the highest Value according to their pretium affectionis Stair Lib. 2 [illegible] §. 39. The civil Law distinguisheth Pictures from Writings, making the Former to carrie the Tables or Boards they are drawn on as Accessorys and allowing the Latter to be claimed by the Owners of the Paper or Parchments wherein they are written §. 33 & 34. Inst. de rer. div. But this unreasonable Distinction proceeding from the vast Esteem the Ancients had for Painting, is no where that I know now observed. For the same Rule obtains as to Painting, Writing, and Printing. Painting drawn upon a Wall or fixed Table, Shrine, Cabinet Box or other Thing for Ornament thereof belongs to the Master of the Wall Shrine Cabinet &c. But where a Picture is made upon Canvass or upon a movable Table or Board design'd or used only for containing such a Picture; the Canvass or Board is esteem'd accessory to the Picture. And a [illegible] Writings upon another's Wall or Book for the Use [illegible] belongs to the Owner of the Wall or Book. But Writings upon Paper or Parchment, calculated or designed for writing, and of no other Use when written, carrie the Paper or Parchment as accessory thereto; it being absurd to think, that Manuscripts, Rights of Land or Accounts written on another's Paper or Parchment should follow the Owner of the Paper or Parchment. However he who gets the Principal and Accessory, is liable at least in quantum lucratus to the other Les Loix Civiles &c Tom. 1. Part. 1. Liv. 3. Tit. 7. Sect. 2. Art. 15. Stair ibid. So that in Order to judge to whom the Things ought to belong after these Sorts of Changes, it is necessary to consider the Circumstances of the Quality of the Work, of that of the Matter, of the Causes for which the Work has been made; if it was for the Use of the Person who made it, or of the Master of the Matter, or of some other Person who bespake it. And by all these Views, and others of the like Nature one may determine who ought to have Thing; and likewise regulate what he who keeps the Thing is to give either for the Matter or for the Workmanship. Again, industrial or artificial Accession ariseth from one's building upon his own Ground with the Materials of another; or in another's Ground, with his own Materials. When one builds on his own Ground with Materials that are not his own, the Builder is Master of the Edifice, because inaedificatum solo cedit, a Building is acquired to the Master of the Ground or follows the Property of the Soil: And the Owner of the Materials (who is not permitted for the Sake thereof to pull down the House to the spoiling or defacing of Policy) should, by the civil Law, get the double Value, whither these his Materials were employed by the Builder bona or mala fide. But there is this Difference betwixt Intrometters with another's Materials bona et mala fide: That the Owner may claim them from a knavish Meddler, besides Payment of the double Value, whither the Edifice stand or fall; whereas an honest Meddler lies open to Action for Restitution of the Materials only if the Building should fall before they are paid §. 29. Inst. de rer. div. Ludwell Comm. ad d. §. Again by the

the Roman Law, where a Person in Possession of another's Ground builds thereon with his own Materials, the Owner of the Ground is Master of the House. The Builder, if he had Reason to think that he built on his own Ground, is not bound to quite the Possession unless the other pay for the Materials and Workmanship. If such a Builder certainly knew that the Ground he built on was another Man's he cannot claim Allowance for the Materials or Workmanship, nor seek these Materials to be restored to him even tho the Building were pulled down §. 30. Inst. eod. l. 7. §. 12. ff. de acquir. rer. dom. And the Builder upon another's Ground (whither bona or mala fide) possessed by the Owner himself hath no Title to [illegible] his Expences l. 33. ff. de cond. indeb. l. 14. ff. de com. [illegible] et met. except l. 48. ff. de rei vind. The Reason assigned why one building in another's Ground not in the Builder's Possession or the Possessor of another's Ground building thereon while he knows it belongs to another, is [illegible] his Materials or Workmanship while the Edifice stands, nor [illegible] to take back his Materials tho it were demolished is because such a Person is presumed to have builded animo donandi.

In Scotland a Building [illegible] belongs to the Owner of the Ground on which it is built; But our Law proceeding in this Matter not so much upon a Presumption of giving away, as upon this Ground, that those who incroach upon the Property of others should be check'd and discouraged, doth allow a Recompence to the Builder for his Work and Materials that accrue to the ground in so far as the same is profitable to the Heritor by affording him a greater Rent for his Land 5 Feb. 1692 Sandylands contra Laird Niddery. Where one built a Part of his Park-dike upon another's Ground sciente & astante domino, the Silence of the Owner was thought to have this Effect, that the Builder might remove the Materials of his Wall, or claim from the Owner of the Ground so much as he was benefited thereby 8 January 1668 Nicol contra Hope. An Appriser of a burnt Tenement, wherein the Debtor's Wife stood publickly infeft in Liferent, having rebuilded the same after expiring of the Legal of his Apprising, was not presumed to have done it animo donandi to the Liferenter: But She was allowed her Option to have either so much out of the Rent of the Tenement as it was worth before the Reparation; or Possession of the Tenement it self, upon paying the Annualrent of the Sums necessarly and profitably wared upon the Reparation during her Life 24 January 1672 Hacket contra Wat. Because he being Proprietor by an expired Apprising, might have compell'd her to suffer him to repair the Building, and she was lucrata by the necessary and profitable Reparation. A Lady's second Husband having built a Jointure-House provided to her by the first, and accidentally burnt in her Widowhood, was neither allowed to demolish or take away any Thing fixed in the Ground, nor to crave any Consideration or Value for the same; unless the House had been accustomed to be set for Rent in which Case the first Husband's Heir would be liable only in quantum lucratus