

by keeping outrageous and pernicious Servants or Beasts whom he knows  
 Incited or accustomed to do Harm to others. Against which general Antient  
 Compendium, the Roman Law provides by the Action de pauperie, and the  
 Priest Nauti, Caup. Rab. &c. A Man having some Years after he had rais'd  
 a Process of Adherence against his Wife before the Commissioners of Justice  
 wherein the Vice was found relevant, without making any further Step he  
 commenced an Action injuriarum against his Father in Law for Damages  
 on account of encouraging and instigating his Daughter to desert an. above  
 the Pursuer her Husband, and harboring her in his House after she had dep<sup>arted</sup>  
 him: The Lords still proceeded in the Action for Damages till that it was  
 overruled before the Commissioners and determined it June 1714 Dundee con-  
 tuming. A concomitant necessary to a Trespass is one who is assisteth the  
 Actor by his Countenance abeteth, cherishest or countenances him at the doing  
 thereof: The guilt of subsequent deception is incurred by ratifying or appro-  
 ving of the Wrong after it is committed, praising gratifying depending or support-  
 ing the Offender upon the Account thereof. Persons cooperating or concurring as  
 Principals or Accessories in the Commission of Crimes or Trespases are liable  
 for Reparation of Damage and Interest to the injured Party in Addition to  
 the whole Reparation that he may not be put to the Trouble to seek redress  
 by Courts from them severally. Thus a Messenger employed by a Writer to  
 signet for his Client having denounced a Person charged with Forgery on  
 expiring of the Day of the Charge, and the Writer having raised Capion on  
 that Denunciation: The Party at whose Instance it was raised was fined by the  
 Lords of Session for executing thereof; and upon his Complaint to them, the  
 Writer was ordained to reimburse him of the Fine; without necessity upon  
 the Party to disown first the Messenger, who was the original Deceptor: by the  
 Damage thro' the wrong Denunciation 20 November 1715 Wood contra  
 Lorton. For both being in culpa and liable to him he was not bound to disown  
 the Case betwixt them.

All the Rules concerning the Matter of Damages, respect either the  
 Question whether any be due, or in what they do consist.  
 The Question whether any Damages be due, is always a Question of  
 Law, which depends on knowing if the Person to whom they are imputed  
 ought to be answerable for them. When any Loss or Damage happens from  
 an Accident, and the Fact of some Person which is mixed with the Acci-  
 dent, has been either the Cause or Occasion of the said Event; it is by the  
 Nature of the Fact, and by the Connection which it may have with what  
 happened, that we ought to judge, whether the said Persons should be made  
 to answer for the Damage, or should be acquitted of it. Thus, all the Damages  
 and Losses which may happen by the Act of any Person whether out of Im-  
 prudence, Rashness, Ignorance of what one ought to know, or other Faults  
 of the like Nature, however trivial they may be, ought to be repaired

by him whose Imprudence or other Fault has given Occasion to it.  
 For it is a Wrong that he has done, even tho' he had no Intention to do  
 Harm. So he who playing imprudently at a Ball, in a Place where there  
 might be Danger for those that were passing by, chances to hurt any one,  
 will be answerable for the Harm which he shall have done. C. 1. s. 1. l. 9.  
 s. ult. l. 10. l. 44. pr. ff. ad L. Aquil. Those who make any Works or  
 Thing, from whence may ensue Damage to other Persons, will be answerable  
 for the Damage, if they have not used the necessary Precautions to prevent it.  
 Thus, Persons who repair Churches, who by the Repairing of the  
 Machines carry up their Materials, and those who from the top of a Tree  
 cut down the Branches of it, ought to give Warning to the Persons whom  
 their Work might put in Danger: And if they do not, they will be  
 answerable for the Damage which shall happen from thence, and be liable to  
 other Penalties according to the Circumstances. l. 21. ff. ad L. de Aedificat.  
 men or there who dig Holes or Trenches for catching of Beasts by the  
 Ways or in other Places where any have no Right to do it will be answerable  
 for the Damage which shall happen thereby. l. 7. s. 1. ff. quod in aed. l. 20.  
 l. 28. pr. ff. de Aedificat. A Person who stops a Factor's Wagon, or  
 prevents his Delivery of Goods, by Virtue of a similitude Disposition to signet  
 obliged to make the goods proceeding to the Factor in the same State  
 they were in at the Time of his Stop, or pay the Debt which is due  
 in Lieu of Damages. The said being witness the Value of the Goods in  
 the Disposition is stop he pointing 15 July 1714 Case contra deignour.  
 One who encourages a Man to marry his Sister, by telling that he has  
 won her 1000 Mites of Gold and was present at adjusting the Marriage  
 Articles when the said Sum was agreed to by a Part of the Father, having  
 after the Agreement which the Bridegroom was by his Advice gone for a  
 Warrant to marry without Proclamation of Banns, induced the Bride to  
 give him up his Bond upon his granting a new Bond to her Daughter;  
 the first Marriage; he was found obliged after the Marriage to renew the  
 Bond to his Sister and thereby to repair her Husband's Damage occasioned  
 by his Fraud 9 January 1679 Agilore contra Agilore. But if there happens  
 any Damage by an unforeseen Consequence of an innocent Fact, when no  
 Blame can be charged on the Author of the Fact, he will not be answerable  
 for such a Consequence. For this Event will have some other Cause joined  
 with that of the Fact, whether it be the Imprudence of the Person who has  
 suffered the Damage or some Accident; and it is either to this Imprudence,  
 or to this Accident, that the Damage ought to be imputed. Thus for Example,  
 if one goes to cross a publick Mall whilst People are playing in it, and  
 that the Ball being already struck chances to hurt him; the innocent  
 Fact of the Person who struck the Ball does not make him answerable  
 for an Event which ought to be imputed either to the Imprudence of the  
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