

of one's drawing Fishes within another's Property. For Fishes, even after they are bought by the Herdor, remain distinctum jus, and may be reserved like the alienate the Lands, or transfer reserving the Lands. A 015 is no relevant objection against valuing of Fish Fish, that the same is casual and uncertain. For all vicarage, Fishes are such for the most Part, and yet may be valued, yea factus retis is valuable: 5^o ff. de Tith. Fish should be allocate to the Minister as a Part of his Stipend, it behoved to be valued, otherwise there would be no clear Locality; and the Herdors of the Parish could not know how far the vicar's Stipend is satisfied, and what free Fish they have to buy. But there after 1710 Feb. 1708 inter codicum) the interlocutor aforesaid was a little qualified, and the owner of the Harbour found to have Right to value and buy the Fish Fish of all Boats landing there; except such as belong to the Titular himself and his Vassals, or Tenants and Servants.

Chap. 2.

Of moveable or personal, and immovable or heritable Property.

Things falling under Commerce, which are the Subject of Property are commonly distinguished into corporeal or sensible, and incorporeal Things.

Corporeal Things are those which fall under the Senses, which may be seen, touched and handled as Lands, Houses, Silver, Stones &c. Incorporeal Things exist only in the Mind, and owe their Nature and Being wholly to the Laws: as Obligations, Warrants, Services, Succession, and the like Right.

Corporeal Things used to be divided into Moveables and immoveables. Moveables or Goods moveable, are those which by their Nature may be moved from one Place to another, or which are separated from the Earth, whether living; or dead, and inanimate. Immoveables are such as cannot naturally be moved out of their Places: Such are the Parts and Portions of the Earth, which every one occupies. We comprehend under the Name of Immoveables, every Thing that is adherent to the Surface of the Earth, either by Nature, or by the Hand of Man, as Houses or other Buildings; altho' these Kinds of Things may be separated from the Earth and become moveable. Fruits hanging by the Root, that is, such as are not yet gathered nor fallen, but which sticks to the Tree, are Part of the Ground C. 49. ff. de rei vindic. Whatever is accessory and sticks to, other Buildings, such as any Thing that is fastened with Iron, Lead, Plaister, or any other Manner of Way, to the Intent that it may always continue so, is reputed to be immovable C. 17. pr. l. 3. ff. de empt. & vend. The Sea is reckoned immovable, notwithstanding of its ebb and flowing, that not being the Use made of it by Man.

But the Notion of moveable and immovable, is not the same in all Places: v.g. growing Trees are in Flanders accounted moveable; the everywhere else immovable, annui redditus are ~~not~~ moveable in the Province of Holland

and immovable in that of Ulrecht Jo. Vost de statut. re. ii. subsumed to Tit. ff. de rei. divis. n. 14. In France Offices are reckoned to be of the Number of Immoveables, and may be mortgaged Les Loix Avoués l. 1. Tit. 1. part. 1. Liv. 3. Tit. 1. Sect. 1. Art. 23.

Property in Scotlans is divided into moveable or personal, and immovable or heritable Rights or Things.

Moveables, or moveable and personal Rights, are they that pass by the Succession to the Owners Executors, if not disposed of by him in his Lifetime. Which are called personal, because immediate Action or Diligence for recovering them, lies against one's Person. Such are goods in specie, as Horses, Sheep, Plate, Bags of Money, personal Obligations as Tickets, Bills, Bonds bearing Annual Rent, bygone Rents of Lands, Annuities of heritable Tenors: all which fall under the Denomination of goods and year 28. December 1698 Her Majesty's Letters contra Janet Birt and Forrest her Husband, 21 February 1698 2. 5. Subd. contra E. Lord Roddall It was ordered, that in the Court of Chancery in England that Immoveable or heritable Rights are such as go to Heirs, whom they are termed heritable If these affect the Subjects thereof so as to bind the Heir, against his Heirs singular Successors, they are called real Rights, for all real Rights are heritable, but all heritable Rights are not real.

To know what is heritable and moveable, is highly necessary not only to Heirs and Executors, for discriminating their respective Interests; and to Creditors for using the proper Diligence to affect their Debtors Estates: but also to every Person, that they may may understand what to dispose of in Testament or on Deathbed, and what by Deeds inter vivos or in Legationibus.

Real Rights are divided into Heritage and Conquest: Heritage is a real Right come to one by Descent or Inheritance: Conquest (from the latin conquisitio to get) or an Estate of Purchase is a real Right purchased by himself. Conquest in Opposition to Heritage, and with regard to Heirs of Conquest, is used in a more extended Acceptation than Conquest provided in a Contract of Marriage to the Heirs or Coirns of the Marriage - vid. supra pag. 279 & 89. For it comprehends, not only that which one acquires by his own Means and Industry, but also that which is derived to him by Gift from his Parents or others, to which he would not have otherwise succeeded. Upon which Account Conquest is called feudum novum. Thus what is given by a Father to his second Son, is Conquest: because he could not otherwise have attained the same by Succession: But if a Father dispose to his eldest Son any Part of his Estate, this is not Conquest, but preceptio hereditaria: for that he was a quoque successoribus, by Law Stat. Inst. Lib. 3. Tit. 5. §. 10. pr. And a Feud returning to the Superior by Recognition, is reckoned in his Person as Heritage, and not as Conquest, Stewart answers to DuRoi. Double Tit. de successione in fundo ammissa.

Some Things are simply moveable to all Intents and Purposes: as Species of Goods (Heirship moveable excepted) v.g. household Plenishing or Furniture, called

The personal Estates, and all the personal Estates, pass to the Heirs of the Deceased, and are called personal Estates.