

Order of the Army is distinguished into the Classes of Bishops Deans and others in holy orders; The Lay order of persons exercising Functions necessary in the Administration of Justice is distinguished into the Classes of Judges, Advocates, Clerks &c. Again, the Ranks of the Classes are not all regulated by the Ranks of the Order; for in many Orders there are Classes which have a Rank above others of a much higher Order & of the precedence of persons, whether they be one and the same or of different Orders. In all disputes of precedence the will of the Sovereign is the primary Rule. And as the Character of Honour, Dignity, Authority, necessity and usefulness distinguishes the Rank of Conditions and professions of men: so it is by the Differences of what those of the same Order or Class may have more or less of the said Characters next to the will of the Prince: as it is in the Decretum, that their Ranks ought to be regulated and precedence determined.

The first place next to the King is due to the Prince and Heir of Scotland. After him come the other Princes of the Blood: ~~the~~ from whom the last descendent from the Royal Family has still precedence, but the eldest of each Branch precede all of that Branch.

I have also where in the proper places handled the precedence due to Embassadors (vid. supra pag. 30) to Poets and to their wives and Children (vid. supra pag. 239. 240 241) to Archbishops & Bishops (vid. supra pag. 222 & infra pag. 330.

The precedence among his Majesty's officers and other subjects in Scotland is stated thus: The Lord High Chancellor.

- Lord High Treasurer
- Lord president of the Privy Council.
- Lord privy Seal.
- Lord president of the Session.
- Lord Secretary of State; if he a Gentleman, but if not a peer he takes of all of his Rank.
- Lord Register.
- Lord Advocate.
- Lord Treasurer Deputy.
- Lord Justice Clerk.

Ordinary Lords of Session --- } according to the Dates of their Admissions.  
Gentlemen who are privy Counsellors }  
but in England privy Counsellors are preferred to all the Judges even to those of Justice.  
Lords of Session are the first Gentlemen in Scotland holding Rank and precedence next to the eldest Sons of Lords called Masters.

After Lords of Session Barons are intitled to precedence.  
Knights Bachelors succeed in the next place of Honour. Next to them Lords or Landed Gentlemen, and the Chief of a Family takes place before any Gentleman of that Family. But yet the Old Lords in Scotland, especially those who are Clans or Representatives of ancient Families seldom, if ever, yield the precedence to Knight Barons, and far less to ordinary Knights. It is generally held, that Gentlemen have no precedence among one another. But yet Reason and discretion allow that Gentlemen of three Generations ought to give place to Gentlemen of ten, if there is not a great disparity between their Fortunes; and that for the same Reason a Gentleman of three Generations may claim precedence from an ordinary Landed man who has but newly acquired his Lands.

In the Ranking professions of business, according to the opinion of all writers upon this subject, and by the practice of all universities, professors of Theology sit in the first place, professors of the Canon Law in the second, and professors of the civil Law in the third; Barthol. Chiffon. Catalog. Honor. lib. 1. part. 10. Consideratio loqu. Christian. Honor. de triba de Grad. Acad. pag. 228 & seqq. Christoph. B. sold. Dissert. Juridic. polit. pag. 200. 201. M. Konze. of precedence pag. 96.

But who should be placed next to professors of the civil Law is controverted. Some give it to the professors of all other. Ch. Hon. ibid. pag. 210. Others to the professors of which soever. The same ibid. M. Konze ibid.

In Towns those who have been Magistrates are preferred to all others in public Meetings that relate to the Burgh.

The Honour of having served in other offices ought to make those who have been therein a preference before others who never had any, or if they have all been in office, that Advantage of having been employed in offices of greater Importance, or having served in like offices a much longer Time, or in a greater number. ~~which~~ gives preference. L. p. 11. de Alho. senib. which is founded on the services rendered to the public in the exercise of offices. Los Loix civiles de Tom. 2. Lib. 1. Tit. 9. Sect. 3. art. 35.

It hath been often controverted whether one who hath twice or often enjoyed any dignity or Honourable post, ought to be preferred to him on whom it was but once conferred.

With us, if Dignity be conferred by Election, the being often in office counts not in the preference in a clear case. For, where one is elected to be first Magistrate, and another to be the second, the second would not have the precedence tho' he had been often formerly chosen, and the first but once elected. But in doubtful cases repeated Elections do prefer: thus one who hath twice or more frequently enjoyed the office of Justice or Mayor is preferred to him who only once hath been in that dignity. M. Konze of precedence Chap. 9. art. 4.

Among Equals of the same Class, who do the same Functions and are admitted therein successively, one is preferred to another in the preference upon the Account of Birth; either because of his being the eldest, or because he may be due to the Merit of his Ancestors of him who is descended of the next Extraction, or because his Birth may put him into a Condition of rendering himself more useful to the publick by following the footsteps of his Ancestors, L. 14. 53 ff. de allun. et Hon. Los Loix civiles de. ibid. Art. 1. ult. ff. de fide Instrum.

Those having greater Riches may be preferred as more useful to the society by employing their wealth for diverse ~~good~~ services, and for that among others of bearing greater Burdens and paying greater Taxes. L. 14. 53 ff. de allun. et Hon. L. 12. in fin. ff. de donat. Los Loix civiles de. ibid. art. 37.

In the Election of many persons to offices of alike nature by one and the same Nominacion, if there be no other Reason of deciding the preference, it is giving to him who had most voices in the Election. L. 55. ff. de decur. Los Loix civiles de. ibid. art. 38.

In other Circumstances being equal, the Scholar has the Advantage of preference to an illiterate person, as being capable of doing greater service to the publick Good, Los Loix civiles de. ibid. Art. 39.

The Rank of a Gentleman is regulated by the Date of his Admission to the Office, and not by the Rank of his Ancestors, unless he be descended of the next Extraction, or because his Birth may put him into a Condition of rendering himself more useful to the publick by following the footsteps of his Ancestors, L. 14. 53 ff. de allun. et Hon. Los Loix civiles de. ibid. Art. 1. ult. ff. de fide Instrum. It is also to be considered, that the Rank of a Gentleman is not regulated by the Rank of his Ancestors, unless he be descended of the next Extraction, or because his Birth may put him into a Condition of rendering himself more useful to the publick by following the footsteps of his Ancestors, L. 14. 53 ff. de allun. et Hon. Los Loix civiles de. ibid. Art. 1. ult. ff. de fide Instrum. It is also to be considered, that the Rank of a Gentleman is not regulated by the Rank of his Ancestors, unless he be descended of the next Extraction, or because his Birth may put him into a Condition of rendering himself more useful to the publick by following the footsteps of his Ancestors, L. 14. 53 ff. de allun. et Hon. Los Loix civiles de. ibid. Art. 1. ult. ff. de fide Instrum.

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