## Sect. 1.

### Of Extraordinary Injuries, with Respect to the place where they are Committed.

Such an Extraordinary Injury is Hamsuccken, which is a Violent Entring into another mans house without licence or Contrary to the Kings peace, and the seeking and assaulting him there Skene de Verb. Signif. Voce Hamesuccken. Mackenz. not. ad Reg. Maj. lib. 4 cap. 9 n. 1. This Crime (so called from the Dutch Haim, a house, and Soucken to seek or pursue) is punished, as the Ravishing of Women Reg. Maj. lib. 4 cap. 9 n. 3. For there is no Special punishment Expressed in the laws against Hamsuccken. All Invasions upon persons living Friendly being more Dangerous than Assaults in places whose Inhabitants are supposed to be upon their guard; Hamsuccken is punished with Death and Confiscation of Moveables Because a Man at home in his own house which is his Sanctuary (l. 18 ff. de injur. Voc. l. 1 C. de praetor. & Hon. Praetur. doth be Exposed and is less guarded against Violence: and by Injuries done to him there, not only the publick peace, but the Laws of Hospitality are offended; and it is presumed, that no person would enter a neighbours house to do him an ill turn, without being possessed with Extraordinary Malice and prejudice against him.

To Infer Hamsuccken several Circumstances must Concur, as 1. A man must enter Violently another house upon an evil Design: for if he come in Upon Invitation, or if he, being occasionally there without any evil Design, do, upon some Emergent Difference, Invade the Master of the house, this is an Aggravation of the Crime, and a Betraying him under trust, but it is not Reckoned Hamsuccken 6 July 1682 Alexander Clerk of Pittencrieff and others Mackenzie Crim. part. Gil. 21 82 pr. 2. Another Requisite of this Crime is, that the Wrong be done to A person in his own house, that is where he dwells



and dwells lyes, and Rises night and day Reg. Maj. ibid. n. 1 whether the house be hired or his own property Skene de Verb. Signif. Mackenz ibid. work it is doubted. Or within the Precinct or Confines of his house Skene Annot. in d. n. 1. Jul. Clar. & fin. qu. 82. n. 91 that is in any place that properly belongs to the house, such as the porch court inner court or office houses, Mackenz ibid. Or a man Said to be at home and Secure as much Security there, as when he is within his dwelling house. The coming into a Ladies Garden, and assaulting and striking at her there with a drawn sword, was found Relevant to infer the Crime of Hamesuccken; tho the Stroke was warded off the Lady and the Actors by a Servant Interposing between her and the assaulter 23 February 1686 Thomas Crombie. It hath been doubted whether the Invading a man in his Shop is to be Accounted Hamesuccken because on the one hand, that is only called a Mans house where he uses to Rise and Ly Reg. Maj. lib. 4 cap. 9 n. 1. and on the other hand one may as well be less Secure in his Shop than in his house: and Sir G. Mackenzie thinks that Shops be not Entred much the publick Interest that Shops be not Entred Violently and persons disturbed therein, whereby both publick Commerce and private Safety suffer prejudice. In this case lawyers Distinguish thus: that Invasion in a Shop adjoining to the house, or which is a part of it, infers Hamesuccken; but Invasion of one in his Shop Separate from the house or in one of his several houses where he Resides not with his family doth not infer this Crime. One Ludged in a Common Inn being Indicted as guilty of Hamesuccken for beating the Innkeeper within his own house, and when turned out by him and his Servants, entring again and Wounding him there with a drawn sword: it was pleaded for the pannel that he could not be guilty of

Caball. Crim. Cas. 13.