

of Honour are not in commercio and cannot be alienated by Buying and Selling. When an Estate erected into a Lordship is disposed or adjudged for Debt the Title of Honour is not conveyed, but remains and follows the Blood: the such a Title may be forfeited for Treason, Stewart ibid. Answer to Durlot. Doubts lit. Titles of Honour. Because Feudal nobilitas sine nobilitate dari possunt, a Disposition of a Title of Honour doth not convey it to the Dispossee, unless the King who is the Fountain of Honour allow the same and confer it upon the other's Resignation. But albeit such a Disposition of a Title of Honour, will not avail the Person in whose Favour it was made, without his Majesty's Approbation, yet it sufficeth to denude the Disposer, till the King declare his Pleasure, who may confer the Title on whom he will. 11 July 1633 *Oliphant contra Oliphant* as by a Disposition of Ward Lands, the Vassal who disposes loses his Fee, and the Disposer gets nothing of it, but the same opens and returns to the Superior. The apparent Heir of one who had a Patent of Honour to himself, and his Heirs, may enjoy the Honour and sit in Parliament, tho he be not descended: because such Titles go simply by the Blood. And the using a Title of Honour is no habitus hereditarius or Behaviour as Heir. Stewart ibid. lit. there any Distinction betwixt a Title of Honour given by Patent, and that which is conferred as annexed to Lands, Stewart ibid. lit. Titles of Honour. Restitution of Persons forfeited by way of Grace, doth make their Blood to run in the old Channel, tho their Estates were gifted back to them as *feuda nova*.

Sect. i.

of the Nobility.

In Britain and up where else, the Term Nobility is restrained to Degree of Dignity above Knighthood they are termed *barones majores* by Way of Distinction from Knights and Gentlemen called *small Barons* tit. 102. Part 7. J. i. The Original of which Word Baron is much controverted some will have it derived from the Greek *Baros* signifying grave and weighty; others bring it from the Spanish *Baron* vir *kat* *Baron* a notable or chief Man, because Barons were the Kings Men who held their Lands of him only, and were under Vassalage to no Superior Lord; others fetch it from the French *par-hommes* or the Italian *par-hominum* *paros homines*. These great Men are called *Peers* or the Peerage, because they are *paros regni*, that is, nobilitate *paros* the gradu *imporos*. They have the Name of Nobles or the Nobility, quia *nobiles* or *notabiles*, distinguishable or remarkable. ^{for} then moving in a higher Orb or Sphere than others. They are divided into Dukes, Marquises, Earles, Viscounts and Lords.

The greatest Titles of Nobility issued out of the Camp, and were originally the bare Names of personal Offices and Charges; Noblemen being universally Generals or Leaders of Armies in Time of War, and Wardens of Marches or Governours of Provinces in Time of Peace. But afterwards Nobility was

was given as a Title of Dignity for Life, and at Length made a certain hereditary Perpetuity strengthened with Lands and Fees. Thus Duke (in Latin *dux*) anciently a General *dux* *causal* *Pellum*, is now a Title of Dignity given to Men of high Blood and great Merit. A Duke when spoke to is call'd his Grace, and when wrote to may be stiled most high potent, high born and noble, Prince. The Kings of England bestow'd of the Norman Blood, so long as they themselves were. ^{Richard 1st} *Normandy*, grac'd no man with this Title of Duke, till Edward the third created *Edward 1st* *Black Prince* his Son Duke of Cornwall, who was the first Duke since the Conquest. After which Example many hereditary Dukes were created in England, tho there be none such there at this Day. The first in Scotland that was honoured with this Character of Duke, was David eldest Son to R. Robert the third whom he created Duke of Rothesay, and made that Title hereditary to the Prince of Scotland for ever.

^{answering to the dignity of Markgrave in Germany} Marquiss (in Latin *marchio*) was anciently the peculiar Title of Warden or Governor of the Marches and Frontiers, and afterwards became a Title of Honour. A Marquiss is stiled most noble most honourable and potent Prince. Robert de Vere Earl of Oxford was the first Englishman that got the Dignity of Marquiss, when created Marquiss of Dublin by Richard the Second. For the Title of Marquiss was hitherto unknown in England. This Honour in Scotland was first instituted by R. James 6. who conferred the Title of Marquiss of Hamilton on John Son to James Duke of Chastellraut.

Earl (in Latin comes) is a Title which came from the Danes, and it is derived from the Danish word *Earl* i.e. the Elder or honourable Man. It was formerly appropriated to Governours of Counties or Shires, who thence, or because accustomed *comitatus regem*, to wait upon the King for Counsel and Advice, were called *comites* Counts; which answer to *Graves* in Germany, such as Landgrave, Margrave, Palegrave, Peingrave. Tho heretofore there was no comes or Earl who had not a Countee or Shire for his Earldom, and the Earls had *Viccomites* under them; Earls thereafter took their Titles from Towns or Places, who are in the same Degree with those who are stiled from Counties. An Earls Title is most potent and noble Lord, Erection of Lands into an Earldom with as ample Powers as were competent to any Earl in Scotland, doth not give the Earl a Right of Regality, nor his hereditary Bailie of the Earldom a Right to be heretable Bailie of Regality. 9 July 1713 *D. of Montrose contra Mearns* of Ardrincaple. Because the Erection of Lands into a *comitatus*, doth not necessarily infer any jurisdiction except what is competent to a Baron (and Earldom being only a higher Denomination of Barony) for Earls frequently have got their Earldoms created afterwards into Regalities, and many of the ancient Nobility have no Regalities; which argues, that the Erection of Lands into Earldoms and Lordships comprehends no more than the ordinary jurisdiction which Vassals holding in capite of the Crown to this Day retain. Mr de Rapin *History of Engl.* vol. 2. *disput.* on the Government