

But now our Law is raised upon many Foundations as 1^o upon the Divine Laws of Nature, and Revelation. 2^o Upon the Law of Nations. 3^o The Civil Canon and Feudal Laws, and some foreign Sea-Laws. 4^o Some old Books. 5^o Acts of Parliament and Conventions of Estates. 6^o Ancient Customs, Rules of Sederunt, and Decisions of the Court of Session. 7^o By-Laws, or Statutes of Incorporations or Bodies Politick.

Sec. 1.

How the Law of Scotland is founded on the Divine, Natural, and revealed Laws.

1^o All our Law hath Foundation Mediate or Immediate in some Natural principle which runs thro' the Veins of it. Our Law gives a civil Sanction to some Laws of Nature, for the better Observance thereof. Because all Men have not always their Reason clear enough for discerning the justice enjoyn'd by the Laws of Nature, or their Heart upright enough for obeying it, men are compell'd to obey these Laws of Nature by Authority of the Temporal powers: as when Husband and Wife are forced to aliment their Wives, and Parents their Children. Other Laws of Nature have with us no civil Effect as gifts between Man and Wife, and Deeds of the latter without consent of the former. Obligations of Love and Charity are of this kind. For according to the Proverb we cannot pounce for Kindness; and the poor or those in Distress cannot perswade us to extend to them our Charity, which having no definite Rule, is at the Discretion of the giver, 23 February 1666 Children of E. of Buchan contra Lady Buchan. Some Laws of Nature again our Law doth qualify; as the Succession of Children to their Parents Heirship by the Right of primogeniture, ~~and~~ for the standing of Families and other political Reasons: tho' by the Law of Nature, all Children have equal Right to succeed to their Parents. By the Law of Nature the Will of the proprietor any way declared, is sufficient to alienate and transfer what is his to another: but for obviating Fraud and Mistake, we require Delivery of Possession in Alienation of Movables, and write, with the Solemnity of Seisin and Registration, to transfer Heritages and heritable Rights. Nor do we sustain promises to be proved by Witnesses.

2^o The Ritual and Ceremonial Law consisting of Types and Shadows of future good things promised under the Gospel ceased when the Substance

Substance of Things signified and figur'd by them came, that is when Christ the Messiah came into the world, in whom all these Types were to Recd. be their full accomplishment.

3^o Many esteem the Civil and Judicial Law of God to be a yet standing Rule to other Nations: partly because of the Lawgiver's Authority, and its own Excellency beyond Humane Laws; and chiefly, for that it does not appear to have been expressly abolished (as the Ceremonial Law is) in the Gospel. But this Civil and Judicial Law being originally suited and fitted to the Disposition and Temper, the Condition and Circumstances of the Jews; neither is nor ever was obligatory to other Nations, and continued only in Force till that Nation and Commonwealth, it was designed for, was dissolved. That it was calculated merely to the peculiar Temper and Constitution of the Jews, is clear 1^o from the Law concerning a Bill of Divorce allowed for the hardness of their Hearts and abrogated by our Saviour Matth. 5, 32. 19, 9. 2^o Because of their peculiar jealousy and bitterness to their Wives, a Wife's unspotted Virginity was appointed to be tried, not only by the ordinary Tokens, but also in a Manner extraordinary and miraculous by the Water of jealousy. 3^o God's intention to have this Law peculiar to Israel appears, when he says, what Nation is so great, that hath Statutes and judgments so righteous, as is all this Law, which I set before you this Day Deuteronomy 4, 8 and from these words he sheweth his word unto Jacob his Statutes and judgments unto Israel, he hath not dealt so with every Nation, and as for his judgments they have not known them Ps. 147, 19. So that the same Law was not to Israelites and Strangers nor even to Proselytes; witness the Matters of Usury and Bondage allowed as to Strangers; whereas the latter is limited only to Israelites and the former simply forbidden. And tho' the judicial Law of Moses could justly be said to be now so much depraved, Vice and Deceit now so much increased and improved, that these Laws which were sufficient in the simplicity of the Times they were given, could not answer all the Ends of Government to any purpose, in our degenerate and artfully wicked Age. But tho' these Laws were the peculiar Laws of a particular