

**A LETTER From an Eminent Scots Lawyer,
To Mr. William Forbes, Concerning the
Usefulness of such a Complete Body of the
Scots Law, as he Projects.**

Sir,

IN Compliance with your Desire, I send you my Thoughts of your Proposal, without Prefacing or Ceremony.

Seing by the 18 Article of the *Union*, tho' Laws concerning Regulation of Trade, Customs, and several Excises, are to be the same through all *Britain*; Yet the other Laws of *Scotland*, not Clashing with the Treaty, Remain in Force as before, with this Difference, That such of them as concern Publick Right, Policy and Civil Government, are Alterable at the pleasure of the *British* Parliament, and those concerning private Right are not to be Altered, Except for the Evident Utility of the Subjects in *Scotland*; such a Complete Body of the *Scots* Law as you project, will, in my Opinion, be of Universal Advantage, and Especially Subserving to the following particular Uses.

1. To know the Agreement and Difference betwixt the Laws of *Britain*, will be of great Use to Members of Parliament, when New Laws are offered, or former Laws desired to be Amended or Abrogated. 2. It will be Expedient for the State-Ministry, and Members of Her Majesties Privy Council, who will thereby easily understand the Laws of that part of this Isle, in which they were not Educated: And so be in a better Capacity to Judge of Cases concerning both Publick and Private Right, whereof many having Relation to all Parts of the United Kingdom, will frequently pass through the Offices of Secretary, Admiralty, and Council, &c. 3. The new frequent and more free Intercourse betwixt the Subjects of North and South *Britain*, will produce Pleas of Right to be Determin'd in the Northern Courts of Justice, according to the Law of *England*, and in the Southern Judicatures, according to the Law of *Scotland*; as has already been found by Experience before the Session and Exchequer: Which will Oblige all Judges and Lawyers within the United Kingdom, to be well Seen and Conversant in both Laws. A distinct Apprehension whereof, cannot be easily Attained by Men of so much Business, without such a Directory as is proposed. 4. Even Merchants and Traders will find their Accompt in such a Work, who by Contracting with Persons Residing in a Part of the Isle, whereof they know not the Laws that concern the Quality, Circumstances and Estate of these they Deal with, are apt to run into Snares, and Inconvenient Bargains, and to be Frustrated of such as are Advantageous, which Inconveniences may be Prevented by Consulting the Proposed Body of Law. 5. In short, it will have this general Effect, to serve for Cementing the *Union*, and Rendering it more Complete: For thence will appear the Excellency of the *English* Constitution as to the Matter of Publick Rights; the great Affinity and Harmony betwixt the private

private Law of *Scotland* and *England*; Which vary little or nothing in the Point of Substantial Justice, but only as to Form and Terms. The Rendering of all which Familiar and more Intelligible to the whole Inhabitants of the Isle, will Contribute to a mutual Good Understanding. I Promise, Sir, to my self from your Laborious Pains, the Ease Injoyment of what Choice and Useful Reading is to be found in many Volumes. And Doubt not but the whole College of Justice Intertain the same Sentiments and Expectation with me: Having had such Experience of your former Successful Performances upon Subjects hitherto Esteemed the *Cruces Juris-consultorum*, and never before Treated of. I am
Edinburgh 9th November 1708.

Yours, &c.

**A Copy of the Lords of Session's Recommendatory Approbation of
Mr. Forbes's Proposal.**

WE Subscribers, The Senators of the College of Justice, having Considered a Proposal published by Mr. William Forbes Advocate, That he, if Encouraged by the Government, is Resolved to Employ himself in making up the Decisions of the Lords of Session from November 1681, where the Viscount of *Stair* left off, and also to handle the Consistorial, Maritime, and Criminal Laws of *Scotland* by distinct Treatises, and then to set about the Compiling a Complete Body of the Law of *Scotland*, containing the Harmony thereof with, and Differences from the Civil and Feudal Laws; and shewing how far the *Scots* and *English* Law do Agree and Differ; with Incident Comparative Views of the Modern Constitutions of other Nations: Are of Opinion, That the Prosecuting and performing such a Work will be of very Great Use, and General Advantage; And Considering, That the former Treatises published by the said Mr. William Forbes concerning Bills of Exchange, and concerning Church-Lands and Tithes, and concerning the Duty and Powers of Justices of Peace in *Scotland*, have been Received with General Approbation, and found very Useful, and do evidence Great Learning and Diligence: We are of Opinion that the said Mr. William Forbes (whom we know to be a Person of Sufficient Capacity and Great Application) is fit to be Employed in prosecuting the proposed Work; and that he Merits Encouragement from the Government to Inable him to Apply the more closely to the Carrying on of that Undertaking, to the Benefit and Advantage of the Publick. In Testimony whereof, We have Subscribed these Presents at *Edinburgh* the 12th Day of November 1708 Years.

Ro. McKenzie
Alexr. Campbell
Ad. Cockburne
Gilb. Elliot
Alexr. Ogilvie
James Erskine
Jo. Murray

Hew Dalrymple P.
Ro. Dundas
Lauderdale
Jo. Lauder
W. Anstruther
John Maxwell
Ro. Stewart.

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