rights. Convoy, stipulation to sail with, 408. See Affreightment.

Co-obligants, rules as to their liability, 62. Relief among them, ib. How their mutual relief regulated, ib. See Joint and Several Obligations.

Copyright, 1356, et seq. See Literary Property.

Corn, growing and grindable, thirlage of, 1025, 1026.

Ol, 1022, 1020.
Corporations, 2167. Constitution of, 2168. Incidents to a corporation, 2169. Powers, ib. Extinction, 2170. Effect of dissolution, 2171. Royal burghs, 2174. Compartion in burghs burghs, 2174. Corporations in burghs, 2183. Burghs newly constituted with the elective franchise, 2190. Burghs of regality and barony, 2191. Universities, 2193. See Burgh.

Corporeal moveables, 1455, 1471. Correi credendi, their rights, 52. Corruption of blood, 1645.

Council, of royal burghs, how formerly chosen, 2176. New mode of election,

Counsel in a cause, their privilege of speech, 2051. County election, 2195.

Courtesy, 1605. Requisites to it, 1606. Modification of, 1948.

Crafts, incorporated, 2185. Nature of their privilege, 2186. See Burgh. Credit, letter of, 279. For value, ib. For accommodation, ib. Obligations

under it, ib. Cash-credit with bank,

Crew of ships under affreightment, 408; of British ships, 1324.

Crib-biting in horses, whether unsoundness, 129

Crop, landlord's hypothec over, 1239.
Waygoing crop, 1269.

Crown, reserved rights of the, 668, et seq. Annexed property of, 673. Liability of, for public taxes, 1145. Preference of, to landlord, 1240. Where landlord preferable, 1247. See King. Cruives and zairs, 1116. See Salmonfishing.  $\it fishing.$ 

Culpa levis, culpa levissima, culpa lata, 233. See Diligence prestable.

Cultivation and management of farm, under lease, general rules for, 1220. Rules of, by stipulation, 1221. Penalty of additional rent, ib. Implied Implied obligations on the tenant, 1222.

Curatorial power of husband over wife, 1610.

Curators to minors have no control over person, 2089. Curators necessary or voluntary, 2092. Father, 2093. Curators named by father, 2094. Effect of father's nomination, ib. Exempting power, ib. Voluntary curators, 2095. How appointed, ib. Minor cannot exempt from successions in Court and the Court and sions, ib. Caution, ib. Inventory, ib. Nature of the office, 2096. Expiration of it, 2097. Pro-tutors and pro-curators, 2098. Curator bonis, 2121. Nature of the office, ib. How applied for, ib. What acts of curator

the Court will not authorize, ib. Custody of deeds in questions of delivery, 23. Who entitled to the custody of title-deeds, 1085. Hiring of, 156. Custody of a bastard, 2062. Of

pupil, 2071, 2078.

## D.

Damage, for non-performance of engagement, 30. What it comprehends, ib. Direct and collateral damage, 31. On account of fraud, 13, 33. In pecuniary obligations, 32. In other obligations, 33. How damage is estimated, ib. Tacit and express, 31, 34. Point of time in estimating damage, 33. Stipulated damage, 34. Distinction of damage and penalty, ib. Buyer's claim of damage on eviction, 126. Damage from delict, 545; from quasi delict, 553. See Diligence prestable, Delict, Persons, Injuries. Daughters, succession of, 1659.

Days of grace in bills, 327. Lay days,

Deacon Convener of Burghs, 2176, 2186.

Dead freight, 430.
Dead's part, 1860.
Dean of Guild of certain burghs ex of ficio member of Town Council, 2176. His office, 2184.

Death, expiration of partnership by, 375. Recall of mandate by, 228. Dissolution of marriage by, 1528.

Dissolution of marriage by, 1526. Deathbed, law of, 1786. Character of deathbed, 1787. Liege poustie, 1788. Surviving for sixty days, 1789. Going to kirk or market, 1790. Deeds liable to challenge, 1796. Direct prejudice, ib. 1801; indirect, 1802. What will bar challenge, 1805, et seq. Heirs entitled to challenge, 1815. Ratification or homologation by heir, its effect, 1816. Lease on deathbed. 1182.

Debitum fundi, 699.

Debts, as incorporeal subjects, property in, 1339. Are personal estate, 1340. Pledge of, 1383. Privileged, 1405. Assignation of, 1459, et seq. Pure, future, and contingent, 44, 45.

Decennial prescription of tutorial accounts, 635.

Decimæ inclusæ, 1149. Declaration, judicial, 2321.

Declarator of non-entry, 706. Of tinsel of superiority, 736. Of expiry of legal 830. Of expiry of redemption of wadset, 906.

Declaratory actions, 2252. Positive or negative, 2253. Positive, 2254. Ne-

gative or reductive, 225.

Decree of registration, 67, 2233.

arbitral, 2350. How to be chal-

lenged, 2352.

of adjudication, 824. Of sale, 833.

333.

Deeds, written, requisites of, 18. Subscription, 19. Where the granter cannot write, ib. Testing clause, ib. Holograph deeds, 20. Privileged deeds, 21. Last wills, mercantile writings, ib. Stamps, 22. Delivery of deeds, 23. Dispensation with delivery, 24. Proof by, 2293.

Deer, 1290.

Defamation, 2043. See Injuries

Defamation, 2043. See Injuries. Del credere guarantee, 286. See 221. Delectus personæ in partnership, 358.

In leases, 1215.

Delegation, 577.

Deliberandi jus, of apparent heirs, 1685. Exhibition, 1688.

Delicts and quasi delicts, 543. Delict defined, 544. Distinction between damage from breach of contract and damage from breach of contract and from delict, 545. Who are liable for reparation, 546, 547. Master giving order, ib. Penalty by statute no discharge of reparation, 548. Where

exact restoration impracticable, 549. Liablity of delictors singuli in solidum, 550. Claim for reparation not extinguished by punishment, 551. What is included under reparation, 552. Quasi delicts, 553. Who liable for, 554. See Injuries.

Delivery of written obligations, 23. No ceremony necessary, ib. When preceremony necessary, ib. sumed, ib. Deed in obligee's, or in neutral custody, or recorded, ib. Presumption as to time of delivery ib. Exceptions to the rules of delivery, 24. Mutual contracts require no delivery, 83. Dispensation with delivery, ib.

under contract of sale, seller's obligations as to, 108, 114, 120. Effect of failure to deliver, ib. Delivery of goods under hiring of carriage, 169. Transference of moveables by delivery, 1300. Retention by seller of possession, ib. Effect of symbolical delivery by instrument of symbolical derivery by instrument of possession, ib. Of goods in the seller's possession, 1302. Protracted delivery, 1303. Marking of woods, cattle, &c. ib. Delivery to a wharfinger, shipmaster, &c. 1304. Goods in bonded warehouse, 1305-6. Of goods in the hands of another, 1305. Stopping in transity, 1207. transitu, 1307.

Demurrage, 431. Denization, 2136. When it ceases, 433.

Denunciation as a rebel,

Deposite, contract of, its definition, 210. Proper and improper deposite, 211. Obligation of depositary, 212. Of joint depositaries, ib. Where the depositor has the benefit of oath in li-Of tem, 212. Obligation of depositor, 213. Sequestration, a species of deposite, 214. No compensation in deposite, 212, 574. Consignation, 215. Descritors, divorce for, 1537, 1621.

Designation of minister's glebe, 1173. Destination, effect of, in fixing the character of heritable or moveable, 1475. Simple, 1704. Limited destinations, 1707. Condition, 1775; si testator sine liberis decesserit, 1776, 1777. 1707. Condition, 1775; si testator sine liberis decesserit, 1776, 1777. Express conditions, 1781; si sine, &c. 1782. Clause of return, ib. Fee and liferent, 1710. In Entails,

Deviation from course of voyage, liability of shipowners for, 241, 435. Effect of, on insurance, 492, et seq. Diem clausit, writ of, 2381.

Diligence in security of future debt, where debtor vergens ad inopiam, 46; in security of a contingent debt, 48. How obtained on money obligations, 67. Summary diligence only when sum certain, 68. Diligence not carried by indorsation of bill, 331. Summary diligence on bills, 342. Personal, by landlord against tenant,

By an assignee, 1468. gence against moveable estate, 2271, et seq. Against land, 2398. Against the person, 2311, 2347.

Diligence prestable, doctrine of, 232, 233. Culpa levis, culpa levissima, cul pa lata dolo proxima, ib. Application of the rules of responsibility in contracts, 233. Liability under the edict

nautæ caupones, &c., 169, et seq. Discharge, extinction of obligations by, 582. Express discharge, ib. Special, with general clause, 583. General, 584. Presumed by three consecutive discharges, 585; by settlement of periodical accounts, ib. Discharge of wadset, 905; of servitude, 998; of thirlage, 1032; of cautioner, 256. By payment or satisfaction of debt, 258; by creditor discharging or compounding without cautioner's consent, 260. Effect of debtor's discharge in bankruptcy, 261.
— in bankruptcy, 2439.

Disclamation of superior, 730. Discontiguous lands, sasine in, 874.

Discussion, benefit of, to cautioners, 252. Its import and extent, 253, 254. Discussion of heirs, 1935.

Disease in horses, 129. - Deathbed, 1787

Dishonour of bills, notice of, 340. Dispensation with delivery of deeds,

Disposition, 818. Procuratory and precept in, ib. Of burgage subjects, 844. Disposition and assignation, 852. Disposition with precept a non habente potestatem, ib. Disposition in security, 911. Absolute, with backbond, 913.

Dispositions mortis causa without substitution, 1691. Terms of the deed, 1692. With substitution, 1693. Institutes and substitutes, ib. How dispositive clause interpreted when ambiguous, ib. Words descriptive of heirs, 1694. Destination, 1704. See Personal Rights.

Dispositive clause of a charter, 760. Its requisites and effects, ib.

Dissolution of marriage, 1528; by death, 1529; by divorce for adultery, 1531; by divorce for desertion, 1537. Dissolution of partnership, 372.

Dissolving conditions in sale, effect of, 110.

Disuse, extinction of servitudes by, 1000. Of thirlage by, 1033. Dividends, not carried by indorsement

of bills, 331, 332. Carried by assignation, 1468.

Division, benefit of, among co-caution-

ers, 267. Communication of eases 270. Division of common property 1071, 1081; of runridge lands, 1098 of commonty 1087; of common fund, on dissolution of marriage, 1574; of

stock and profit on dissolution of Elective Franchise, 2194. Number of

partnership, 380. Divorce for adultery, 1521. Remissio injuriæ, 1533. Lenocinium, 1534. Recrimination, 1535. Action falls by death of pursuer, 1536. Divorce for wilful desertion, 1537. Effects of divorce, 1622. On the rights of parties, ib. Date at which these rights are fixed, 1623.

Dock warrants, transfer of, 1305.

Docquet, notary's, to instrument of sasine, 771.

Domestic servants, hiring of, 172.

Domicile, law of, rules moveable succession, 1861.

Dominant tenement, 980. Obligations on the owner of, 986. See Servitude. Dominium directum, and dominium utile, 676. Superiority, 677. sal's estate, 678.

Donations between husband and wife. 1616. When revocable, ib. When presumption of donation elided, ib. Revocation after dissolution of marriage, 1617. Express and implied revocation, 1618. Debts of husband,

Dormant partners of a company, 359. Dovecots held a nuisance in England,

978. Right to erect them, ib.

Drawer of a bill, 311. His liability, ib. Drawing of bills, how regulated, 311, 312. May it be conditional, 311, 316. Drawn teinds, 1152, 1157.

Driving, furious or unskilful, responsibility for, 168, 2031.

Drunkenness, 14.

Dry multures, 1018.

Dung of a farm under lease, 1261.

Dunghills 1475.

Duration of term of service, 174; of partnership, 366; of leases, 1192. As against the granter and his heirs, 1193; as against singular successors, ib. Of lease by heir of entail, 1196; in respect to the tenant during his life, 1215; in lease of improved farm, ib.; exhausted farm, ib. Exclusion of assignees and sub-tenants presum-ed, 1217. Exceptions, ib. Clause of exclusion, 1218. Tenant's death, 1219. Of patents, 1353. Of copy-Tenant's death, 1219. right, 1357.

Duties or rents to superior, 692. See Feu-duties, Taxation.

Earnest, 173. See Master and Servant. Edict in confirmation of executor, 1895. Nautæ caupones, &c. 170, 235. See Nautæ caupones, &c. Eik to a reversion, 968; to an inven-

tory, 1897.

Election of peers, 2141. Of town-councils, provost, and bailies, 2176, 2190. See Burgh.

representatives for Scotland in House of Commons, ib. Representation of counties, 2195. Persons entitled to vote for counties, 2196. Incapacity, 2197. Qualification in respect of property, 2198. Mode of registra-tion, 2199. Claims, how registered and discussed, ib. Mode of election, and discussed, 10. Mode of election, 2200. Poll, ib. Return, ib. Representation of burghs, 2201. Persons entitled to vote, 2202. Mode of registration, 2203. Election, 2204.

Emulatio vicini, 964. See Property. Enclosing of land, 958. How regulated,

Encroachments on right of property, 941, et seq. See Property. Enlisting, how far it justifies servant's

desertion of service, 182. Entail, 1720. Form, nature, and tenor of entail, 1721, et seq. Destination, 1723. Conditions, 1724, et seq. Prohibitions of fetters, 1729. Collusion, 2011, 20 or fraud of heir to defeat entail, 1730. Irritant and resolutive clauses, 1731. Rules regulating these clauses, 1732. Want of irritant or resolutive clause, ib. Powers reserved, 1733; to sell, to feu, to burden for widows and children, to grant long leases, ib. Completion of the entail, 1734. Sasine recorded, 1735. Effect of want of sasine, 1736, 1737. Compulsitor on heir to complete the entail, 1738. Obligation of the complete the entail, 1738. ligation to insert restraining clauses, 1739. Recording in register of tailzies, 1741. Want of recording, ib. Application for recording, 1742. Liabilities of heirs of entail, 1743; for entailer's debts, ib.; personal, ib.; of the estate, ib. When heir paying may keep up the debt against the estate, ib. What debts of preceding heirs effectual against succeeding heirs, ib. Meliorations, ib. Persons affected by the conditions, prohibitions, and irritancies, 1744. Institute, 1745. Conditional institute, Maker of the entail, 1747. 1746. State and measure of restraint, 1748. Classes of restraints, ib. Whether entails sanctioned which do not protect against all these classes, ib. Prohibition to alienate, 1749. Granting of feus, liferents, leases, 1750, 1752. Lease by heir of, its duration, 1196, 1752. What leases barred, ib. What if no prohibition to alienate, ib. Collusive or fraudulent lease, ib. Constitution of thirlage, 1753. Power to cut woods, 1754. Grassums, how far effectual, 1229, 1752, 1766. Effect of claim for meliorations against heirs of, 1768. Disponing, squander-ing, or putting away, 1755. Prohibi-tion to contract debt, 1756. Competition of heirs with creditors 1757.

Prohibition to alter the order of succession, 1760. Powers given by statute, 1762. Rules to be observed under the statutes, ib.; power to sell superiorities, 1763; improving leases, 1764; building leases, 1767. Improvements, 1768. Building and repairing mansion-house, 1770. Burdening for public improvements, 1771. Excambion, 1772. Provisions to widows and children, 1773. Re-Rules demption of land-tax, 1774.

and precautions to be observed, ib.

Entail of reversionary estate under trust, 1996.

Entry with superior, 715. Relief, ib. Composition, 719, 728. Superior not bound to enter a corporation, 723. Disponee not bound to enter while disponer not divested, ib. persons entitled to entry as heirs, 717. Entry of heirs of entail, 177. Trust disponees, 724. Entry of heir by precept of clare constat, 727, 777. 1817. By service, 779, 1824. Special service, 780, 1826. General service, 781, 1848. Entry by adjudication on feigned bond, 835. By hasp and staple in burgage subjects, 845. See Superior and Vassal, Charge.

Erasure, in protest of bill, 344. In the extract, ib. In sasines, 875. Erection, Lords of, 1147.

Error in contracts and obligations, in what cases infers a nullity, 11. In substantials, ib.; in relation to the subject, ib.; in relation to the person, ib.; in relation to price, ib.; to quality of things engaged for, ib.; in relation to nature of contract, ib. Payment in error, 534. Error in sasine, 872. In the recording, in sasine, 872. 879.

in fact or in law, 11, note, 534. See Condictio.

Escheat, causalty of, 729. Single, 732. Liferent, 733. Relaxation, 736.

Eviction under contract of sale, 121. Warrandice against it, 126. Claim of buyer on eviction, ib. Evidence. See Proof.

Excambion of entailed lands, 464. Exchange 342. Bills of, 307. See Bill

of Exchange. Eachequer bills, 1343. Hypothec for

Exclusion of assignees and sub-tenants presumed in agricultural lease, 1217. 1918 Exceptions, ib. Clause of exclusion, ib.

 use and occupation of land, 946. Means of protecting it, 961. Limitation of, by neighbourhood, 964; by law of nuisance, 973. See Property.

Execution on obligations, how enforced, 68.

of decrees. See Diligence.

Executor, nomination of, in a testament, 1869. Confirmation of, 1888. Proceedings, 1893. Executor-nominate, ib. Executor-dative, 1894. Who entitled to the office, ib. Edict inventory, ib.; caution, ib. Executorcreditor, 1895. Who may be confirmed as such, ib. Confirmation ad omissa, 1897. Executors are trustees, 1899. Liability of cautioner for executor-dative, ib. Liability of executor, and how discharged, 1900. Rules of payment by executors, 1901.

Exercitorial power, 451.

Exhausted precept of sasine, 880.

Exhibition ad deliberandum, What writings may be called for, 1689.

Expenses, law-agent's hypothec for, 1388. Funeral expenses, preference for, 1406.

Expiry of legal, declarator of, 830, 2385.

Extent, old and new, 1830.

writ of, for Crown debts, 2291. Affects only moveables, ib. Extent in chief, 2292. Affidavit, ib. Inquisition, ib. Venditioni exponas, ib. Extents in second, &c. degree, 2293. Extent in aid, 2294.

Extinction of obligations, 555. By payment, 556. By compensation, 572. By novation, 576. By confusion, 580. By discharge, 582. By prescription, 586. Of servitudes, 995. Of thirlage, 1031.

Extract of decrees, new form of, 2-70. Effect, ib. Charge, ib. ment, and poinding, and imprisonments, ib.

Extracts, new regulations as to, 2270. Certain warrants of execution, ib.

Facility. Curator to facile person, 2113. Interdiction on ground of, 2123.

Factor, doctrine of his powers and liabilities, 217-231. Del credere, ib. Factor's retention, 1445. Who may claim it, 1446. Factor's power to assign his lien, ib. Effect of subfactor's retention against the principal, ib. Whether sub-factor has retention for balance due by primary factor, ib. Subjects of factor's retention, 1447. Extent, 1448. Possession, 1449. Effect of recovery of possession when lost, ib.

Factor loco tutoris, 2114. pointed, ib. When application for competent, ib. Office gratuitous, 2115. Who will not be appointed, 2115. Who will not be appointed, ib. Petition; intimation; interim appointment, 2116. His administration and responsibility, 2117. When Court will interfere with his acts, ib. When liable for compound interest, ib. When deprived of commission,

ib. No control of pupil's persons, ib. Duties, 2118. Expiration of the office, 2119. Factor loco tutoris to a pupil, 2068.

Factor loco absentis, 2120.

Factory or mandate, contract of, 216,

et seq. See Mandate.

Factum præstandum, obligations, 58 Extinction of, by performance, 569. Faculty to burden, 924. See Burden. Fairs and markets, right in the King for the public, 664. Privileges of market, 665. Power of levying mar-

ket customs, 666.

Fallow, 1263.

Farm servants, their preference for wages, 1240.

Father is administrator in law for his children, 2068. His powers as such, ib. His power over children's provisions, 1980. Tutors named by, 2072. His abuse of power, 2122.

Fault in quality of commodities, 98. Manifest, latent, ib.

- responsibility for, 232. See Diligence prestable.

Fear, nullity of obligations induced by, 12. Degree of fear requisite, ib.

Fee and liferent, destinations in, 1710. Rules to prevent fee from being in pendente, 1711, 1951. In whom is the fee under particular destinations, ib. 1712. Construction of the term "allenarly," 1713, 1714, 1951. Fiduciary or qualified fee, 1715, 1951. Destinations in fee and liferent in marriage-contracts, 1950. Definition of fee and of liferent, ib. Legacies in fee and liferent, 490. Doctrine and construction of fee and liferent as occurred to the second liferent liferent liferent as occurred to the second liferent lif struction of fee and liferent, as occurring under marriage-contracts and settlements, 1952. Rules of construction, ib. Right in husband or wife, 1553. Right bestowed on children, 1961. See Marriage-contracts, Destinations.

Fees of lawyers and physicians are presumed to be paid, 568. Fees of ser-

vants, 183.

Fences, landlord's obligation for suffi-ciency of, 1253. Tenant's obligation to maintain them, 1254. Meliorations, against whom demandable, 1255.

Ferries, right of, in the Crown for the public, 651. Public ferries, how managed, 652. Private ferries, 653. Fetters of an entail, 1748.

Feudal law of territorial property, how it was arranged, 636. Feudal title to land, general view of, 676, 756.

Feu duties due to superior, 694. How secured to, 697, et seq.; by preference, ib. and 1240; by hypothec, 698; by poinding of the ground, 699; by tinsel of the feu, 701. Feu-duties are heritable, 1484. Arrears of, are moveable, 1479.

Feu-holding, 683. Presumption when ambiguous for feu-holding, 684.

Fiar, his claim against liferenter for meliorations, 1061. Right to vote at county elections in liferenter's absence, 2198. His claim against liferenter for repairs, 1063; for aliment, 1064. His powers under the reversionary right of fee, 1068, et seq.

Fire, whether a risk under the edict Nautæ, 239. Shipowner's responsibility for, limited, 244. Insurance against, 508. Stamp for policy, ib. Interest, ib. Risk, 509. Warranty and representation, 515. Proof of loss, 516. Settlement, ib. Policy, not assignable but with the interest,

Fire arms, using on the highway, 974. Firm of a company, 359. Change of,

Fishing, use of sea and shore for, 646. Implied grant of the shore, whether it excludes the public, ib. Express grant of oyster-fishing, ib. Fishing of lobsters, small fish, &c. ib. mon-fishing, right of, in the Crown, 671. Grant of, 672. Express or implied, ib. Right of fishing goes as a pertinent of land, 747. Rules, ib. Salmon-fishing requires special grant, ib. 671. Charter of barony cum piscationibus, 754. Nature of the common interest in salmon-fishing, 1112. Regulations, ib. Close time, 1114. Machinery, 1115. Limits, 1117. Regulation of legal machinery, 1118. Grant of fishing separate from the property, 1120. Right of angling, 1121.

Fixtures, 1 Moveable. 1473. See Heritable and

Force and fear, nullity of obligations induced by, 12. Degree of force or Threats fear requisite to annul, ib.

Forehand rent, 1230, 1499.

Foreign bills of exchange, 313. Interest, 32.

Foreigners, how jurisdiction against founded, 2226. How they can maintain action, ib.

Ancient forest laws, 670. Forests. Right of forest, 753.
Forisfamiliation, 1585, 1630.

Fortalices, 183.

Forthcoming, 2367, an adjudication, ib. Fowling, 948. See Game.

Franking letters, a parliamentary privilege, 2149.

Fraud invalidates obligations, 13. Definition of it, ib, Fraud giving rise to engagement, ib. Incident to the obligation, ib. Error by fraud, obligation, ib. Error by fraud, though not in substantials, a ground

of reduction, ib.; distinction between fraud of contracting party, and fraud of third party, ib.; by misrepresen-

tation, concealment, &c. 14; damages for fraudulent breach of engagement, 33.

Fraudulent preferences on eve of bankruptcy, 2325.

Freedom, personal right of, 2034. See Wrongous Imprisonment, Free Manse.

of corporations. 2187; by apprenticeship, 2188; by military or naval service, 2189.

Freeholders, old, their right of voting for Members of Parliament, 2198. See Elective Franchise.

Freight under a charty-party, 407.
What included under it, 420, et seq. Payment of, is a condition of delivery, 421. Lien for it, ib. Freight pro rata itineris, 422. In what cases it is due, ib. Dead freight, 430; no lien for it, ib. Hypothec of freight or or ship for goods 1309. Lien for er on ship for goods, 1399. Lien for freight, 1423.

Freighter, his obligations under a char-

ter-party, 407.

Friendly societies, preference of, for debts due by office-bearers, 1410.

Fruits, liferenter's right to, 1044.
Whether heritable or moveable, 1473.

Fuel, feal and divot, servitude of, 1014. Funded debt, 1342. See Stock.

Funeral expenses, preference of, 1240, 1406. Against landlord's hypothec, ib. What it comprehends, ib. Of husband or wife, if burdens on the common fund, 1572.

Fungibles, what? 137, note.

Furiosity, brief of, 2105. See Incapacity.

Furnishings to ships, who liable for, 447, et seq.

Furniture, liferent of, 1043. Landlord's hypothec over, 1275. Provision of, to a wife, 1946.

Future debt, definition of, 46. Diligence in security of, ib. Claim for, in bankruptcy, ib. 48, note. Security for, 2327. Cash accounts, ib.

Game laws, 948. Their object and effect, ib. Qualification to kill game, Leave from qualified person, Conveyance of right to hunt, 951. 952. Tenant has no qualification, 953. Landlord may hunt on tenant's ground, 954. Prosecutions, their form, and by whom maintainable, 955. Gaming, 36, p. 19.

debts, bills for, null as against loser, 329. Effectual against drawers and indorsers, ib.

Gazette, notice of dissolution of partnership, 385.

General average, 437. General service, 781, 1848. General charge 1856. General-special charge, 1858. General legacy, 1873.

General ship. 162, 411. Effect of advertisement for general freight, ib. 412. German or full blood, 1651.

Gestio pro hærede, 1919.

Glebe, minister's, 1172. Designation of 1173. Its extent, 1174. Grass glebe, 1175.

Gold, jewels, &c. lost at sea, 244. Gold mines, 669.

Goodwill of a shop, &c. may be sold, 91. Government stock, 1342. See Stock.

Grace, act of, 2320. - days of, in bills, 327.

Grana crescentia, thirlage of, 1025. Grass farms, hypothec in, 1235.
——minister's, 1172, 1175.

Grassums in anticipation of rent, 1228. Their effect against purchasers and creditors, ib. 1752. Against heirs of entail, ib.

Gratuitous obligations, 64. Their effect in England, ib.; in Scotland, ib. Restrained by insolvency, 2324. Act 1621, ib.

Grindable corn, thirlage of, 1027. Ground-annuals, 884, 885. In building feus, 887.

Guarantee, mercantile, 282; in writing, or oral, ib. Permanent and limited, 283, 284, 285. Rule of construction, Del credere guarantee, 286. Of a bill whether entitled to notice of dishonour, 340.

Guardian and ward. See Tutor, Curator, Pupil, Minor.

Guildry of a royal burgh, 2184. The dean a member of the town-council in certain burghs, 2176. His office, 2184. Merchant-guild, nature of their privilege, ib.

# H.

Habit and repute, proof of marriage by,

Harbours, 654. Harbour dues, 655. Keeping up harbour, 656. See Ports and Harbours.

Hasp and staple, 845.

Hat money, 429. Health, bill of, 2319.

Hearsay, 2259.

Heir, in heritage, 1642, 1657. Of conquest, 1670. Heir-apparent, and heir quest, 1010. Herr-apparent, and herr presumptive, 1677. Heir-apparent, rights of, ib. Rights vested in him without service, 1678. Annus deliberandi, 1695. How privilege lost, ib. Exhibition ad deliberandum, 1660. 1688. Possession by, 1690. Judicial sale by, 2340. Effect of the heir's possession, ib. Technical words descriptive of heirs, 1694. Collation by an heir, 1910. Passive representaan heir, 1910. Passive representa-tion of heirs, 1914; by entry, 1916; by præceptio hæreditatis, 1918; by gestio pro hærede, 1919; by propon-ing defences, 1920; by vitious intro-

mission, 1921; by service cum beneficio inventarii, 1925. Limited re-presentation of apparent heir three years in possession, 1929. Order of responsibility among heirs, 1935. Dis-cussion, ib. Relief, 1936. Last heir, 1940. Entry of heir with superior, 712. Relief, casualty of, how estimated, 715, 716. Entry by precept of clare constat, 777, 1817. By service, 779, 1824. Special service, 780, 1826. General service, 771, 1848. By adjudication on feigned bond, 835. By hasp and staple in burgage subjects, 845. See Heritable and Moveable, Service, Clare Constat, Charge Passive Title, Apparent Heir, Entail.

Heir, last, 1940. Heirship moveables, 1903. Who entitled to, 1904-6. Subjects of, 1907.

Law of deathbed applies to, 1908.

Heirs-portioners, division among, 1659. Custody of the titles, 1085. Veritable bond, 919. Liferenter's right

Heritable bond, 919. to interest of, 259.

securities, general view of, 896. By diligence, ib.; by burdens, ib. Real securities, how constituted, 897. Their nature, ib. Securities by infeftment in the person of the creditor, 900. Wadset, 901. Infeftment of annualrent, 909. Heritable bond, 910. Disposition in security, 911. Securities for future debts, 912. Disposition absolute with back-bond, 913. Securities for cash-accounts, 914. Securities by force of a condi-tion qualifying right of property, 915. Reserved burden, 917. Faculty to burden, 924. Securities under Road and Canal Acts, 931. Lease as a security, how completed, 298. For future debts, 2409. Sasine ineffectual for debts after its date, ib. Relaxation of the rule in favour of bank accounts, ib.

and moveable, distinction be-tween 1470. How the character of heritable or moveable impressed, ib. I. Corporeal subjects, 1471. Nature, 1472; land, and parts of land, ib. Accessory, 1473; buildings, fixtures, trees, &c, ib.; part of universitas, 1474. Destination, 1475. Materials for a building, dunghills, heirship moveables, ib.; books and furniture, ib .- II. Incorporeal subjects, 1476. Nature; real rights, 1478. Personal debts, stock, titles, &c. 1479. Arrears of debts and funds which themselves are heritable, rents, feu-duties, &c. ib. Tract of future time, 1480. Patents and copyright, ib. Titles of honour, 1481. Offices, ib. Jus crediti under a trust, 1482, 1996. Accessory character, 1483. Feu-duties and casualties, 1484. Interest of heritable bonds, ib. Annuities, ib. Interest of

Rights connected with land, servitudes, teinds, &c. 1485, 6, 7, 8. Securities taken by a tutor, 1486. Percentage sonal debts heritably secured, Debts vested in a trustee infeft, ib. Accessory moveable security, 1489. Destination express or implied, 1490-1495. Rents, interests, and annuities, 1496. Legal and conventional terms, 1499. Corn and grass farms, 1501. Houses, 1502. Interests, 1503-4. Houses, 1502. Arrears, 1505.

Heritage, succession in, 1657. Distinctions of heritage and conquest, 1671. 1676. Not carried by testament, 1692.

See Succession.

Heritors, on the banks of a river, their rights and obligations, 1105, et seq. How liable to assessment for the poor, 1135. For grass glebe to minister, 1176.

Highways are vested in the King, 659. Regulations for public benefit, ib. Distinction between public and servitude road, ib. Streets of burghs, 660. Encroachments on, ib. Roads or highways proper, 661. General Road Act, analysis of it, 662. Interpretation and effect of it, 663.

Hiring, contract of, its definition, 133. Its analogy to sale, ib. Risk remains with the owner, ib. Essentials of the contract, 134. Reciprocal obligations under it, 135. Constitution of the contract, 136. Evidence of it, ib. Hiring of things, 137. Subject, 138. Use of it, 139. Hire, 140. Obligations of the lessor, 141; as to fitness of subject, ib.; where subject perishes accidentally, ib. Effect of lessor's insolvency, ib. His obligation to warrant the use and fitness of subject, 142. Abatement of hire if subject unfit, ib. Obligations of lessee, 143; to pay hire, ib.; to take the stipulated use, 144; to preserve subject, ib.; to restore it, 146. Hiring of work and labour, 147. Lessor's ablianting 148: to do the work skil obligations, 148; to do the work skilfully, 149. Where there is departure from contract, 150. Damages to employer for unskilful work, 151. Rule as to this in England, ib. Lessee's obligation, 152; to pay hire, ib. Risk is with the lessor, 153. Hire where work on time, ib. Rules as to risk in particular cases, ib. Hiring of skilled labour, 154. Presumption of skill in professional men, 155. Rules of responsibility for skill, ib. of care and custody, 156. Hiring of orriage, 157. By specific and express contract, 153; by implied contract, ib. Hiring of ship by charterparty, 159. Implied contract with common carrier, 160. How contract constituted against carrier, 161. Contract for water-carriage by advertise-

ment and bill of lading, 164. Obligations of the carrier, ib. Sufficiency of vehicle, 166. Seaworthiness of ship, ib.; proper crew and navigation, ib. Skilful packing, 167. Care and skill in driving, 168. Good seamanship at sea, ib. Presumption against carrier, ib. Care and vigilance in carriage of persons ib. Care lance in carriage of persons, ib. Carrier's obligations as to delivery, 169. Obligations under the rules of public Obligations under the rules of public policy, 170. Shipmasters, innkeepers, stablers, ib. Hiring of service, ib. Of domestic servants, 172. Constitution of the contract, 173. Term of duration, 174. Essentials of the contract, 175. Hire or wages, 178. Scrvant's obligation, ib. Master's engagements, 183. Hiring of workmen or artisans, 190. Holdings, feudal, 686. Holdings, feudal, 686. Holdings his bills, 327, and note. Holograph deeds, their nature and ef-

Holograph deeds, their nature and effect, 20. Proof by, 2231. Vicennial limitation of, 590. Terminus a quo, 591. Proof after the term, ib. Defence of minority, 593.

Homicide, assythment for, 2029. Homologation of deeds and obligations,

27. How it is inferred, ib. Its effect, ib. Honour, acceptance of bills for, 322.

Horning and caption, 2311. Register of hornings, ib.

Horses, sale of, 139. Effect of latent faults, ib. Express conditions, ib. Warranty of soundness, ib.

House of Commons, 2194. Election of Representatives, 2195, 2200. See Elective Franchise.

Houses and fences, landlord's obliga-tion for sufficiency of, 1253. Tenant's obligation to maintain them, 1254. Repairs of, 1256. Effect of claim for meliorations against singular successors, ib. Houses, lease of, 1272. Hypothec, 1275. Removing, 1278. and buildings carried as pertinents of land, 743. Hunting, 948. Right of, in landlord, 1224, 1226.

Husband, his jus mariti, 1561. His debts, how far effectual against the common stock, 1569. His liability for wife's debts, 1570. His right of courtesy, 1605. His curatorial power,

1610. See Marriage.

Husband and Wife, contracts and do-nations between, 1616. Presumption of donation, ib. What contracts held onerous. Power of revocation, ib. When excluded, ib. Revocation after dissolution of marriage, 1617. Express or implied revocation, 1618. Revocation by husband's creditors, 1619. Action and diligence by spouses against each other, 1620. See Marriage.

Husbandry, good, 1220. See Cultivation, Lease.

Hypothec, difference between hypothec and pledge, 1385. Conventional hypothecs, 1386. Legal or tacit hypothecs, 1387. Landlord's, 1233. Subjects of it, 1235. In arable farms, ib. In grass farms, ib. Operation of it, 1236. Where there is a subtenant, 1237. Available to a cautioner, 1238. Over the crop, 1239. Over the cattle and stocking, 1240. Right to retain, stop, and recover, 1241. Effect against purchasers, 1242. Communication of hypothec, 1243. Hypothec in urban subjects, over the invecta et illata, 1275. What it comprehends, 1276. Effect of it, 1277. Creditors, preferable to, ib. 1240. Law-agent's hypothec, 1388. Maritime hypothecs, 1397. On ship for foreign repairs, 1398. To freight-ers for goods, 1399. For average loss, 1401. For seamen's wages, 1400. Revenue hypothecs, 1402. For exchequer-bills; taxes; post-office, 1404. For privileged debts, 1405; funeral expenses, 1406; servant's wages, 1407; current rent, 1408; minister's widow fund, 1409. Friendly societies, 1410. Hypothec of superior for feu-duties, 701.

Idiot incapable of marriage, 395. Tutory of, 2106. Brief of idiotry, ib. Title to prosecute it, 2108. Right of guardianship, 2109. Points in verdict, 2110. Challenge of verdict, 2111.

Illegal contracts, 35, et seq. Illegitimate children, 2058.

Imbecile persons, contracts by, 14; guardianship of, 2113.

Immoral contracts, 37.

Impediments to marriage, 1521.

Implement, adjudication in, 835. Implement of obligations in marriagecontracts, 1988.

contacts, 1936.

Implied condition, 47; as to quality in sale, 94; of solvency in sale on credit, 100. Of usage of trade, 101. Implied mandate, 229. Warranty in insurance, 475, et seq. Obligations on tenants, 1255. Warrandice in assignations, 1469. Procuration, 321. In sale, 122. Of lands, 303. Revo. In sale, 122. Of lands, 893. Revocation of donations, inter virum et uxorem, 1618.

Imprisonment, 2311. Warrants instead of horning and caption, 2311-12. Act of warding, 2314. Small debt acts, 2310. Indulgence to debtors, 2315. Sanctuary, 2316. Bill of health, 2319. Act of grace, 2520. Liberation, 2321. See Cessio, Discharge.

as in meditatione fugæ, Wrongous, 2035-6.

2318.

Improbation of deeds, 2227.

Improvements, tenant's claim for, 1254. By heir of entail, 1768. Building and repairing mansion-house, 1770. Public improvements, 1771.

Improving lease, duration of, 1214-5. Power of assigning and subsetting, 1217. By heir of entail, 1767.

Incapacity to contract marriage, 10, 1552. Guardianship of persons in a state of incapacity, 2103. By insanity, 2105. Idiocy, 2106. Imbecility, 2113. Absence, 2120.

Incorporeal moveables, 1338, 1476.

Incumbrances, purging to a purchaser, 891. In judicial sale, ib. Retention of price for, ib. See Sale of Land. Indebiti condictio, 531.

Indefinite payment, how to be applied, Indefinite precept, sasine on, 818.

Indorsement of bills, 329. Bills passing without indorsement, ib. Indorsement in full, ib.; blank, ib.; made in pencil, ib. Indorsement of bill for game debts, ib.: restrictive or without recourse, 330. Effect of in-dorsement, 331. Does not carry di-ligence, ib.; nordividends, ib. Where the bill ex facie dishonoured, 332.
Where bill otherwise suspicious, ib. Indorsement of bills of lading, 100, 418.

Infancy. See Pupih

Infamy, a disqualification of, as wit-ness, 2243.

Infeftment. securities by, 901. Infeftment of annual rent, 509. See Sasine. Inhibition, 2306. Grounds, 2306, 2307. Recall, 2308. Effect, 2309.

- of teinds, 1158.

Initials, subscription of bills by, 323. Injuries, reparation for, 543. Personal injuries, 2028. Assythment for homicide, 2029. Injuries short of death, 2030. By negligence, 2031. Overloading, driving, &c. ib. Assault and battery, 2032. Seduction, 2033. Wrongous imprisonment, 2035. Injuries against reputation, 2043. Prejuries against reputation, 2043. Presumption of malice, 2044. Exceptions, 2045. Privilege of speech, when pleadable, ib. Parliament, 2046. Courts of justice, 2048. Counsel, ib. 2051. Judge, 2049, 2050. General Assembly, 2047. Clergyman, 2052. Corporations, 2053. Private persons, 2054. Press, 2055. Veritas convicii, 2057. pland bills 307.

Inland bills, 307.

Innkeeper, his liability under the edict Nautæ caupones, &c. 236.

Inquest on a service, 780.

Insanity a ground for dissolving partnership, 376. Guardianship of insane persons, 2104. Brief of furiosity, 2106. Of idiocy, 2107. Title to pur-sue, 2108. Right of guardianship, 2109. Verdict, 2110. Challenge of it, 2111. Accounting by guardian,

Insolvency, a ground for dissolving partnership, 377. For stopping in transitu, 1307. How to protect against, by marriage-contract, 1944. Effect of, in restraining voluntary deeds, 2323. Act 1621 against gratuitous deeds, 2324. Act of 1696 against fraudulent preferences, 2325. Effect in equalizing diligence, 2328, 2332.

Instalments, debts payable by, 46. Institorial power, its nature, when inferred, 231. Shopman, bank-agent, traveller or rider, ib. See Mandate. Institute of entail, 1745. Competency

of conditions and limitations against him, ib. Conditional institute, ib. 1746.

Instrument of sasine, 771. Of resignation, 794, 787. Of possession, delivery of moveables by, 1300.

Instrumentary witnesses, examination of, 2229.

Insucken, multures, 249.

Insurance, contract of, its nature, 457.
Essentials of it, subject, premium, risk. 458. Subject, 459. Must be legitimately insurable, 460. Interest, 461. Wager policies, ib. Risk must be actual, 462; and fair, 463; and not excepted by usage, 464. Premium, 466. Marine Insurance, 467. Constitution of the contract, 468. Slip, 469. Stamp, 470. Alteration, ib. Policy, its requisites, 471; subscrip-Policy, its requisites, 471, survein-tion of it, 472. Obligations of the in-sured, 473. Representation, 474. Warranty, 475. Distinction between representation and warranty, ib. Affirmative, promissory, express, implied warranty, 476. Rules as to warranty, 478. Obligations of the underwriter, 479. Settlement of loss, 480. Total loss, ib. Claim must be accompanied by abandonment, 464. Cases for abandonment, 485. Must be tempestive, 486. Amount of loss, ib. Valued policy, 482. Open policy, 483. Partial loss, 489. Discharge of insurer by breach of compact by insured, 491. Proof of loss, 496. Adjustment of loss 500. Re-insurance, 505. Double insurance, 506.

Insurance against fire, 508. Stamped policy, ib. Risk, 509. Warranty and representation, 515. Proof of loss, 516. Settlement, ib. Policy not assignable without the interest, 516.

Floating policies, 517.

life, 518. Stamped policy 519. Interest, 520. Insurance by creditor of debtor's life, 521. Assignment nation to creditor of policy opened by debtor, ib. When the interest on

such policies expires, ib. Policies assignable, ib. Warranty, 522. Risks, ib. Exceptions, 523.

Interdiction, its nature, 2123. Judicial, Effect of it, 2125. Voluntary, 2126. Eff 2127. Termination of, 2128.

Interest in pecuniary obligations. 32.
In what cases due, ib. Accumulation, ib. In foreign obligations, ib. When heritable, 1484. Arrears of, when moveable, 1479. Liferenter's right to, 1047, et seq. Whether heritable or moveable, 1495, 1503. When payable on legacies, 1880.

- in the subject of insurance essential to the contract, 461. In fire insurance, 508. In life insurance, 520, 521.

marine, in bottomry, 456. in a witness, 2244. What inin a witness, 2244. W terest disqualifies, 2245, 2250.

Interruption of prescription, 615; by taking document, 616; by partial payment, ib. Judicial, by action, 617; by diligence, 622. Interruption of positive prescription, 2007.

Interventus, rei, doctrine of, 26.
Intimation of assignation, 1462. Notarial, 1463-4. Equivalents, 1465.
Assignations not requiring intimation, 1466. See Notice.

Intoxication of contracting party, 14. Introduction, letter of, or verbal, 281.

Intromission, vitious, 1921.

Invecta et illata, thirlage of, 1028.

Hypothec over, in urban subjects, 1275.

Inventions, patents for, 1348.
Inventory in confirmation of executor, 1894-7-8. Of personal estate, ib. In a service cum beneficio inventarii, 1926. Tutorial inventories, 2081. 1926. Eik to, ib. Curatorial, 2095.

Irritancy ob non solutum canonem, 701. Irritancy of a lease, 1248. Stipulated 1249. Legal, 1250.

Irritant and resolutive clauses of an

entail, 1731.

J

Joint adventure, 393. See Partnership. ... purchase, 398.

- stock companies, 399, 400.

and several obligations, their nature, 51. General rule as to liability of co-obligants ib. Rights of creditors correi credendi, 52. Debtors correi debendi, 53; where each bound for a share, ib.; where obligation by express contract, ib.; where obliga-tion bears to be "for the use of one," ib.; where obligants bound for a town or corporation, ib.; where each bound severally as co-principal and full debtor, 55; where bound jointly and severally, 56; conjunctly, 57. Implied contract, 58. Where subject indivisible, ib.; or obligation ad factum præstandum, ib. Pro vata liability, ib.; liability of partners, joint adventurers, purchasers, and pursuers, 59. Where parties jointly interested, 60. Parties to bills and notes, 61. Relief among co-obligants, 62. Joint cautioners, benefit of division to, 267, et seq. Relief among them, ib. Joint and several legacy, 1879.

Jointure, wife's 1947. Judge privilege of speech to, 2049, 2050.

tion, 1540. Declaration, 2321.

Judicio sisti, caution, 274.

Jury in a service, 780, 2079. Jus crediti, whether heritable or moveable, 1482, 1488. Under a trust, 1996. Its nature, 1953. Effect of jus crediti under contracts of marriage and provisions, 1968, et seq. 1980. Extinction of, by negative prescription, 2017.

Jus in re, and ad rem, 3. Ad rem specificam, 87.

Jus Mariti, 1561. What it compre-

hends, ib. Available to husband's creditors, ib. Exceptions, ib. Renunciation of, 1562.

Jus Relicta, 1591. Modification of, by conventional provisions, 1946.

Marriage-contract. Jus superveniens auctori accrescit successori, 881. See Accretion.

Justice, contracts tending to impede the course of, 41.

# K

Kelp, right of taking from the seashore, 647. Reserved from tenant's right,

Kenning to a terce, 1603.

Kindly tenants and rentallers, 1279. King. Property in the King as trustee for the public, 638. Seas and emg. Froperty in the King as trus-tee for the public, 638. Seas and shores, 639. Navigable rivers, 648. Ferries, 651. Ports and harbours, 654. Highways, 659. Fairs and markets, 664. Property of the King and Prince, 667. Reserved rights of the Crown, 668. Mines, 669. Forests, 670. Salmon fishing, 671. Approved 670. Salmon fishing, 671. Annexed property of the Crown, 673. Principality of Scotland, 674. Quod nullius est fit domini regis, 1291. Wrecks, 1292. Treasure, 1293. Trays, 1294. Prizes, 1295. Succession of the King as ultimus hæres, 1940. May plead the law of deathbed, ib. Liability for deceased's debts, ib. Affected by positive prescription, 2025. King's debt. See Extent, 2291, et seq.

King's freeman, 2189. Whether the privilege of communicable, ib. Kirk or market, going to, 1790. Deathbed.

Kirks and manses, building and repairing of, a burden on fiar, 1169.

Knaveship, 1018.

Labour, hiring\_of, 147. Lessor's obligation, 148. Lessee's obligation, 150. Risk, 151. Skilled labour, 153. Rules of responsibility for skill in professional men and artists, 154. Lading. See Bill of Lading.

Lady's gown, 1560.

Lakes, property in, 1110.

Land, sale of, title warranted, 114;

Different in sale of moveables, ib.

Doctrines as to law of sale applicable to land, 889. See Sale. Servitude to land, 889. in land and its accessories, 637, et seq. Conveyance of land by name or boundaries, 738. Pertinents, 739; what included under them, 740. General view of the feudal title to land, 756. Of securities on land, 895. Use and occupation of land, 939. Exclusive occupation, 940. Succession to land, 1654; by deed, 1691. Terms of the conveyance, 1692. See

Property, Succession.

Land-tax, 1123. Redemption of, 1131;
by heir of entail, ib. See Taxation. Landlord. Law of landlord and tenant, 1177. Estate of the landlord, 1225. Reserved rights, 1226. Stipulated rights, 1227. Rent, ib. Grassums, 1228. Means of enforcing payment, 1231; diligence, ib.; hypothec, 1233. sequestration, 1244; irritancy, 1240. Obligation of warrandice, 1253. Steelbow, 1264. Effect of sale in public market against landlord, 527, 1242, 1277. Creditors preferable to, 1240. When he is preferable to the Crown, 1247. See Lease, Hypothec. Lapsing of legacies, 1877, et seq.

Last heir, 1940. Latent exceptions discharged by indorsement of bill, 332.

adistance of the sale, 96, 99. Implied warranty against, ib. Rule in England, ib. Challenge must be immediate, ib.

Latter Will, subscription of, 21.

Law-agent; retention, 1437; hypothec of, 1385. See Writer.
Lawful children, 1624. See Children.
Lawsuits, purchase of, 36, p. 18.

Lawyer's fees, presumption of payment of, 568. Lay days, 431, 2, 3.

Lease. Connexion between landlord and tenant, 1177. Agricultual lease, its objects and purposes, 1178, 1179. Constitution of it, 1180. Title of Title of

granter, 1181; liferenter, 1183, 1268; heir of entail, 1184. Tutors, 1185. Contract of lease, its nature, 1186. Verbal, of land, its effect, 1187, 1188. Where rei interventus, 1109. XWritten lease, its requisites in questions with granter and singular successors, 1190. Missives, ib. Offer with acceptance, ib. Articles, ib. Obligation to grant lease, ib. Defective lease, ib. Possession, 1191. Stamp, 1109. Stamp 1192. Substance of the Lease, 1193. Term, 1194. Rent, 1197. Subject, 1206. Possession, 1209, et seq. Lease as a security, 1212. Estate of the Tenant, 1213. Destination and extent of lease, 1214. Delectus personæ, ib. 1216. Improved farm, personæ, 10. 1210. Improved faim, 1215. Improving lease, ib. Assignees and sub-tenants, 1216. Clause of exclusion, 1218. Duration after tenant's death, 1219. Heirs, ib. braction 1210. Duration after tenant's death, 1219. Heirs, ib. Management and cultivation of the farm, 1220. Tenant's use and enjoyment of the land, 1224. Estate of the Landlord, 1225. Reserved rights, the Landord, 1225. Reserved rights, 1227. Mines, woods, kelp, hunting, ib. Stipulated rent, ib. Grassums, 1226. Periodical rent, 1230. Means of enforcing payment, 1231; personal diligence, 1232; hypothec, 1233-4; sequestration, 1244, 1245; irritancy of the lease, 1248. Obligations of parties as to condition. parties as to condition of subject, 1252. Warrandice, 1253. Houses and fences, 1254. Meliorations, 1255. Repairs and meliorations by stipula-Repairs and menorations by stipulation, 1256. Obligations as to the mode of possession, 1257. Labouring and stocking the farm, ib. Cropping, ib.; straw and dung, 1261, 1262. Fallow, 1263. Steelbow, 1264. Tacit relocation, 1265. Termination of lease 1266. Removing 1267. Act lease, 1266. Removing, 1267. Act of Sederunt, 1756, 1268. Waygoing crop, 1269. Termination of liferent lease, 1270. Renunciation, 1271. Tutor's power over lease of his pupil, 2084.

Leases of urban and other subjects not agricultural, 1272. Constitution and effect of the lease, 1273. Verbal, ib. Possession, ib. Power to assign or subset, 1274. Hypothec, 1275. Removing, 1278. Leases vest in appearant bit with the control of the subset. parent heir without service, 1680. How far granting of, barred by prohibition to alienate in entails, 1752. Improving leases by heirs of entail under statutory powers, 1764. Building leases, 1767.

Legacy, 1870. How bequeathed, ib. By bill or note, ib. Description of, 1871. Rule where several legacies to same person by different wills, ib. Universal legacy, 1872. General le-gacy, 1873. Special legacy, 1874. What not sufficient to constitute it,

ib. Rights of general and special legatees, 1875. Simple legacy, 1877. Legacies with substitutions, 1878. Legacies to several legatees, jointly or severally, or successively, 1879. Term of payment, 1880. Pure and conditional legacies, 1881; depending on certain or uncertain event, ib. Legatum rei alienæ, 1882. Legacies in arbitrio alienæ, 1883. Construction of particular expressions, 1885. Legacy duty, 1886.

Legal, of adjudications, 829, 2300; declarator of expiry of, ib.

- and illegal contracts, 35. Legitim, 1582. Rules by which children What deeds ineffectual against it, 1585. Vests ipso jure, 1586. How discharged or satisfied, 1587. When a provision may be rejected for the legitim, ib. Advances to children, 1588. Effects of discharge, 1590. Modification of, 1949.

Legitimacy of children, 1624. Presumption of legitimacy, 1626. By subsequent marriage, 1627. Of bastards, 2064. Letters of legitimation, ib. Letters of legitimation, ib. See Children.

Lenocinium, 1534.

Lesion, challenge by minors on, 2101.

Proof of it, ib. See Minor.

Letters, proof by, 2234.

of credit, 279. Of recommendation, 280. Of guarantee, 282, et seq. Of regress, 904. Of marque and reprisal, 1295. Of legitimation, 2064. Of horning and caption, 2310, et

Lex Rhodia de jactu, 438.

Liberation from prison, 2321.
Liberty, restraints on, by obligation or contract, 40.

Licenses to trade in time of war, 43. Liege Poustie, 1788. See Deathbed. Lien 1410. See Retention.

Life insurance, nature of, 518. Stamped policy, 519. Interest, 520. Assignable policy, 521. Warranty, 522. able policy, 521. Risks, 523.

Liferent, its nature, 981-1037. Constitution of, 1038. Legal liferents, ib.; conventional, 1039; by reservation, 1040; by constitution, 1041.

Nature and extent of liferent, 1042.

Liferent of furniture, 1043; of subjects consumable by use, ib. Life-renter's right to fruits, 1044; natural fruits, 1045, 1046; civil fruits, rents, 1047. Liferent of superiority, feuduties, 1048. Interest of heritable bonds, 1049; bank stock, 1050. Exceptions from liferenter's right, 1051; extension of liferent with the subject, 1052. Meliorations by fiar, ib. Liferenter's right of voting for Member of Parliament, 2198, 2202.

Powers of Liferenter, 1054. Of life-

renter by reservation, to enter vas-sals, ib.; to give feus, 1056; leases, 1057. Cannot sell woods, 1058. Has right of patronage, 1059. Not liable for debts of disponer, where fee sufficient 1060.

Burdens on Liferenter, 1061; public and parochial, ib. Repair of the subject, 1062. Current repairs, ib. How affected by destruction of the subject by fire, 1063. Cautio usufructuaria, 1064. Aliment to the fiar, 1065. Extinction of liferent, 1066. Joint liferent, 1067. Reversionary right of the fiar, 1068. See Fiar, 

and fee, destinations in, 1950. See Fee and Liferent.

lease, power of assigning or subsetting, 1217. Termination of. 1057, 1270.

Light or prospect, servitude of, 1005. Limitation, extinction of obligations by, 587. Conventional, 588. Legal or statutory, 589. Vicennial, of holograph deeds, 590. Sexennial, 594. Quinqennial, of verbal bargains, see Note, p. 701. Of cautionary obligations, 600.

Liquor Act, 36, p. 20.

Lists of voters at elections, 2199, 2203.

Literary property or copyright, Unpublished compositions, Published works, 1357. Extent of author's monopoly, ib. Evidence of identity, 1358. Proof of piracy, ib. Quotations, ib. What is held to be a "book," ib. Title of a work, ib. assignment of copyright, 1360. Property of engravings, busts, music, patterns, 1361. Whether copyright, heritable, or moveable, 1480.

Loading, obligations of shipmaster as to, 408. Lay days, 431.

Loan, or mutuum, contract of, its definition, 194. Distinction betwixt it and commodate, ib. Obligation on the borrower, 198. Risk, 199. Of money, 200.

Locality to a wife, 1947. Localled stipend, 1165.

Location, contract of, 133. See Hiring. Locus Panitentia in reference to obligations, its nature, and when competent, 25. Barred by rei interventus, 26; or homologation, 27.

Lodging-house, keepers of, whether liable under the edict Nautæ caupones,

Log-book, and protests, how far evidence in insurance, 498.

Loosing of arrestment, 2279, 2281.

Loss at sea, contribution for, by general average, 437. Loss under contract of insurance, 480. Claim for total loss, 481; must be accompanied by abandonment, 484. Cases for aban-

donment; must be tempestive, 485. Valued policy, 482. Open policy, 483. Partial loss, 489. Proof of loss, 496. Adjustment, 503. Proof and settlement of loss in fire insurance, 516. See Average.

516. See Average.

Lost titles, how supplied, 883. Lost property, how recovered, 342.

Lucid interval, 2103, 2110.

## M

Machinery; used in salmon fishings, prohibition of within certain limits, 1115-16. How it is regulated, 1118. When heritable or moveable, 1473.

Magistrates and council of royal burghs, election of, 2176. Of other burghs, 2190.

Maills and duties, quinquennial prescription of, 634.

Maintenance of lawful children, 1638; of bastards, 2062. See Children, Bastards

Malice, proof of, not essential in action for wrongous imprisonment, 2038. Implied in action for defamation, 2044. Exceptions, 2045. Privilege of place, ib. et seq. Disqualification as witness, 2252.

Mandate, joint liability of parties to,

and Factory, contract of, 216. Its nature, ib. 217. Express mandate, 218. Obligations of mandatary or factor, 219, et seq. Obligations of mandant or employer, 223, 225. Limits of mandate, 224. Rules as to powers of mandatary, ib. Mercantile, how construed, ib. Risk under the contract, 227. Recall or expiration of mandate, 228. Imptied mandate, 229. Institorial power, ib. 231; wife, shipmaster, shopman, bank-agent, traveller or rider, 231. See Factor's Retention.

Manse, 1165. Title to a manse, 1166.
Compensation for, ib. What manse includes, 1168; who liable for expense of, 1169. Powers of the presbytery, 1170. Free manse, 1171.

Mansion-house of entail, lease of, ineffectual against the heirs, 1752. Heir's claim for building and repairing, 1770.

Marches, straighting of, 958.

Maritime contracts, 404, et seq. Hypothecs, 1397. Interest, 456.

Market, public, sale in of goods stolen, effect of against the owner, 527, 665; or against landlord's hypothec, 527. Landlord's right against purchasers in, 1242.

Markets and fairs, right of, in the King for the public, 664. Privileges of market, 527-8, 665, 1320. Power of levying customs, 666. Marking of wood, cattle, &c. delivery by, 1303.

Marriage, a consensual contract, 1506. Difference in the law of Scotland and in England, 1507. Constitution of marriage, 1508. Consent de presenti, ib. Invalidity of consent by error, force and fear, or incapacity, ib.

force and fear, or incapacity, ib.

Regular Marriage, 1509; bans,
1510. Presence of clergyman, 1511.

Witnesses, 1512. Ceremony, 1513.

Irregular and Clandestine Marriage, 1514. Consent de presenti, ib. Various ways in which it may be constituted. 1515. Promise of marriage, ib.; with intercourse, ib. Proof of marriage, 1516. Regular or irregular, ib. Parole, written, confession, facts and circumstances, 1518. Rules in construing the evidence, 1519; of habit and repute, ib.; of promise and copula, ib. Promise after connexion, ib. How evidence invalidated, 1520. Second marriage, whether it raises any personal exception against parties to the first from vindicating their rights, ib. Effect of promise with copula against a second marriage, ib. Right of third parties to appear in declarator of marriage, 1521.

Parties who may enter into marriage, 1522. Incapacity, 1523; of consent, ib. Incapacity of conjugal duties, 1524. Impediment of previous marriage, 1525; from adultery, 1526; from relationship, 1527. Dissolution of marriage, 1528; by death, ib.; by divorce for adultery, 1530; how barred, 1532. Remissio injurie, 1533. Lenocinium, 1534. Recrimination, 1535. Action falls by death, 1536. Divorce for desertion, 1537. Separation, 1538. Judicial, 1540.

1536. Divorce for desertion, 1537. Separation, 1538. Judicial, 1540. Voluntary, 1541. Alimony, 1545. Effect of marriage on the Estates of the parties, 1546. Communio bonorum, 1547. What it comprehends, 1548, et seq. Exceptions, 1554. Paraphernalia, 1555. Peculium, 1560. Jus mariti of husband, 1561. Legal assignation to husband, 1566. Charges on the common stock, 1568. Debts of husband, 1569. Debts of wife, 1570. Debts of the marriage, 1572. Division of the common fund, 1574; on dissolution within year and day without a living child, 1576; on dissolution of a permanent marriage, 1579; on the wife's death, 1581; on husband's death, 1580. On wife's death, 1581. Jus relictæ, dead's part, legitim, ib. 1582, 1591, 1592. Heritable estate of the parties, 1593. Terce, 1596.

Terce, 1596. Courtesy, 1605.

Effect of marriage on the status of the parties, 1609. Husband's curatorial power, 1610. Wife's personal

obligations, 1611. Contracts between the spouses, 1616. When donation presumed, ib. When deed held one-rous, ib. Power of revocation, ib. rous, ib. When excluded, ib. Revocation of donations after dissolution of marriage, 1617. Express and implied, revocation, 1618. Revocation by hus-band's creditors, 1619. Action by spouses against each other, 1620. Effect of dissolution of marriage, 1621; by divorce, 1622. Provisions under marriage-contracts, 1942. See Marriage-contracts.

Marriage; contracts imposing restraints on, 39. Bond not to marry, ib. Marriage brocade bonds, ib.

Marriage-contracts and family settle-ments, provisions by, 1941; by persons under no restraint, ib. Difference between antenuptial and postnuptial contracts, 1942. Effect of marriage-contracts directed to particular objects, 1943. Provision against premature dissolution of marriage, ib. Provisions against the insolvency of the husband, 1944. How made effectual against creditors, ib. Modification of legal provisions, 1945. Modification of jus relictæ, 1946. Annuity on survivance, ib. Provision of furniture, ib. Discharge of jus relictæ, ib. Modification of the terce, 1947; by provision of jointure or locality, ib. Modification of cour-tesy, 1948. Modification of legitim, General observations as to the settlement of land by marriagecontract, 1950. Fee and liferent, ib. Conjunct fee and liferent, ib. Fee and liferent allenarly,—their meaning, 1951. Rules of construc-tion, 1952. Special settlements, 1953. Right in the husband or wife, ib. How construed, ib. With whom is the fee in dubio, ib. Where prois the fee in dubio, ib. Where property derived from the wife, 1955. Construction of the various terms used in giving fee and liferent, 1956, et seq. Where right to heirs of one of the parties, 1959. Where the fund is moveable, 1960. Right bestowed on the children, 1961. Settlement on heirs or children of the marriage, 1963. On heirs of the marriage, 1964. When in father or children, 1964. When in father or children, 1964. Destination to "heirs of the marriage," or to "sons," or "heirs por-tioners," 1965. Powers resulting from such settlements, 1966. Fa-ther's powers of distribution, 1967. Effect of jus crediti under contracts of marriage, 1968. Settlement of conquest, 1974. Effect of provision of conquest, 1977. Marriage-contracts and provisions by persons under limited rights, 1978. Existence of children of a former marriage,

1979. Jus crediti of former children, 1980. How it limits father's powers, ib. Money provisions to former children, or obligations to lay out money for them, 1982. Universitas settled on children, 1983. Nature and effect of money provisions to children and heirs, 1985; as against creditors, 1986; as against the fathericare and the fathericare and the fathericare and fathericare a ther's representatives, 1987. Implement of money obligations, 1988. Vesting of provisions, 1989. Conditions implied or express, in provisions, 1990.

Maritime contracts, 404.

Master and Servant, contract between, 172. Hiring of domestic servants, ib. Constitution of the contract, 173. Proof of it for a year, ib. Earnest, Proof of it for a year, ib. Earnest, ib. Written contract, when requisite, ib. Renewal by tacit relocation, ib. Term of duration, 174. Warning, ib. Essentials of the contract, 175. Service, how regulated, 176. Rule as to service, 177. Hire or wages, 178. Servant's obligation, 179. Claim for rateable wages on death of servant, 180. On servant's inability to perform, by sickness or accident, Obligation to remove with masof servant, taken to a distant part, ib. Enlisting not a forfeiture of wages, 182. Forfeiture of wages to master, on marriage of female servants. vant, or imprisonment for debt, ib. Master's engagement, 183. Maintenance, of servant, ib. Power of dismissal, ib. Residence of servant in the family, 284. Payment of wages, 185. Servant's claim on master's inability to perform, ib.; on master's death, 187; on master's bankruptcy or insolvency, 188. Master not bound to give servant a character, bound to give servant a character, 189. If one given, it must be true, ib. Hiring of workmen or artisans, 190. Nature of the contract, ib. Obligation of the workman, 191. How contract enforced, ib. Obligation of the master, 192. Payment of wages, ib. Statute facilitating recovered wages in Combination covery of wages, ib. Combination laws, 193. Prescription of servant's claim for wages, 630. How presumption of payment refuted, 632. Hypothec of servant for wages, 1407. What servants entitled to it, ib. Preference against landlord, ib. Liability of master for servant, 2031.

Masters of ships. See Shipmaster.

Meditatio fugæ, 2318. How warrant

obtained, ib.

Meliorations, by a fiar, how far demandable against liferenter, 1062.
Tenant's claim for, 1253, et seq. 1255.

Members of parliament, privileges of,

2150. Number of for Scotland, 2194. Election of for counties, 2195; for burghs, 2201. See Elective Franchise. Mercantile writings excepted from the usual solemnities, 21. Mercantile guarantees, 282. Contracts, 305. guarantees, 282. Contracts, 305. Mercantile usage, effect of in construction of contracts, 83; proof of,

Merchants' accounts, triennial limita-tion of, 630. Proof after three years, 631, et seq. How limitation excluded. ib.

Merchant guild, 2184.

Merchantable. Thing implied to be so in sale, 98.

Messenger-at-arms, cautioner for, 296, 297. Extent of the obligation, ib. Amount of damage in question with

Amount of damage ... questions are messenger's employer; ib.

Mills go as pertinents of land, 743.

Children to 1017. Extinction of Thirlage to, 1017. Extinction of mill, 1034. Insufficiency of it, 1035. See Thirlage.

Mines and minerals carried as pertinents of lands, 740. Do not accrue to a liferenter, 1043-1051. Mines of gold and silver, property of, 669. Reservation of, to landlord, implied in a lease, 1226.

Minister, stipend of, 1163; his manse, 1166; glebe, 1172; quinquennial, prescription of, 634. See Clergy. Minister's widow fund, debts due to,

privilege of, 1409.

Minors, curatory of, 2087. Capable of consent, ib. General rule as to deeds by minors, with or without curators, ib. Privileges of, ib. Restitution, ib. Exceptions to it, 2088. Not controlled in their person by curators, 2089. Deeds against which minors may, or may not be restored, 2090. Evidence of minority, 2091. Curators to, 2092. Restitution on Curators to, 2092. Residual minority and lesion, 2099. Privileges of minority, 2102. "Minor non tenetur placitare de hæreditate pater-na," ib. See Curators.

Minority no defence against the vicen-nial prescription, 593. To the nega-tive prescription, 625. To the posi-tive, 2022. Restitution on, 2007. Exceptions to restitution, 2088. Evidence of minority, 2091. Reduction dence of minority, 2091. Reduction on minority and lesion, 2100. Privi-

lege of minors, 2102.

Minute-Book of Register of Sasines, 773, 774.

Misrepresentation in insurance, effect of, 491, 515, 521.

Missives of lease, 1190. Misminutes of sale of land, 889. Missives or

Money, property in, 1332, et seq. gal tender,—gold, silver, 1334, 1335; bank-notes, 1337.

- obligations, 67. Monomania, 2105.

Mora, in acceptance of offer, 79.

Mortgage of ships, 1379-1382. See Ship.

Mortification, a religious tenure, 686. Mother has custody of pupil, 2083.

Mournings, a privileged debt, 1406.

Moveables, sale of, 114. Warrandice of title not required, ib. Property of title not required, ib. Property in, 1283. In corporeal moveables, 1285. Occupancy, 1287. Things not appropriated, 1288. Wounding animals, 1389. Whale-fishing, ib. Things already appropriated, 1290. Things lost, 1291. Wrecks, 1292. Treasure trove, 1293. Waifs and strays, 1294. Prizes, 1295. Accession, 1296. Natural, 1297. Industrial, 1298. Specification, ib. Confusion or Commixtion, ib. Transference of moveables, 1299. et seq. See Delivery. Effect 1299, et seq. See Delivery. Effect of possession of moveables, 1311. Property in particular moveables, 1322. Ships, ib. Money and banknotes, 133. Of incorporeal moveables, 1338. Debts, 1339. Government stock, 1342. Bank-stock, 1344. Patents, 1348. Copyright, 1355. Rights in moveables inferior to property, 1362. Pledge, 1363. Hypothec, 1365. Retention, 1411. Written transference of corporeal move-ables, 1454. Of debts by assigna-tion, 1459. Distinction between heritable and moveable property, 1270. Law of succession in move-ables, 1860. Prescription of verbal bargains of moveables, 593. See Delivery, Possession, Succession, Testament, Settlement, Confirmation, Executor.

Multures, quinquennial prescription of, 1018, et seq. Definition of, ib. Dry multures, ib. Insucken and outsucken, ib. Abstracted, 1030. See Thir-

laae.

Music, property in, 1361. Mutual contracts defined, 70. Nature and effect, 71. Mutual entails, 1747. See Contract.

Mutuum, contract of, 200. See Loan, Commodate.

## N.

Naturalization of aliens, 2136.

Nautæ caupones stabularii, responsibi-lity under the edict, 235. General rule, ib. Doctrine in England, ib. Persons subject to the rule, 236. Public carrier by water, ib. Land carriers, ib. Wharfingers, ib. Extent of responsibility, 237. Robbery, theft; fraud of servants no defence, 238. Effect of fire, or perils of the sea, 239. Fraud, &c. of servants, 240. Perils of sea, 241. Value of loss, how estimated, 242. Limitation of responsibility, 243; by statute in case of shipowners, 244; special contract, 245.

Navigation, use of sea and shore in the King, for the purposes of, 639, 641, 645. Navigable rivers, 648. Banks of rivers, 650. Ferries, 651. Ports and harbours, 654. Navigation Acts, 1322-1331.

Navy bills, 1343.

Negative prescription, 606; as connected with positive, 2017. Negative servitudes, 982. How constituted, 994.

Negligence, actual or presumed, responsibility for, 232. Liability for damage by negligence or quasi delict, 525, 544, 553. Personal injury by, 2031. See Diligence prestable Nautæ caupones, &c.

caupones, yc.

Negotiation of bills, 331. Presentment
for acceptance, 336; for payment,
337. Protest, 338. Notice of dishonour, 340. Bankruptcy not equihonour, 340. valent, 341.

Negotiorum gestio, 539.

Neighbourhood of proprietors, law of, 964. See Nuisance.

Neutrals trading with two belligerent states, 43. Right of search, ib. Pro-hibition of contraband of war, ib. Effect of blockade, ib.

Nobility, 2137. See Pecrage.

Non entry, casualty of, 704. When lands are held to be in non-entry, 705. Right of superior before citation, 706. Action of declarator, ib. Its object, 707. Title to pursue, 708. Parties, 709. Grounds of defence, 710. What the heir must offer to avoid the penal consequences, 711. Where heir offers to enter, 712. Right of superior before and after decree, 713. Declarator ineffectual during the annus deliberandi, 714. Relief for composition, 715.

Non-performance of engagement, da-

mage for, 30-34.

Non valens agere, defence of, against negative prescription, 627. Its application, ib. Against positive pre-scription, 2023. Not pleadable by fiar on account of liferenter's posses-

sion, ib.

sion, 10.

Notary, subscription by for a party, ib.; written deeds, 19. Extent of obligation, ib. Signing of wills, 21.

His duty in protesting bills, 338; cannot protest his own bill, ib. Duty in sasine, 778; his docquet, 771.

Execution of a testament by 1867 Execution of a testament by, 1867.

Notes, promissory, 307. Bank-note.

Notice, of dishonour of bills, 340. Whether a guarantee entitled to, ib. Bankruptcy not equivalent, 341. Circumstance inferring notice, ib. dissolution of partnership, 383. Of operations on property, whether bars challenge, 945, 946. Of Act of Parliament for public improvements, 960.

Of spring-guns, 961. See Intimations.

Novation, extinction of debt by, 576. Is not presumed, 578. In what cases it does not extinguish debt, 579.

Nudum Pactum, 8.
Nuisance, 973. Public and private, 974. Description of ib. Indirect effects of use of ground, ib. Distinctions, 975. Interdict against what may be a nuisance, 976. Qualifications of the doctrine, ib. Coming to the nuisance, 977. Nuisance already existing, ib. Dovecots, 978.

Nullity of obligation, by statute, 36; at

common law, 37.

Nuncupative testament, 1868.

Oath in supplement, 2061. See Bastard. Oath in litem in deposite, 212; under the edict nautæ, 242.

on reference, 2263. When competent, ib. A transaction, 2264-5. Deferring back to the referrer, 2266. Qualities in oaths intrinsic and extrinsic, 2267-8.

Obligations, 5. Conventional, 7. Promise, 8. Distinction between promise and offer, 9. Nature and requisites of consent to obligations, 10. Effect of error, 11. Error in substantials, ib. Force and fear, 12. Fraud, 13. Proofs of consent to engagement or obligation, 15. Classification of contracts and obligations, ib. Consentracts and obligations, ib. Consensual contracts, 16. Real contracts, 17. Written contracts, 18. Requisites of written contracts, ib. Attested deeds, 19. Holograph deeds, 20. Privileged deeds, 21. Stamp laws, 22. Delivery of written obligations, 23. Doctrine of locus penistentia, roi interventus, and homeletentia. tentiæ, rei interventus, and homologation, 25, 26, 27. Object and effect of obligations and contracts, 28. Where subject is general or specific, 29. Pecuniary obligation, ib. Obligation ad factum prastandum, ib. Obligation to abstain, ib. Damages for non-performance, how estimated, 30, et seq. Illegal obligations, 35. Immoral obligations, 37. Against public policy, 38. Restraints on marriage, 39. Marriage brocage bonds, ib. Obligations in restraint of natural liberty, 40; tending to impede the course of justice, 41; against the revenue laws, 42; against the national or war policy, 43. Obligations, pure, future, or contingent, 45, future, 4; contingent, 47. Conditions in obligations, 49. Potestative, casual, or mixed conditions, 50. Joint and several obligations, their rules of construction, 51, et seq. Liability among co-obligants, 62. Unilateral obliga-

tions, 63. Gratuitous obligations, 64. Alimentary provisions, 65. Onerous obligations, 66. Presumption of one-rosity, ib. Money obligations, 67; by formal bond or simple engagement, ib. Requisites of money bond, 68; execution upon it, 69. Obligations by mutual contract, 70. Cautionary obligations, 246, et seq. Construction of obligations, 524. Obediential obligations, 527, et seq. Extinction of obligations, 555. See Joint

and Several Obligations, Contracts.
Occupancy, acquisition of property by, 1287, et seq.

Offer, 73; how made, 74. Distinguished from an order, 80; and from a promise, 9. Acceptance, 76. Tacit acceptance, ib.; express acceptance, 77; must precisely meet the offer, ib. Where acceptance differs from it, ib. Offer binds on acceptance, 78. In what cases it is held ineffectual or withdrawn, 79. Death or bankruptcy of offerer before acceptance, ib. Change of circumstances, ib. Mora in accepting, ib. Offer of lease followed by possession, 1190.

Offerers at sale by auction, their obligations under the articles of roup, 130. Offices, sale of, 36, p. 20.

Omission and commission, difference of; clause of exemption from commissions in trust, 2000.

Oneris ferendi servitude, 1003.

Onerous obligations defined, 66. Presumption of onerosity, ib.; meaning of the word "onerous," ib.; note; how such obligations enforced, 68. Open policy of insurance, 482.

charter, 767.

Order, distinguished from an offer, 80; acceptance presumed, ib.; must be absolute and certain, 81. May be rejected, ib.; may be in writing or parole, 82; execution of it, ib.

Orkney and Shetland, udal rights of,

932, 933.

Outsucken multures, 1018.

Owners of ships, responsibility, 159, 243, 408, 435.

Ownership, reputed, 1315, et seq. See Possession, Property.

Packing of goods, obligation of carriers as to, 167.

Pactum nudum, 8, note.

- de quota litis, 36. Paraphernalia of wife excluded from the communio bonorum, 1555. What it comprehends, ib. et seq. Exceptions, 1560.

Parents and children, obligations between, for aliment, 1629-1634. See Children.

Parish burdens, 1132. Parish settlements of poor, 2157-2164.

Parliament, privilege of, 2046. Member, election of, 2195.

Parole proof, 2236. Disqualification of witnesses, 2238, et seq. Sufficient witnesses, 2238 evidence, 2257.

Parsonage teinds, 1153.

Partial loss in insurance, 489. Adjustment of, 503.

Particular average, 437. Particular

Register of Sasines, 773. Partnership, contract of, 350. Definition, 351. Partnership proper, 352. Stock, 353. Stock, 353. Partners are prepositi negotiis societatis, 354. Exceptions, 355. Joint and several liability, 356. Company, a separate person, 357. Delectus personæ, 358. Avowed and anonymous partnership, 359. Constitution of partnership, 360. Proof of it by writing, circumstances, or parole, 361. Responsibility, how in-curred, 363. Sub-contract, 364. One person cannot make a partnership, 365. Duration of the contract, 366, 367. Obligations of the partners, 369, 370, 371. Dissolution, 372; in relation to the parties, 373; by expiration of term, 374; by death, 375; effect of insanity, insolvency, bankruptcy, and sequestration, 376, 377; by act of the parties, 378; mutual consent, renunciation, ib. Division of stock and profit, 380. Presumption for equality, ib. Dissolution in relation to the public, 381. Continuation of the public, 381. ance of a partner's name in the firm, Notice requisite, ib.; to customers, 383; to the public, 385; in dormant partnership, 386. Winding up, 387. By sequestration, ib. Rights partners, how regulated, 388, 391.

Joint adventure or joint trade, 393; limited partnership, ib. How established, ib. Not inferred from joint ownership, ib. Adventurers, their responsibility, 395. Stock, ib. Power of each adventurer, ib.

Joint purchase distinguished from

joint trade, 396.

Joint stock companies, 397; how different from ordinary partnership, ib. Descriptive name, ib. Directors, ib. Transferable shares, ib. How they sue or may be sued, 400. Stipulations regarding transfers, ib.

Public, chartered, and privileged companies, 401. Chartered companies, 402. Power to make by-laws, ib. Transferable shares, ib. Management and title to pursue, ib. Parliamentary companies, 403.

Parts and pertinents, carried with the What they comprehend, land, 739. 740.

Passage, servitude of, 248. Passive representation, 1914. Univer-

sal, 1915; by entry as heir, 1916. Exceptions from particular mode of entry, ib. Evasions of the regular entry, 1917. Præceptio hereditatis, 1918. Gestio pro hærede, ib.; what is not held as gestio, 1919. Vitious intromission, 1921. Limited Representation, 1922. Trust for creditors, 1922. Preparaity defenses in an account. 1923. Proponing defences in an action, 1924. Charge to enter heir, Service cum beneficio inventarii, 1926. Limited representation of apparent heir three years in possession, 1929. Preference of ancestor's creditors, 1931, 1934. Order of re-sponsibility of heirs, 1935. Relief among heirs, 1936.

among heirs, 1936.

Pasturage, servitude of, 248. Common, right of, 268. See Commonty.

Patents, 1348. For discoveries and inventions, 1349. How granted, 1350. Subjects of patent, 1351. Specification, its nature, 1350; its requisites, 1352. New powers of Privy Council, 1353. Period, 1354. Assignment, 1355. Whether heritable or moveable, 1480.

able, 1480

Paternity of a bastard, proof of, 560. Patronage, 836. To whom it originally belonged, ib. Title to, ib. How transferred, ib. When held to be in the Crown, ib. Nature of the right, and how exercised, ib. Patronage right to the children of the right. tron's right to teinds and vacant sti-pends, ib. To seat in church and burial-place, ib. Prescription, 2006. Patterns, property in, 1361.
Pawnbroking, a species of pledge, 54.

Statutes regulating it, ib. Payee of a bill, 307.

Payment in error, restitution of, 531. What is held not to be error, ib. 534. Error in fact, ib. In law, ib. See Restitution. Extinction of obligations by payment, 556, by one acting for debtor, 560; by one interested in the debt, 558. Presumption of payment by proper debtor, 559. Of payment from his funds, 560. What payment extinguishes debt, 561. In-562. Evidence of payment; written, parole, presumptive, 563, 568. Chirographum apud debitorem repertum presumitur solutum, 566. Three consecutive discharges, 567. Lawyers' and Physicians' fees, ib. Payment, partial, effect of, on negative pre-scription, 616. On sexennial, 598. Term of payment of legacies, 1880. Payments by executors, rules for, 1901.

Peculium of wife excepted from communio bonorum, 1560.

Privileges,

2140. Representative peers, 2141. Election, ib.

Peerage British, 2142.

Penalty in a statute implies prohibi-tion, not license, 36, 548. Penalty and damage, 34. Payment of it does not discharge the obligation, ib.

Performance, extinction of obligations

by, 556.

Periculum. See Risk.

Perils of the sea, 241, 425, 435, 440, 489. Personal rights to land, transmission of, 851. Disposition and assignation, 852. Disposition, with precept a non habente protestatem, completed by accretion, ib. Preferences where double conveyances, 853. Mode of sopiting personal fees under destination of a settlement, 854.

Persons, rights of, 2026. Absolute rights of individuals, 2028. Personal safety, ib. Assythment for homicide, 2029. Injuries by negligence, 2031. Assault and battery, 2032. Seduction, 2033. Personal freedom, 2034. Wrongous imprisonment, 2035, 2036. Injuries to reputation, 2043. Privileges of speech, when pleadable, 2045, et seq. Rights of individuals 2058. Restards speech, when pleadable, 2045, et seq. Rights of individuals, 2058. Bastards, 2059. Pupils, 2067. Minors, 2087. Incapacitated persons, 2103. Rights of persons in their public relations,

Pertinents held to be conveyed, 739. What they include, 740.

Petitory actions, 2243. Personal or real, 2244. Classes, 2246. On contract and children in 2246. On the contract of the contract tracts and obligations, 2246. On property, 2247. On rights of person, 2248.

Petty average, 101.

Physician's fee presumed to be paid, 567. Pigeons, 978. Shooting of, when a nuisance, 974.

Place at which weight or measure to be held as applied, 91.

- of payment of bills, 337.

Plan of building, conditions for enforcing, 867. Constitution of serviforcing, 867. tude by, 994.

tude by, 994.

Pledge, contract of, defined, 203. How constituted, ib. Proof of it, 202. Subjects of it, 205. Creditor's obligation, 206. Risk, ib. Expires with loss of possession, ib. Subject must be sold by judicial authority, ib. 207. Pawnbroking, a species of pledge, 209. Of pledge as a real right, 1363. Natural Park Wat diminish. Of pledge as a real right, 1363. Nature and effect, 1364. Not diminished by part payment, 1367. Bonding of goods for duties, 1368. Pledge of ships, 1379; of debts, 1383; of titledgeds 1384 deeds, 1384.

Poinding of the ground for superior's feu-duties, 699; and for debita fundi,

personal, 2286; warrant, ib.; subjects, 2288; in sanctuary, 2289; conjoined poinding, 2290.

Police Commissioners, liability for malversation of officers, 2031.

Policy of insurance on ships, 471. Contents of it, ib. Subscription of it, 472. Valued policy, 482. Open policy, 483. Fire policy, 508. Not assignable but with the interest, 518. Life policy, 519; assignable, 521.

Poll at election for counties, how regulated, 2200; at election for burghs, 2204.

Poor, provision for, as a burden, 1135.
Assessment for, how regulated, 1136.
In landward parishes, 1137. Inhabian unward parishes, 1157. Inflantants, 1140. In burgh parishes, 1143. Crown, 1145. Description of poor entitled to relief, 2152, 2153. Law of parish settlement, 2157; by residence, 2163; by parentage, 2161; by birth, 2163; by marriage, 2164. Removal of paupers, 2165. Of the lists, 2166. Pope, his ancient right of patronage, 836.

Port of delivery, 91.

Portioner, heirs. See Heir.

Ports and harbours, right of erecting, in the King, 654. What is compreor the Ming, 604. What is comprehended under port and harbour, ib. Obligations of the grantees, 655. Rules as to levying dues, and their application, ib. Shutting or opening of ports by Order in Council, 657. Grants of ports and harbours, 658. Carried by charter of barony, 749.

Positive prescription, 2002.

servitude, 981. How constituted, 990. Positive prescription, 2002.

Possession on written lease, 1209. Na-Cossession on written lease, 1209. Nature of, to complete the right, ib. On verbal lease, 1210; under old lease, ib; when held to begin on new lease, ib. Character of possession, 1211. By sub-tenants, 1212.

The property of moveables, 340. Delivery the office of moveables, 340.

by instrument of possession, its effect, 1300, 1318. Natural or civil, 1312. Presumption of property, 1313, et seq. Responsibility by reputed ownership, 1315. Exceptions: Possession under contracts, ib. Collusive possession, 1316; what it implies, 1317. Recovery of possession when left 1320. very of possession when lost, 1320. Ex incontinenti, ib. Judicially, ib. Title to pursue, ib. Goods purchased bona fide, 343. Stolen goods, ib. 1320. Damages for non-recovery, ib.

parent heir, 1682. Effect of possession for three years by apparent heir, 1929. Possession requisite to ground positive prescription, 2004-6. Interruption of, 2007.

requisite in freeholder's qualification, 2155.

Postnuptial contract, difference be-

tween and antenuptial, 1942. See Marriage-contracts.

Post-office, officers of, not liable under the edict Nautæ caupones, &c. 236.

Penal statutes regulating, ib. Hypothec of, 1404.

Power of sale in heritable security, sale

under, 891.

Powers reserved in entail, 1733. Given by statute, 1762.

Præceptio Hæreditatis, 1918.

Prædial servitudes, 981. Precarium, 196.

Precept of clare constat, 777, 1817.

of sasine, 764. Terms of it, of sasine, 764. 767. Requisite in sasine manu aliena, 769. Nature of the mandate, 768. Must be engrossed in the instrument, Must be engrossed in the instrument, 771. Precept a me null till confirmed, 807. Indefinite precept, 818, 819. General precept, 876. Warrant to infeft, ib. Description of the lands, ib. Precept to A, and his heirs and assignees, ib. Precept to infeft the the heirs of A, ib. Special precept, 877. Construction of precept ruled by obligation to infeft, 216. Precept a me, ib. Possession of precept presumes mandate to infeft, 224. Precept, when exhausted, 880. See Sasine. sine.

Pre-emption, clause of, 864.

Preference of servants wages, 187, 1240, 1407. Of superior for feu-duties, 697, 1240. Of sasines, 774. Of ancestor's creditors, 1931, 1934. See Hypothec.

Premium of insurance, 458. Presumed

to be paid, ib. Prepositura of wife, 1565, 229. Tacit,

in negotiis domesticis, 1566. Exceptions, ib. Express, 1667.

Prescription and limitation, extinction of obligations by, 586. Conventional limitations, 588. Legal or statutory limitations, 589.

vicennial, of holograph deeds, 590. Terminus a quo, 591. Proof after the term, 592. Runs not in minority, ib.

sexennial, of bills and notes, 349, 594. Terminus a quo, 595. Effect, 596-599. Septennial limitation of cautionary obligations, 600; requisites, 601; to what cautionry it applies, 602; how obligation prolonged 602; tion prolonged, 603.

long negative prescription,

606, 607. Rules as to its application, 608. Payment, or taking document within the term, 611. Reference to oath no answer to it, 612. Term from which it runs, 613. Its effect, 614. Interruption, express, tacit, judicial, 615, et seq. Defence of minority, 625. Non valens agere, 627. - triennial, of debts running

into credit, 629. Description of debts, 630. Terminus a quo, 631. How presumption refuted, 632. Minority, 633.

. quingennial, of bargains,

З ь

of moveables, 593; of stipends, multures, rents, 634. Decennial, of tutures, rents, 634. Decennial, of tu-torial accounts, 635. Constitution of servitude by prescription, 993. Of thirlage by, 1022. Extinction of thirlage by, 1033.

Prescription, positive, doctrine of, 2002.

Statute ils Subicate of it 2002. Per

Statute, ib. Subjects of it, 2003. Possession requisite, 2004. Interruption of possession, modes of, 2007. Title to ground prescription, 2008, et seq. Tenor of the title, 2015. Objections cut off by prescription 2016. News cut off by prescription, 2016. Negative prescription, as connected with positive, 2017. Prescription on double titles, 2019. Exceptions to prescription, 2021. Minority, 2022. Non valens agere, 2023. Positive prescription, 2021. tion effectual against the King, 2025.

- of retours, 2024. of servants' wages, 629. Of bills, 349, 594.

Presentment of bill, 335; for acceptance, 336; for payment, 337. Press, freedom of, 2055.

Prestation, 556.

Presumption of payment by proper debtor, 559; and from his funds, ib. Chirographum apud debitorem repertum presumitur solutum, 566. Three consecutive discharges, 567. Lawyers' and Physicians' fees, 568. Of property from possession of move-ables, 1313. Of legitimacy of chil-dren, 1626.

presumptio juris, ib.

Presumptive, 2260 reference, 2261.

Price, error as to, 11; in contract of sale must be certain, 92; and just, ib.; and in money, ib. Special stipulation as to payment, 103. Implied condition of solvency, where price on credit, 100. Buyer's obligation to pay, 127.

Primage, 420.

Principal and agent, 217. See Mandate.

Principality of Scotland, 674.

Printer's name requisite in publica-

riner's name requisite in publications, 36, p. 20.

Privilege of speech, when pleadable against charge of malice, 2045. Parliament, 2046. General Assembly, 2047. Courts of Justice, 2048. Judge, 2049, 2050. Counsel, 2051. Clergyman, 2052. Corporations, 2053. Private persons, 2054.

Privileged writings, 21, 2232. Wills; mercantile writings, ib. Privileged debts, 1405.

Prizes in war, 1295. Rules for con-demnation of, ib.

Procuration to accept bills, 321. In writing, ib. Proof ef, by circumstances, ib. Implied, ib. 357. Procuratory of resignation, 787. Incorporated with charter, ib. 797. Who may execute it, 790. Of burgage subjects, 798.

Professional men, responsibility of, for skill, 155.

Profits, share of, in partnership, 363.

Prohibitions in destinations of land, their effect, 1716. See Entails, 1729. their effect, 1/10. See Entaits, 1/29. Promise, definition of, 8. How it is binding, ib. How it may be discharged, ib. Its difference from an offer, 9. Promise of marriage followed by copula, 1515; proof of, 1518. Promissory-notes, 307. See Bills of Exchange.

change. change.

Proof of written contracts, 18. Of smuggling, 42. Of contract of sale, 89. Of contract of hiring or location, 136. Of hiring of carriage, 157. Of hiring of service, 173. Of loan, 197. Of pledge, 204. Of mandate, 217. Of implied mandate, 229. Of loss under the edict Nautæ, 242. Of cautionary obligations, 249, 250. Of guarantee, 282. Of partnership, 361, et seq. Of affreightment, 405. Of contracts of marine insurance, 468. contracts of marine insurance, 468. Of loss under insurance, 496, 498; Of loss under insurance, 496, 498; under fire insurance, 516. Of payment, 563; written, parole, presumptive, 564, et seq. Of holograph deeds after twenty years, 592. After triennial limitation, 629. After sexennial prescription, 598. Proof of servitudes, 992, et seq. Of marriage, regular or clandestine, 1516. Of legitimacy of children, 1625. Of paternity of a bastard, 2061. Of minority, 2091. Of lesion, 2101.

Of lesion, 2101.

Written evidence, 2206. Preconcerted proofs, 2207. Records; public, 2208; official, 2209. Gazette, ib. Records of public offices, 2211. Parish registers, 2212. Judgments and verdicts, 2215. Public instruments, 2219. Private deeds, 2225. Attested and 2226. 2265. Attested deeds, 2226; tests of authority, 2227. Comparatio literarum, 2228. Examination of instrumentary witnesses,

how arranged, 637. Its principles regulate the conveyance of land, ib. I. Public property in the King as trustee for the public, 638. Seas and shores 639. Uses for which they are held, 645; navigation, ib.; fishing, 646. Navigable rivers, 648. Ferries, 651. Ports and harbours, 654. High-

ways, 659. Streets of burghs, 660. Roads or highways, 661. Fairs and

markets, 664. II. Property of the King and Prince, 667. Reserved rights of the Crown, 668. Mines of gold and silver, 669. Forests, 670. Salmon-fishing, 671. Annexed property of the Crown, 673. Principality of Scotland, 674. What included under a conveyance of lands, 739. Pertinents, ib. et seq. Barony, 749.

Right of property in land, and its effects, 934. Alluvio, 935. Avulsio, 936. Use and occupation of land by the proprietor, 939. Exclusive use and occupation, 940. To prevent encroachment, 941. Cases of encroachment, ib. et seq. Trespassers, 943. Individual benefit no justification of invasion, 944. What is held not an encroachment, ib. Effect of notice of operation, 945, 946. Acquiescence, ib. Game laws, as grounded on exclusive right, 948. Limitations of exclusive right for public benefit, 956. Access in pursuit of criminal, &c. 957. Public improvements, 959. Means of protecting exclusive right, 961. Detention of trespassers, ib. Watch-dogs, springguns, &c. 966, 968, 970. Bulwarks on banks of river, how far allowable, 971. Use must not be emulously to neighbours, 964; limitation on absolute use by law of nuisance, 973. Limitation or extension of exclusive or absolute use by servitudes, 979; by thirlage, 1017; liferent, 1037. Common property, 1071. Runridge, 1098. Common interest, 1086. Commonty or common pasturage, 1087. Property in water, 1100. Salmon-fishing, 1112. Land-tax, 1122. Parochial burdens, 1132. Poor rates, 1135. Teinds, 1147. Leases, 1178.

Rights of property in moveables, 1284. Corporeal moveables, 1285. Modes of acquisition, 1286. Occupancy, 1287. Things not appropriated, 1288. Quod nullius est fit occupantis, ib. Shells, pearls, wild animals, fish, ib. Whales, 1289. Things already appropriated, 1290. Animals confined, ib. Deer, rabbits, pigeons, ib. Bees, swans, ib. Things lost, 1291. Wrecks, 1292. Treasure, waif and stray goods, prizes, 1293, 1294, 1595. Accession, 1296. Confusion or commixtion, 1298. Property in particular moveables, 1322. Ships, ib. Money and bank-notes, 1337. Incorporeal moveables, 1338. Debts, 1339. Government stock, 1342. Bank stock, 1344. Patents, 1348. Copyright, 1355. See Pledge, Retention, Hypothec, Moveables.

Prostitution, price of, illegal ground of obligation, 37.

Protest of bill of exchange, 338; indispensable, 339. Effect of protest of presentment as an assignation, ib. Registration of, 344. Erasure in extract, ib.

Pro-tutors and pro-curators, 2098.

Proving the tenor of lost titles, 883.

Provisiones investiture sunt leges feudi,

Provisions by heirs of entail to widows and children, 1773. Legal, of widows and children, 1576, 1580, et seq. In marriage-contracts and settlements, 1942. See Marriage-contracts.

Provost of royal burgh, how elected, 2176. Of other burgh, 2190.

Public companies, 401. improvements, limitation of ex-

clusive right for, 959.

—— policy, contracts against, 38. Restraints on marriage, 39. Bond not to marry, ib. Marriage brocage bonds, ib. Restraints on natural liberty, 40. Contracts disturbing the course of justice, 41. Contracts against the revenue laws, 42; against the national war policy, 43.

against the revenue taws, 42; against the national war policy, 43.

— property in the King, 638.

Pupils incapable of marriage, 1506.

Guardianship of, 2067; how called as defenders in action, 2336. Pupils as witnesses, 2240. See Tutor.

Purchase of lawsuits, 36.
Purchaser, conveyance of land to, 783.
Seller's title, 890. Under a power of sale, 891. Burdens and incumbrances, 892. Retention of price for, ib. Extent of his right, 893. Warrandice, 894. See Sale of Land.

randice, 894. See Sale of Land.
in public market, 527, 665.
1242. In shops, &c. 1277.

Pure debt, 44. Purpresture, 730.

# Q

Quadriennium utile, 2099. Quæquidem of a charter of resignation, 799.

Qualification to vote for member of Parliament; in counties, 2196. In burghs, 2202.

Quality of subject, error as to, 11; conditions in sale as to, 93-98. Latent fault, 97.

Quasi contracts, 525. Restitution, 526. Condictio indebiti, 531. Negotiorum gestio, 538, 539. Recompense, ib.

delicts, 553.

Quia emptores, English statute, 676.

Quinquennial limitation of verbal bargains, 593. Prescription of mini-

sters' stipends, multures, and rents,

Quod nullius est fit occupantis, 1288. Quod nullius est fit domini regis, 1291.

Quorum of trustees, 1993. Of tutors, 2074.

# $\mathbf{R}$

Ranking and sale, its nature and object, 2332. Proceedings in ranking by creditors, 2334; Sequestration, 2335. Common agent, 2336. Sale, 2339; by apparent heir, 2340.

Ratification of deeds by a wife, 1615. Real burden, 898, 915. See Securities, Burden.

— contracts, 17, 194, 203.

Rebellion, 730. See Escheat.

Recall of mandate, 228. Of inhibition, 2392.

Receipt by shipmaster for goods, 413,

Recognition, 730.

Recommendation, letter of, when binding as a credit, 280. Where spontaneous, ib. Where in reply to inquiries, ib. Verbal recommendation, ib.

Recompense, doctrine of, 538. Negotiorum gestio, 540. Rules of this tiorum gestio, 540. Rules of this quasi contract, 540. Lex Rhodia de jactu, 437, 542.

Recourse on bills, how preserved, 339. Recrimination, 1535. See Divorce.

Reddendo of a charter, 762. Redemption of wadset, 905. Declarator of expiry of, 900. Redemption of land-tax, 1131; by heir of entail, ib.

Reduction ex capite lecti, 1795. Title to pursue, 1815. On minority and lesion, 2039.

Re-exchange on bills, 342.

Regalia are not carried as pertinents of land, 748.

Regality grants of this nature, 749; abolished, ib. Burgh of, its constitution and feudal holding, 849, 850. Powers, privileges, and jurisdiction, 2191, 2192.

Registering of British ships, 1325. Registration clause in bonds, 67; supplied in bills and notes by statute, ib.

of sasines, 772. Its effects, 774. In burgage subjects, 843. Error in, 879. Omission of, ib. Of entails, 1741; effect of want of registration, 742; how obtained, 1743.

of claims for county election, 2199; for burgh election, 2203. Registry, certificate of, 1326-8. See Ship.

Regress, letters of, 904.

Rei interventus, doctrine of, 26.

Rejection of goods by buyer on his failure, 1310.

Relationship, impediment to marriage by, 1527. Consanguinity, ib. Affi-nity, ib. Disqualification as witness, 2251.

Relaxation from liferent escheat, 735. Relief among co-obligants defined, 62. Rules for regulating it, ib. Relief of cautioners, 255. Communication of securities, ib. Assignation by cre-ditor, ib. Benefit of division among co-cautioners, 267. Cannot be impaired by creditor, 269. Relief among co-cautioners against each other, 270; where a new cautioner, added, 272. Relief among heirs, 1936.

casualty of, 715. How estimated, 716.

Relocation, tacit, renewal of servant's engagement by, 173. Of lease, 1265.

Remissio injuriæ bars divorce, 1533.

nemissio injurite bars divorce, 1555.

Removing of tenants, 1267; Act, 1555, c. 39, ib. Act of Sederunt, Dec. 14, 1756, 1268. Charge on the lease, ib. Action, warning, ib. Obligation to remove without warning, ib. Removing from urban and other subjects not agricultural, 1278. Warning ib. ing, ib.

Rent, quinquennial prescription of, 634. Liferenter's right to, 1047. Rent payable under a lease, 1197. Stipu-lation for discharge or retention of, 1198. Effect of as to singular successors, 1199. Doctrine of Craig and Erskine as to rent, 1201. How far its amount may be limited, ib.; or its amount may be limited, ib.; or its application fixed, ib. 1199. Grassums reducing rent, 1201. Money rent, 1204. Forehand rent, ib. Back rent, ib. Grain rent, 1205. How amount to be regulated, 1203. Anticipated, 1228. Grassums, ib. Periodical rent, 1228, 1230. Back rent, 1230. Means of enforcing payment, 1231, et seq. Hypothec for current rent, 1334. Rents, when heritable or moveable, 1499, 1501, 1502, 1484. Arrears of, 1479. its application fixed, ib. 1199. Gras-

Rental bolls, 1157.

Rentallers and kindly tenants, 1279, et

Renunciation of lease, 1271.

Reparation for damage, 543; by delict, ib. Quasi delict, 553. See Delict, Injuries.

Repairs and furnishings to ships, 447; who liable for, 448. Shipmaster, 450. Repairs on houses, and fences, by tenant, 1255, 1256. Hypothec on tenant, 1255, 1256. Hypothec on ships for foreign repairs, 1398. Re-

tention for repairs, 1420.

Representation, in insurance, its nature and effect, 474. Distinction between

it and warranty, 475. Misrepresentation, 491. Representation in fire insurance, 515. In life insurance, 521, 522.

Representation in heritage, right of, **1660.** 

passive, 1914. Universal, 1915. Limited, 1922. See Passive Representation.

in Parliament, of counties, 2195. Of burghs, 2201.

Reputation, injuries to, 2043. See In-

juries.

Reputed ownership, 1315, 1316.
Possession.

Res publicæ, 638.

Reserved rights of the Crown, 668. Mines, 669. Forests, 670. Salmon-Forests, 670. Salmonfishing, 671.

Residence in a a parish, settlement of a pauper by, 2156.

Resignation, transmission of land by, 786. Resignation ad remanentiam, 787. How it is rendered effectual, ib. Conveyance by vassal, ib. Propriis manibus, ib. Procuratory, ib. priis manibus, ib. Procuratory, ib. 790. Ceremony, 791. Instrument, ib. Resignation in favorem, 792. How superior compelled to receive it, ib. Ceremony, 794. Instrument, ib. Distinction between resignation ad remanentiam and in favorem, 795. Charter of resignation, 796. Pre-Charter of resignation, 796. Precept, ib. Sasine, 802. Difference between charter of resignation and the original charter, 799. Effect of resignation, ib. The only regular form of transmission, 804. Combination of resignation and configuration. tion of resignation and confirmation, Resignation of burgage subjects, 844.

Resiling, power of, 25. See Locus pænitentiæ.

Res Judicata, 2346.

Respondentia, 453, 456. See Bottomry.
Respondentially for neglect, 232. See Diligence prestable. Of shipowners,

how limited, 244.

Restitution, doctrine of, 526. Of things stolen or usurped, 527, 1320. Exceptions, 529. Of things given on a condition that has failed, 530. Cases in which restitution not demandable, ib. Condictio indebiti, ib. Rules of restitution, 532. Payment in knowledge of no debt, 533. Payment in error, 534. Error in fact, ib.; in law, ib. Payment by transaction or compromise, 535. Extent of restitution, 537.

- on minority and lesion. 2087; exceptions, 2088. Deeds against which restitution may or may not be demandable, 2090. Reduction on minority and lesion, 2100.

Quadriennium utile, ib. Grounds of restitution, 2101. Effect of restitution, 2102.

Restraints on marriage, by bond or contract, are void, 15. Restraints on natural liberty, 16.

Restrictive indorsement of bill, 330.

Retention or lien, 1410. etention or lien, 1410. Its nature, ib. Special or general, ib. How it differs from hypothec, ib. Possession essential to it, 1412. Nature of the possession requisite, 1413, 1414. Effect of loss of possession, 1415. What is loss of possession, ib. Recovery of possession, its effect, 1416. Not supported by stopping in transitu, ib. Effect of retention, 1417. Discharge or waving of retention, 1418. Special retention, 1419; of ship for repairs, 1420, 1421; nature of the possession requisite, ib.; for carriage, 1422–1425; for average loss, 1426; for salvage, 1427, to implements and sta vage, 1427; to innkeepers and sta-blers, 1428; for grass maill, 1429; to workmen, 1430. General retention, 1431. By contract, 1432; by advertisement, 1433; by usage of trade, 1434; by course of dealing, 1435. Shipmaster has no retention for repairs 1435. Constructive retention pairs, 1436. Constructive retention, 1437. To law-agent over papers, title-deeds, &c. 1438. Factor's retention, 1445. Banker's 1450. Broker's, 1451, 1452. Trustee's, 1452. Cautioner's, 1453.

Retour of special service, 1831, 1847. Of general service, 1853. Prescription of retours, 2024. Return, clause of, 1705.

- at elections, 2200, 2203.

Revenue laws, contracts for defeating, 42. Smuggling contracts, ib. Contracts relative to contraband goods, ib. Revenue hypothecs, 1402.

Reversion of wadset, 902. Eik to, 908. Revocation of mandate, 57. Of donations between husband and wife, 1617; express or implied, 1618; exercise of the power by creditors, 1619. Of testaments, 485. Of provisions in postnuptial contract, 535.

Rhodia, lex de jactu, 437. rage.

Rider for mercantile or manufacturing

house, 231. Right in law defined, 2.

Rights, personal, arising from contract, 5; of persons, 2026. See Persons,

Injuries, Contracts.

Risk, in contract of sale, 87. In contract of hiring or location, 141. In hiring of labour or work, 153. In contract of commodate, 199. In contract of mutuum, 202. In pledge, 206. In mandate, 225. General doctrine of risk, 232, et seq. In bottomry, 453, et seq. In insurance,

462. In fire insurance, 509. In life insurance, 522. See Diligence prestable, Insurance.

Rivers, navigable, right of, in the public, 648. Stream a highway, ib. Banks of, in the Crown, in use for purposes of navigation, 650. Power of erecting bulwarks, 971. See Water.

Roads. Highways vested in the King for the public, 659. Distinction between public and servitude road, ib. 1010. Streets of burghs, 660; encroachments on, ib. Roads or highways proper, 661. How formerly managed, 662. General Road Act, ib. Analysis of it, ib. Qualifications and service of trustees in Inc. tions and power of trustees, ib. Interpretation and effect of the Act, 663. Securities for loans under Road and Canal Acts, 931. Servitude of road, 1010.

Road trustees, liability for negligence of surveyors, workmen, &c. 2031. Royal Bank of Scotland, stock of, 1346.

Fish, 1288.

Burgh, 839, 2174. See Burgh. Runridge, division of, 1098, 1099. Rural servitudes, 983. Different kinds of, 979.

S

Sale, contract of, 85. Its nature, ib. With whom is the risk before delivery, 87. Constitution of the contract, 89. Evidence of consent, ib. Bought and sold, note, ib. Subject must be specific, 91. Sale by weight or measure, how regulated, ib. Price, 92; must be certain, ib.; must be in money, ib. Conditions in sale, 93; as to quality, ib. Latent fault, 97. Challenge must be without delay, 99. Implied condition of solvency where sale on credit, 100; of usage on trade, 101. Special conditions, 102; as to payment, ib. Suspensive conditions, 109; dissolving conditions, 110. Express warranties, 111. tions, 110. Express warranties, 111. Reciprocal obligations of parties, 112. Obligations of the seller, 113; to give delivery, 114-120; to warrant his title, ib.; discharge of his obligation by the thing perishing, ib. Obligations as to delivery, ib.; consequence of failure to deliver, ib. Obligations as to carriage of goods, 119. Warrandice of thing sold, 121. Eviction, ib. Implied warrandice, 122; warrandice from fact and deed, 123; simple, 124; express, 125. Conduct of parties in case of challenge, 126. Buyer's claim on eviction, ib. Obligations of the buyer,

127; to pay the price, ib.; to take delivery, 128. See Delivery, Stopping in transitu, Rejection.
Sale of offices, 36, note.

- of horses, peculiarities in, 129. — by auction, 130. Exposure, 131. Biddings, ib. Conditions of sale, 132. Obligation on offerers, ib.

— judicial and ranking, 2263, 2420; under sequestration, 2430; decree of, transmission of land by, 833. Completion by charter and sasine, ib.

of land, doctrines applicable to, 889. How virtual obligation to dispone inferred, ib. Evidence of bargain, ib. Missives, ib. Seller's title, 890. Burdens and incumbrance. Burdens and incumbrances, 892; their effect in judicial sales, ib. Retention of price for, ib. Extent of purchaser's right, 893. Warrandice, 894. Sale of land under a power of sale in a security, 891. How far power considered a mandate, ib. Cannot be interrupted by ranking and sale, or sequestration, ib. Precautions to be observed by seller, ib. Where burdens exceed price, ib. Security of purchaser, ib.

 of moveables, retenta possessione, 1300.

- for redemption of land-tax, 1131.

of ships, 1330.
of teinds, 1160.

Sale and Return, nature and effect of the bargain, 109.

Salmon-fishing, right of, in the King, 671. Grant of, express or implied, 672. Not carried by a charter of lands without special grant, 754. Charter of barony cum piscationi-bus, ib. Nature of the common interest in salmon-fishing, 1112. gulations of, 1113. Close time, 1114. Machinery, 1115. Regulations of legal machinery, 1118. Grant of fishing separate from the property, 1120. Right of angling, 1121.

1120. Right of angling, 1121.

Salvage defined, 443. Persons entitled to it, 444. When it is due, 445. Amount of it, 446. Lien for, 1427.

Sample, sale by, 98. Sanctuary, abbey, 2316; how protection obtained, 2319. Effect, ib. Equivalent to bankruptcy, 2342.

Sasine, precept of, 764. Its terms, 767. Sasine propriis manibus, 765. Sasine manu aliena, 766. Precept the warrant for giving sasine, 767. Nature of the mandate in the precept, 768. Sasine, its definition, 769. Ceremony of giving sasine, 770. Instrument of, its requisites, 771. gistration, 772. Requisites of it, Re-Rules as to the effect of recording, 774. Sasine on precept of clare constat, 778. Sasine a me null till confirmed, 807. Effect of confirmation,

810, 811, 812. Sasine on an indefi-nite precept, 818, 819. In burgage subjects, 842. Registration of, in subjects, 842. Registration of, in burgh record, 843. Cognition and sasine to an heir, 845. Sasine within burghs of regality and barony, registration of, 850. Objections to sasine, 870. Intrinsic objections, 872. Extrinsic, 873. Sasine, how to be properly taken, 374. Separate tenements, ib. Discontiguous lands, ib. Holding of different superiors, ib. Different tenures or titles, ib. Barony, 875. Charter of union, ib. Must person be named in the pre-cept, 876. Description of the lands, ib. Precept of sasine to infeft A, and his heirs and assignees, ib. Precept to infeft "the heirs of A," ib. Special precept, 877. Sasine on precept a me, 882. Possession of precept presumes mandate to infeft, 878. Precept when exhausted, 880. Error, how remedied, ib.; in taking sasine, ib.; in the instrument, ib.; in the recording, ib. Want of re-cording, ib. Doctrine of accretion in relation to sasine, 881. Sasine on an entail, 1735. Where extract from record sufficient, 2910.

Schools, parochial, 1132. Provisions by statute, 1133-4. Burgh schools, Provisions 2151. Chartered schools, ib. Pri-

vate schools, ib.

Schoolmaster, parochial, his salary, and house, how provided, 1133. Regulations under the Schoolmaster's Act, 1135. Not removable, 41. Private schoolmasters, 2151. Sea, perils of, 241, 425, 435, 440, 489.

Sea-greens, 644. Seal of cause, 2185.

Seamen, how hired, 451. How protected, ib. Their obligations, how enforced, ib. Hypothec for wages, 1400.

Sea and Shores, right of, in the King, 639. What the right comprehends, 640. What included under shore, 641, 642. Grant of it, what it includes, 643, 644. Uses for which sea and shore are held, 645. Navigation, ib. Fishing, 646. Kelp, bathing, 647.

Search, right of, in case of neutrals, trading with belligerents, 43.

Seat in church, patron's right to, 836.

Seaworthiness of ship essential in content of the content o tract of hiring, 166, 408. Implied in

contract of insurance, 477.

Security arrestment, 2275. Adjudication, 230.

Securities on land, general view of, 896. See Heritable Securities.

Seduction, damages for, 2033. Who may pursue for, ib. Rule in Eng-Who

of sale, 113. Sale of land, 889. Suf or sale, 115. Sale of land, 505. Sufficiency of title, 114, 890. Delivery, 892. Carriage, 115. Warrandice, 121, 894. Liability to buyer in case of eviction, 126, 894-5.

Semiplena probatio, 2061. Separation of husband and wife, 1539.
Judicial, 1540. Voluntary, 1541.
By mutual consent, 1544. Alimony to wife, 1545.

Septennial limitation of, customary obligations, 600, et seq. Sequels, 1018.

Sequestration, landlord's, 1234, 1244. When competent, 1245. Petition, Warrant execution, inventory, ib. of sale, ib. Report, 1246.

- of land estates, 2335. - of merchants and manufacturers, 2341. Title to apply, 2342. Trustee and commissioners, ib. Adjudication for vesting estate, 2344. Discharge, 2350. Composition, 2351.

Servant, his obligations under the contract of hiring, 179. His claim for wages, 180, et seq. Time work, 152. His preference, 1407, 1240. Responsibility of masters, shipowners, riers, &c. for servant, 240. See Diligence prestable, Nautæ, Master and Servant.

Service of heirs, its nature and object, 779.

Special service, 780, 1826. Proceedings in special service, 780, 1827. Execution of brief, 1828. Claim, 1829. Verdict, 1830. Retour, 1831. Opposition to service, 1832. Advocation of service in competitions, 1833. In what cases special service is required for infeftment, 1824-1841. Of exclusive titles and competitions Objections to brief, 1844. Exceptions to claimant's right, 1845. Mode of opposition, 1846. Retour of special control of the co cial service, its effects, 1847.

General service, 781, 1848.

ceedings; publication of brief; points to be attended to in general service, 1849; use and competency in particular circumstances, 1850. Retour 1853.

General special service, 781. Service cum beneficio inventarii, 1926. Requisites of it, 1927. Inventory, recording, ib. Effect of the service, 1928. Service of widow to her terce, 1602.

– of tutor at law, 2079.

Services, military, in feudal holding, now abolished, 691. Civil services demandable only within the year, ib.

Servient tenement, 980. Obligations
on the owner of, 986, et seq. See land, ib. note.

Servitude.

Servitudes, description of, 979. Their 600

effect as to singular successors, ib. They must be known in law, ib. Servitudes by contract, ib. Dominant and servient tenements, 980. Prædial, 981. Positive and negative, 982. Urban and rural, 983. Distinction between continuous and interrupted servitude, ib. Nature of servitudes, 984. Limitation to the dominant subject, 986. Rights and obligations of the servient and dominant owners, ib. 989. Constitution of servitude, 990; as between the original parties, ib.; as against singular successors, ib. Constitution of servitude original parties, ib.; as against singular successors, ib. ositive servitude by grant in writing, 991, 992; by prescription, 993. Tantum prescriptum quantum possessum, ib. Of negative servitude, 994. Extinction of servitudes, 995; by extinction of subject, 996, 997; by confusion, 997; by discharge, 998. Non utendo, 999. Urban Servitudes, 1000. Non utendo, 999. Urban Servitudes, 1002; support, 1003; stillicide, 1004; light, 1005, 1006; non altius tollendi, 1007; altius tollendi, 1008. Rural servitudes, 1009; passage, 1010; aqueduct, 1011; pasturage, 1013; fueldict, feal and divot, 1014. Pass as pertinents with the land, 182. Whether servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitude held a hurden to be discovered to the servitudes and the servitud servitude held a burden to be discharged to a purchaser, 895. See Thirlage, Liferent, Commonty.

Set-off, 572. See Compensation.

Sets of bills, 313. Of bills of lading,

Settlement of loss in insurance, 489, 496, et seq. 516.

- pārish, law of, 2157. See Poor.

Settlements and marriage-contracts, provisions under, 1941, et seq. See Marriage-contracts.

- of land, or dispositions mortis

causa, 1691, et seq.

Sexennial prescription of bills, 349,
594. Terminus a quo, 555. How
the limitation excluded, 596, 597. How bill preserved in force, ib.

Shetland and Orkney, udal rights of,

Ship, hiring of, by charter-party, 159. Advertisement of ship for general freight, 163. Bill of lading, ib. Obligations of seaworthiness, crew and stores, 166. Skilful navigation, 168. Delivery of goods, 169. Charter-party, its requisites, 407. Obligations of shipowners and master, gations of shipowners and master, 408. Obligations of freighter, 409. Freight, 420, 434. Lay days, 431. Demurrage, ib. Responsibility of owners, 435. Contribution for general average, 441. Salvage, 443. Contracts for repairs and furnishings to ships, 447; who liable for, 448. Shipshusband, 449. Shipmaster, 450. Contracts of bottomry, and responsible. dentia, 453. Insurance of ships,

Ships, contracts for repairs and furnishing, 447. Property in, 1322. Navigation Acts, ib. Privileges of British ships, 1323. Foreign ships privileged, ib. Description of British ships en-10. Description of British ships entitled to privilege, 1324. Registering of British ships, 1325. Certificate of registry, 1326; liability of master for, 1327. Remedy against persons detaining it, ib. Indorsement on change of master, ib. 1328. Ships held in shares, 1329. Sale of ships, 1330. Indorsement on registry ib. 1330. Indorsement on registry, ib. Mortgage of, 1331; how regulated, Horogage 1, Assignment to a trustee, 1381. Mortgagee, his rights, 1382. Hypothec on ships for foreign repairs, 1398; to freighter for goods, 1399; for average loss, 1401; for seamen's wages, 1410. Retention or lien on chin for repairs, &c. 1420.

snip for repairs, &c. 1420.
Shipmaster, his exercitorial power, 231-450. Liability under the edict Nautæ caupones, &c. 236. Limitation of responsibility, 244, 245. Obligations under a charter-party, 408. Must be a British subject, 450. How appointed ib. His duties and powers of the state of the subject of appointed, ib. His duties and powers, ib. His personal liability, ib. Power of owners in dismissing him, 451. Power of borrowing money, 450, 454. Barratry on 479. Indorsement on registry on change of, 1327. No lien for repairs, 1436. Regulations as to aliens, 2134.

Shipowners, their obligations under a charter-party, 159, 408. Their responsibility for loss, 236, et seq. Limitation of their liability, 243, 435. Their liability for repairs and fur-

nishings to ship, 448.

Shipshusband, how appointed, 449. His duties and powers, ib. Shopman, his institurial powers, 231.

Shooting, right of, reserved to landlord, 1224, 1226. See Game.

Shore, sea, right of, in the King, 639. What King's right comprehends, 640. What is included under the term shore, 641, 642. Shore carried by King's grant, 643. Boundary by the seashore, its construction, ib. What included under right to the shore, 664; sea-greens, ib.; islands, ib. Alluvion, ib. Use of shore for navigation 645; for fishing, 646. Taking of kelp, right of bathing, &c. 647

Sight, bills payable at, or after, 337. Simoniacal fractions, 41.

Sine qua non, in a trust, 1993. Of tutors, 2074.

Single escheat, 732.

Singular successor, entry of, with superior, 719. Composition, ib. Transmission of feudal estate to, 783. To purchasers, 784. Of vassal's whole right, 786. How bound by servitudes, 990.

Sixty days' survivance after granting deed, 1789. See Deathbed. Skat land, 932.

Skeleton bill, 321

Skill, responsibility of workman for, under contract of hiring, 141-148, 151. Of professional men and artists, 155. In hiring of carriage, 168. Sleeping partner of a company, 359.

Slip preceding policy of insurance, 469. Smuggling contracts, 42. Action on, denied, ib. Proof of participation, ib. Contracts relative to contraband goods, ib. Smuggled goods not in-surable, 460,

Society or partnership, 350. See Part-

nership.

Solemnities of deeds, 18, 19, et seq. Of sasine, 770, 771. Of resignation to superior, 787, 791. See Deeds.

Solvency, implied condition of, in sale on credit, 100. Warrandice of, in an assignation, 1469.

Sopiting of personal fees, 859.

Soundness in horse, 129.
Special service, 780, 1826. Special charge, 1857. Special legacy, 1874.
Adjudication, 2299.

Specific appropriation bars compensa-

tion, 574.

Specification, property by, 1298. Specification of a patent, its nature, 1350. Requisites, 1352.

Speech, privilege of, when pleadable against charge of malice, 2045, et seq. See Privilege.
Spes successionis, 1954, 1957, 1964,

1965.

- may be sold, 91. Jactus retis, ib.; goodwill, ib.

Splitting of superiority, 859.

Sponsiones ludicræ, 37.

Spring-guns for protection of property, 961. Notice of, ib.

Springs of water, property in, 1109. Stabler, his liability under the edict Nautæ caupones, &c. 236. Lien of, 1428.

Staff and baton, symbols of, in resignation, 844.

Stage coaches, owners of, their liability under the edict Nautæ caupones, &c. 236.

Stamp, when requisite to deeds, 22. Stamp for bills, 328. For charter-party, 407. For bill of lading, 417. For policy of insurance, 470; cannot be supplied, ib. For fire policy, 508. For life policy, 519. Statute, 1701, 2035.

Steelbow, 200, 1264.

Stillicide, servitude of, 1004.

Stipend, minister's, quinquennial prescription of, 634. Fund for, 1162. Augmented stipend, 1163. Localled stipend, ib. Fund for small stipends, 1164. Vacant stipends, how applied, 236

Stipulated damages, 34

Stock of a company, 353. Division of, on dissolution, 380. Of a joint adventure, 395. Joint stock, 398. Government stock, 1342. Funded debt, ib. How transferred, ib. Unfunded debt, 1343. Exchequer and navy bills, ib. Bank stock, 1344. Of Bank of England, ib. Bank of Scot-land, Royal Bank, British Linen Company, 1345, 1346, 1347. Stocking of a farm, 1222, 1258. Hypo-thec over it 124

thec over it, 1241.

Stolen property, restitution of, 527. Effect of sale of, in public market, ib. 1320. How recovered, 527. Bona fide purchase, 528.

Stopping in transitu, principle of, 71. Rules of, 1308. Doctrine of, 1307.

Mode of stopping, 1309. Straighting of marches, 958.

Stranding of ship, its effect in insurance, 489.

Straw on a farm under lease, 1261.

Stray goods, 1294,

Streets of burgh, 660. Encroachments on, ib.

Subjects and aliens, distinction of, 2130. Natural born subjects, 2131. Allegiance of, 2133.

Subscription of deeds, 19, et seq. Of bills, 323. Of policy of insurance, 472. Of testaments, 1867. Substitutes of entail, 1723. Substitution, 1693. Technical words

descriptive of heirs, 1694. Destinations, 1704. Fee and liferent, 1708. Substitutions with prohibitions, 1716. Entails, 1720. Substitutions in legacies, 1878.

Subtenants and assignees, exclusion of presumed, in agricultural lease, 1217. Exceptions, ib. Clause of exclusion, 1218. Power of subsetting urban and other subjects, 1274. Hypothec against subtenant, 1238.

Succession, laws of, 1637. Of succession general in Opening of succession in general in Opening of succession.

sion in general, ib. Opening of succession, 1638. By death, ib. By deed, 1639. Proof of death, 1640. Persons capable of succeeding, 1641, et seq. In intestate succession, 1642. In succession by deed, ib. Laws of descent and consanguinity, 1646. Lineal descent, 1648. Lineal ascent, 1649. Collateral kindred, 1650, Full blood, 1651. Half blood, 1652. Succession in land, 1654; ab intestato, 1655. Rules of lineal descent, 1656. Males, ib. 1658. Females as heirs-portioners, 1659. Representa-

tion, 1660. Collateral succession, Rules of the ascending line, Right of the King as ultimus hæres, 1669. Succession in conquest, 1670. Rights of heir-apparent, 1677. Succession by deed, 1691. Disposition, with substitutions, 1693. Simple destination, 1704; limited, 1707; with prohibitions, 1716. Entails, 1720. Entry of heirs, 1817, et seq. Precept of clare constat, ib. Services, 1824. Charge to enter heir, 1855. Succescharge to enter nen, 1865. Succession in moveables, 1860. Succession ab intestato, 1861. Testate succession, 1862. Testament, ib. et seq. sion, 1862. Testament, ib. et seq. Legacies, 1870. Succession in moveables, ruled by law of domicile, 1861. Duties on succession, 1886, 1898. Confirmation, 1888. See Conquest, Heir-apparent, Entails, Marriage-contracts, Provision, Confirmation, Executor, Herituble and Moveable. Sucken or thirl, 249.

Sunday, bargains on, 44.

Superior and vassal, relative rights of, 676. Dominium directum and dominium utile, ib. Estate of the superior, 677. Superiority of the Crown, 678. Intermediate superiority in Crown vassal, ib. Holdings, 680. Crown vassal, ib. Holdings, 680. Ward-holding, 681; now converted into feu, ib. Blench-holding, 682. Feu-holding, 683. Burgage-holding, 685. Mortification, 686. Notarial subscription, ib. Permanent rights of the superior, 690. Services, 691. Rents, 692. Blench-duty, 693. Feuduties, 694. How superior secured duties, 694. How superior secured in his feu-duties, 697, 1240. Preferin his feu-duties, 697, 1240. Preference, hypothec, poinding the ground, tinsel of the feu, 701. Casualties of superiority, 703. Non-entry, 704, et seq. Relief or composition, 713, et seq. What persons he must enter as heirs, 717. Entry of heirs of entail, 718. Trust-disponees, ib. Whether he is heard to enter a convertion he is bound to enter a corporation, 722. Who are bound to enter, 723, et seq. Retention of charter for payment of entry-money, 726. Superior not bound to give assignable charter, 727; nor assignable title to an assignee, ib. Taxing of composition, 728. Escheat, 731; single, liferent, 732, 733. Burdens on it, 734, 735. Relaxation, 735. Duty of superior to vassal, 736. To enter vassal, ib. Where superior's title not complete, ib. Vassal's remedy in this case, ib. Conveyance by superior to vassal by conveyance by superior to vassal by charter and sasine, 757. Conveyance from vassal to superior by resignation ad remanentiam, 787. How superior compelled to receive resignation, 792. Consolidation of property and superiority, 821. Superior's power of disposal of superiority, 855. Restraints, 857, et seq. Intermediate superiority, ib. Splitting superiority, 859. Conditions in feudal grant for securing superior's casual-ties, 861. Liferenter's interest in a superiority, 1048. Power of liferenter by reservation to enter vassals, 1055. See Charter, Sasine, Conveyancing.

See Charter, Sasme, Conceyances, Superiority, or dominium directum, 676. Of what it consists, 677. Subsisting casualties, 703. Tinsel of, sisting casualties, 703. Tinsel of, 736. Consolidation of property and superiority, 821. Conveyance of su-periority, 688. Restraints on aliena-tion of, 857. Intermediate superiority, 858. Splitting, 859. Liferent of, 1048. Power of liferenter by reservation to enter vassals, 1055. Sale of superiorities under entail, 1763.

Support, servitude of, 1003. Suspension, caution, 68, 276.

Suspensive conditions in sale, effect of, 109.

Swans, 1290.

Symbols of sasine, 769. Of resignation, 794. Of resignation and sasine in burgage subjects, 844, 845.

Tacit acceptance of offer, 76. Relocation, renewal of servants, engagement by, 173; of lease, 1265. Tack of teinds, 1157. See Lease. Taking document, interruption of negative prescription by, 615.

Tantum prescriptum quantum possessum, 993.

Taxation, public burdens on land by, 1122. Land-tax, 1123. Proportion of, payable for Scotland, 1124. It is of, payable for Scotland, 1124. It is not debitum fundi, 1125. Land-tax, payable by counties, 1127; by burghs, 1130. Redemption of, 1131. By heir of entail, ib. Parochial burdens, 1132. Schoolmaster's salary and house, 1133. Provisions for the poor, 1135. Assessment, 1136, et seq. Liability of Crown property to these public taxes, 1145. Of teinds and provisions for the clercy. 1146. and provisions for the clergy, 1146. Hypothec for taxes, 1404. Legacy duty, 1886. Duties on moveable

succession, 1898. state before the Reformation, ib.; after it, ib. Lords of erection, ib. Granted with lands, as decime inclume ib. Patron's right to ib. 836 clusæ, ib. Patron's right to, ib. 836. Title to, 837. Conveyance of, ib. Title to prosecute right to, ib. Teinds as a burden on land, 1149. Lands liable, ib. To whom payable, 1150. Parsonage and vicarage, 1152. Titular, 1157. Drawing of teind, ib. Tacks, ib. Rental bolls, ib. Valua-tion of teinds, 1159. Sale, 1160. How sale completed, 1161. Comtion of teinds, 1159. Sale, 1160. How sale completed, 1161. Commission of teinds, ib. *Teinds as a* 

fund for maintenance of the clergy. 1162. Augmentation, 1163. Locality, ib. Fund for small stipends, 1164.

Tenant, his estate under a lease, 1213. Duration, 1215. During his life, ib. On his death, 1219. Obligations as to management and cultivation, 1220. His use and enjoyment of the land, 1224. See Lease.

Tender, legal, of money, 1334, et seq. Tenandas of a charter, 761.

Tenor. See Proving the tenor.
Terce, 1596. When demandable, 1597. Subjects of it, 1598. Effect of reduction of husband's infeftment, ib. How diminished, 1600. What if How diminished, 1600. lands liable to it have been sold after husband's death, ib. How made effectual, 1601. Service, 1602. Kenning, 1603. Extent and nature of terce, 1604. Modification of, by conventional provisions, 1947. See Marriage-contracts.

Term of a lease, 1214. Of payment of legacies, 1880. See Duration.

Termination of lease, 1266.

Territorial property, law of, 636.

Testament, or last will, 1862. When it may be made, 1863. Revocation, 1864. Condition si sine liberis decesserit, 1865. Does not carry heritage, 1866. Must be in writing, 1867. How subscribed, where granter cannot write, ib. Reading over, ib. Holograph will, 1867. Effect of omission or error in will, ib. Nuncupative or verbal will, 1868. What hold what it How for including the control of the c held such, ib. How far inadmissible, ib. 1867, 1868. Nomination of executor, 1869. How executor supplied where none named, ib. Legacies, 1870. Inextricable wills, 1884. Wills of accumulation, ib. Particular expressions in wills, 1885. Confirma-tion of executor, 1888. Duties on succession, 1898. See Executor, Confirmation, Legacy.

Testamentary deeds excepted from the usual solemnities, 21, 24, 1867.

Testing clause of deeds, 2226.
Thirlage, its nature, 1017. Right of the dominant, 1018. Multures, dry multures, knaveship or sequels, ib. multures, knaveship or sequels, ib. Thirl or sucken, ib. Insucken and outsucken multures, ib. Constitution of thirlage, 1019. Implied in King's mills, barony mills, and mills in kirk lands, 1020. Thirlage by written agreement, 1021; by prescription, 1022; usage, 1023. Kinds of thirlage, 1024, 1025. Grana crescentia, 1026. Grindable corn, 1027; invecta et illata, 1028. How these are construed, 1029. Exercise of the right, 1030. Abstracted multures, ib. right, 1030. Abstracted multures, ib. Extinction of thirlage, 1031; by deed of discharge, 1032; by clause, cum molendinis et multuris, ib.; by prescription, 1033; by extinction of mill, 1034; insufficiency of mill, 1035. Commutation of thirlage, 1036.

Thrush, running, a disease in horses,

Timber. See Woods.

Time, in conditions, 50; for accepting offer, 82. Hiring on time, 155.

Tinsel of feu, or irritancy ob non solutum canonem, 701. Of superiority, 736.

See Teinds, 1147. Tithes.

Title, feudal, to land, general view of, 756. Charter and sasine, 757. Precept of clare constat, 777. Service, 779. Resignation ad remanentiam, 786. Resignation in favorem, 792. Confirmation, 805. Consolidation, 821. Adjudication 823. Decree of 821. sale, 833. Adjudication on feigned bond, 834. Adjudication in imple-ment, 835. Title to burgage subjects, 839, 842. Doctrine of accretion, 881. Lost titles, how supplied, 883. Title to ground positive prescription, 2008, et seq. Double titles, 2019.

of purchaser, 889. Seller's title, 0. Objections to seller's title, ib. 890.

See Sale of Land.

to pursue in actions, 2331; in petitory actions, 2332; in possessory actions, 2333; in declarators and reductions, 2334.

— to pursue declarator of non-entry, 708. To pursue a division of commonty, 1093. To reduce on deathbed, 1815. To pursue a brief of idiany or foriesity, 2100 idiocy or furiosity, 2109.

Titles of honour descend to eldest heir-portioner, 1659. Vest in heir without

service, 1679.

Title-deeds, custody of, with eldest heir-portioner, 1085. Pledge of, 1384. Loss of, how supplied, 883. Titular of teinds, 1150. His right, 1157.

Town-clerk of a burgh, the notary in giving sasine, 844.

Town-council of royal burgh, how elected, 2176. Of other burghs, 2190.

ed, 2110. Of other burghs, 2190. Trade, usage of, implied condition of, in sale, 101. Lien by, 1434. Tradition, 1300. See Delivery. Transference. See Conveyance.

Transit of goods, when complete, 1308. See Stopping.

Traveller, or rider, his implied power, 231, 234.

Treasure trove, 1293.

Trees carried as pertinents of land, 182. See Woods.

Trespassers on right of property, 961. Detention of, ib. Spring-guns for preventing, ib.

Trial, fixing of, under act 1701, 2035. How application made, ib. How not defeasible, ib. When prisoner entitled to liberation, ib. By whom application may be made, ib.

Triennial prescription of accounts, book debts, board, wages, &c. 629. Proof after the three years, ib. To what debts the prescription applies, 630. Terminus a quo, 631. How presumption of payment refuted, 632.

Trout-fishing, right of, 747.

Trust-deeds, 1991. Principles on which the use of trust-deeds depends, ib.

Constitution of trust, 1992. Nomination, acceptance, and failure of trustees, 1993. Number expedient in trust for creditors; in family trusts, ib. Presumption of joint nomination, ib. Effect of joint nomination, ib. Nomination of a quorum, ib.; of a sine qua non, ib.; to acceptors or survivors, ib. Interposition of Court where nomination fails, ib. Consent of trustee, ib. Denuding how accomplished where trustee infeft without his knowledge, ib. Trustee declining after acceptance, ib. Office held gratuitous, ib. Effect of the various forms of nomination, ib. Vesting the estate in the trustee, 1994. Several modes of, ib. How trust qualified where conveyance absolute, ib. Act of 1696, ib. Proofs as between the truster and trustee, ib.; as between the truster's creditors and the trustee, ib. Continuance of the trust, 1995. Beneficial interest under it, 1996. Jus crediti, in whom it may be, ib. Effect of it, ib. Nature of the security under it, Purposes of the trust and reversionary interest, 1997. Administration of the trust, and power of the trus-tees, 1998. Disposal of interests of a capital ordered to be laid out on land to be entailed, ib. Responsibility of trustees, 1999. Effect of clause of exemption from liability for omissions, 2000. Extinction of the trust.

Trustees under Road Acts, their qualification and powers, 662. retention of, 1452.

Their liability, 1999. Personal liability, 2000.

See Trust-deeds.

Tutors for pupils, 2067. Father, his rights and powers, 2068. How controllable, ib. Factor loco tutoris, ib. Appointment of tutors, 2070. Tutors nominate, 2071. Who may be named, ib. Powers, 2073. Effect of joint nomination; with a quorum; with a sine qua non; or to the acceptors or survivors, 2074. How nomination falls, 2076. Tutor at law, 2078. Who entitled to the office, ib. Brief service, retour, 2079. Tutor dative, 2080. How appointed, ib. Administration, 2081. Inventories, ib. How tutors liable, ib. Management and powers, 2082. Proceedings in name of pupil and tutor, ib. Custody

and education of pupil, 2083. Power over the estate and funds, 2084. Leases, ib. Expiration of office, Leases, ib. Expiration of office, 2085. Payment to tutors afterwards, ib. Discharge ineffectual, ib. Reciprocal actions on termination of office, 2086. Pro-tutors and procura-tors, 2098. Tutors to idiots and furious persons, 2104, et seq. Tu-torial accounts, decennial prescription of, 635.

Udal rights in Orkney and Shetland, 932, 933. Ultimus Hæres, succession of the King as, 1669. Underwriter of insurances, his obligations, 479. Unfunded debt, 1343. See Stock. Unilateral obligations, 9, 63. Union, charter of, 875. Universities, 2193. Unlawful contracts, 35, et seq. Urban servitudes, 983. Different kinds of, 1002

subjects, lease of, 1272. Power to assign or subset, 1274. Hypothec in, over the invecta et illata, 1275. Removing from, 1278.

Usage, effects in construction of contracts, 83, 234, 524. Of trade, implied condition of, in contract of sale, 101. Local usage, ib. Effect of usage, general or local, on the contract betwixt master and servant, 173, 176. Construction of thirlage by, 1023. Lien on goods by, 1434. Usance in bills, 326. Proof of, 2235.

Use and occupation of land exclusive, 939. See Property. Usufruct, 1037, et seq. See Liferent. Usury, 36. Uterine brother or sister, 1652, 1665.

Vacant stipends, 836. Valent clause of retour, 2153, 1830. Valuation and sale of teinds, 1159, 1160, 1161.

Valued policy of insurance, 482.

Vassal, his estate, 181, 737. Conveyance of lands to, by name or by boundaries, 738. Of a barony, 749. His title by charter and sasine, 757. Conveyance from vassal to superior, 787. See Superior and Vassal, Conveyancing, Entry.

Venditioni exponas under writs of ex-

tent, 2292. See Extent Verbal lease, 1187-9. Of urban subjects, 1273. Verbal will, 1867-8. Verbal injuries, 2043. Verdict in a special service, 780, 1831.

In general service, 781, 1849. brief of idiocy or furiosity, 2110. Vergens ad inopiam, 46.

Veritas convicii, 2057.
Vesting of legacies, 1880. Of moveable succession, 1891. Of provisions, 1989. Of estate in trust, 1994.

Vicarage teinds, 1154.

Vicennial limitation of holograph deeds, 590. Terminus a quo, 591. Defence of minority, 593. Proof after the term, 592.

Vintner's responsibility, 236. Virtual fulfilment of obligation, 572,

et seq.

Vitious Intromission, passive title of, 1921. Intromission with title-deeds, ib. To whom this passive title extends, ib. How purged, ib. When action incompetent, ib.

Voters at election of town-councils, 2176; at election of members of parliament for counties, 2196; for burghs,

2202.

Poyage in charter-party and general affreightment, 408; in questions of freight, 422. Freight prorata itineris, 423, et seq. Lessee of ship for voyage, liability of, 448. Voyage in bottomry, 456. Voyage in insurance, 471, 474. Fitness for the voyage, 477. Lost voyage, 485. Deviation from the voyage, 492, 495.

Wadset, its nature, 901. Right of reversion, 902. Holding, 903. Discharge of, 905. Declarator of expiry of redemption, 906. Proper and inspects redestry 907. Fig. to the proper wadsets, 907. Eik to the reversion, 908.

Wager policy in insurance, 46I. See Interest, Insurance.

Wagers and sponsiones ludicræ, 37. Wages of servants, 178. Master's obligation for, 183. Claim for, on servant's death, by his representatives, 187. Effect of sickness or inability to serve, on servant's claim, 182. Marriage of female servant, ib. Im-Marriage of female servant, ib. prisonment, ib. Servant's claim for, on master's death, bankruptcy, or insolvency, 187; for board wages, ib. Prescription of wages, 185,630. Terminus a quo, 631. How presumption of payment refuted, 632. Wages of seamen not barred in bottomry, 456; hypothec for, 1400. Hypothec for servant's wages, 1407. What servants entitled to preference, ib. Their preference against landlord, ib. Wages how distinguished from profits of company, 364. Waifs and strays, 1294.

Waiving of notice in the negotiation of bills, 341.

War. Contracts inconsistent with the

national war policy, 43. Suspension of the power to trade, ib.; of the exaction of debt, ib. Exceptions to the general rule, ib.; neutrals, ib.; licenses, ib. Right of search; contraband of war; effect of blockade, ib. Confiscation of property in America in war, ib. note.

Ward-holding, 681. Its nature, ib. Converted into Now abolished, ib.

feu, ib.

Warding, act of, 2399.

Warehousing of goods, 1368, 1378. See Bonding.

Warning of servants, 174. How dispensed with, 173. Equivalents, 174. Of tenants, 1268. In urban and other subjects, 1278.

subjects, 1276.

Warrandice, under contract of sale, 121. When incurred, ib. Implied warrandice, 122. Absolute, ib. From fact and deed, 123. Simple, 124. Express, 125. On whom is the obligation to write unition 126. Power tion to resist eviction, 126. Buyer's claim on eviction, ib. Warrandice of a lease, 1253. Of an assignation, I 469. Of solvency, ib. In sale of land, 894.

Warranties in contract of sale, 97; different from warrandice, 94, 111. plied, 97, et seq. Express, 111, et seq. Warranty in sale of horses, 129. Warranty in insurance, 475. Distinction between it and representa-tion, ib. Affirmative, promissory, express, implied, 476. Rules as to

tion, ib. Affirmative, promissory, express, implied, 476. Rules as to warranty, 478. In fire insurance, 515. In life insurance, 522.

Water, property in, 1100. Rights and obligations of proprietors on the banks, 1101, et seq. Rights of successive proprietors, 1104. Of superior heritor, 1105, 1106. Polluting the stream, 1107. Increasing its force, 1108. Changing its course, ib. Springs, 1109. Lakes, 1110. Salmonfishing, 1112. Angling, 1100, 1121. See Property.

Waygoing crop, 1269. See Lease.

Waygoing crop, 1269. See Lease. Weight and Measure, importance of settling place to be applied, 91. Bar-gains by old weights and measures must state ratio, ib.

Whales, rules as to the appropriation of, in fishing, 1289.

Wharfingers, their liability under the edict Nautæ caupones, &c. 236. Lien of, 1434.

Widow, her right of terce, 1596. Pro-

visions to; see Marriage-contract. Wife, aliment to, 1545. Action for separation or divorce, 1620. How her agent's account taxed, ib. Paraphernalia of, 1555. Her power of dis-posal of it, 1559. Her præpositura, 1565. Debts of, 1570, 1571. Her jus relictæ, 1580. Terce, 1596. Per-sonal obligations by, 1611. Diligence

against her estate, 1612. Power of disposal, 1614. Ratification of deeds by, 1615. Modification of jus relictæ by conventional provisions, 1946; of terce by, 1947. See *Husband*.

Will or testament, privileged in respect of authentication, 21; and non-de-livery, 24. Nature of, 1862, et seq. Verbal, 1867, 1868. See *Testament*.

Wind-bills, 346. Windfalls, liferenter's right to, 1046.

Winding up a partnership, 387.

Witnesses to a marriage, 1512; to deeds, 19.

Woods, carried as pertinents of land, 182. Nature of liferenter's right in, 1046, 1058. Reservation of, to landlord in a lease, 1224, 1226. Marking of in sale, 1303. Power of heir of entail to cut, 1754.

Work and labour, hiring of, 147. See Hiring.

Workmen, responsibility of, for suffi-cient skill, 150-154. Hiring of, 190. How their obligation enforced, 191. Their remedy for recovering wages, Combination laws, ib. Lien of, 1430.

Wrecks, how preserved for the owners, 1292. Salvage, ib. 443.
Writer, his responsibility for skill, 1455. His hypothec for expenses, 1388. His right to have decree in his own name, 1389. His remedy

where decree in client's name, ib.; not subject to compensation of client's debt, 1390; nor affected by collusion of parties, 1391. Whether he must shew collusion, where a com-promise, ib. When he is not affected by a compromise of parties, ib. May proceed with action, 1392. Notice to stop payment of expenses, 1393. Whether the right communicable, 1394, 1395. Lien or retention of over papers, title-deeds, &c. 1438. What it covers, ib. What it comprehends, 1439. How it expires, 1440. Nature and effect of the right, 1441, 1442. If bound to allow inspection, 1443. Waiver of retention, 1444. When not inferred, ib.

Writer of deed, examination of, 2230. Writing, essential to obligations relative to land, 18; and in deeds agreed to be in writing, ib. When required only in evidence, ib. Authentications of written obligations, &c. 19, et seq. When requisite in the transference of corporeal moveables, 1456, 1457, 1458. See Proof, Witness.

Writings. See Deeds.
Wrongous imprisonment under Act
1701, 2035. How inferred, ib. Penalties under the Act, ib. Limitation of action, ib. Wrongous imprison-ment at common law, 2036. Liabi-lity of magistrates for, 2038. What irregularities infer it, ib.

Year and day, dissolution of marriage within, 1576. After, 1579. Pari passu preference of adjudications within year and day, 2418.