are not so called, because something is therein desired to be done
in which sense all Actions are petitory.

Such are 1° Actions founded upon personal obligations arising
from Contracts, quasi Contracts and Crimes passes spoken of in the
proper places.

Another sort of Petitory Actions are 2° those founded on
of property, superiority, Annualrent or liferent in Lands held by
mediat or The Legal equivalents as a Charge Legacy &c. The Actions
upon an Heritable Bond, Tack, Tutorship &c. In which Actions
person Compearing for his interest Claiming Right or Title
will be admitted. Hence Arises the
competition wherein the same grounds of preference are
pedal as in Reductions. Such petitory Actions are 1° Actions
of Mails & Duties: in which the pursuer ought to Run his
from the Term of right or Title as the case is being Charter
having a prior right (tho not in possession) Compearing for
ment or equivalent Right will be admitted. Hence Arises
competition wherein the same grounds of preference are
pedal as in Reductions. Such petitory Actions are 1° Actions
of Mails & Duties: in which the pursuer ought to Run his
from the Term of right or Title as the case is being Charter
having a prior right (tho not in possession) Compearing for
ben Hardy Actions him. The most Title not only Expands
tional Possessors, but also Tenants or others in the Pursuers
ry Nobility, Minister and others. Actions of Mails & Duties at the
stance of a Superior or his Donatory Founded upon a Gift
of Superiority arising from the Feudal Law of Scotland
Requires no Party Title but the Superior need Himself
no Infeftment except but the Rights in the Mentioned Equiva
legal Rights as Reversions by Tenure or Bonarity or Rights
of the Kind with Consent of the Superior to be Held
Superior which without Infeftment will not be Effectual
upon the personal Exception of this Consent Hence Cha
§19. But an Infeftment Holder of the Feudal to which the
=ence Confirmed, would not bar the Action of Mails and Duties
the Superior's Instance; Such Consent being effectual
to Exclude the Effects of Recognition Hereditary Jura
of Marriage and Ward Proceeding on the Casualty of non En
Liferent Escheat, which arise from a Vassal's particular Fault
are not from the Nature of the Feudal right, the Superior may
Action upon a Decreet of Special Declarator Clare Ides. The proper
Defence in Mails Petitory Action of Mails and Duties is, that the D
Pursuer hath a better Right or that he hath the Benefit of a pos
Petitory Prescription, by Seven Years possession upon a Title of
Infeftment, or other right Requiring no Infeftment as Tacks
In a process of Mails & Duties against Tenants it was not
Instance to Compel them, that their Master, who was not called, but
they might suspend on double poinding & Warning
=ing Tenants it would be a Relevant Defence that their Master
was not Called, because thereby the Masters possession was to
Interrupted, and double poinding could not take place in law
=wing. Nor is it Competent to Tenants to Dispute and form
on their Masters right which is Res tertii to them, but the
should Intimate to them to appear for their Interest and produce
and plead their Interest 10 June 1665 Rumbie contra Genan

13 Novemb. 1634 Middle contra Leighton & the Town of Montrose.
2° Pointing of the Ground is another Kind of petitory Action of
this Nature. 3° Action at the Instance of a Liferenter of Tithes for by
gone Tithe Called Action of Abiment at the Instance of an Appa
rent Heir of Simple ward Lands, against the Superior &c.

Sect. 4.

Of Possessory Actions.

Possessory Actions, called also possessory Judgments, are those
wherein an Obsolute right is not insisted on, but possession only
Claimed to be Attained, Retained, or Recovered, either upon some
Title tho imperfect Clothed with possession, or upon Immemorial possession
without Necessity to shew any Title, at the point of right be
determined in a Reduction or Declarator or Exemption of rights
Some possessory Actions require a special Title in Law, as
libelled the first mentioned Action of Improbation &c. specified
tation and Action of Mails & Duties. All which Actions requiring
a special Title to found them are petitory and possessory.

In the possessory Action of Mails & Duties, the pursuer
does commonly found only upon such possession, as takes in those who
have Acknowledged them to have no right sufficient to found
Infeftment to Defend the Lands, the pursuers Title in which
Sufficient as an Action Title for Mails and Duties. To obviate which
objection, the pursuer when he Compleads that any Title not
produced to Exclude his Adversary pursuer Libels upon seven
Years peaceable and Uninterrupted possession & Virtue of a Title
Vested in himself or his predecessors or Authors immediately
before, or at least within seven of the years who cropt Mails
and Duties are Claimed, which is called the Benefit of 7 years
possession and Title. Some Point of Resemblance of Petitory
Judgment and Title some Point of Resemblance of Petitory
Judgment and Title some Point of Resemblance of Petitory
publiciana in the Civil Law. It was introduced partly as
a punishment to Negligent possessors, for not pursuing
their Interest sooner & partly from a Consideration of the
presumption of right from possession so long acquiesced in
and the General Interest of possessors, not to be put to a
Summary debate upon their Authors right, that probably
is not in their Hands, and where of they are not supposed
to know the Circumstances and Import so well as the
Author himself who therefore was formerly to have been
Called in a Reduction. But now the pursuers of Reduction
or of Reduction and Improbation are not bound to Title
the Defenders Authors tho the Defenders may Title their own
Authors or Intimate to them their Distress as they think
proper act of Sederunt 16 feb. 1723.

Many Infeftments, but all rights equivalent to
Infeftment as Courtesy, Terce &c. and Tacks Clothed with
possessi