Chap. 2.

The several kinds of Actions.

The Roman law furnisheth us with a Multiple Division of Actions, whereof Many Relate to rights that do not obtain among us, and so are of no use in Scotland. But we have a sufficient Number of Actions for answering the designs of our Law, whereof Many Spring from the Rich fountain of the Civil law, the they have Not so Many Special Distinguishing Names as the Actions in that Law. Actions in Scotland are several ways divided, and subdivided. They are Distinguished into Civil and Criminal Actions. The latter are those by which offenders are brought to publick punishment, and treated of in the second Volume.

Civil Actions, or those whereby men pursue their Civil rights, are brought before the Court of Session, either in the first or second Instance.

Actions in the second instance, are Advocations, Suspensions and Reductions.

Actions in the first instance are either Ordinary or Extraordinary. Ordinary Actions, are those which require a solemn order and Method, and are Entred in the Long Rolls, and come in to be Called according to the Course thereof. Extraordinary Actions, are those which proceed summarly by a shorter Cut without going to the Long Roll: such as Actions of Sale of bankrupt estates, Actions at the Things Instance, Second or posterior adjudications, Actions of Count and Reckoning, Reduction of Acts, Actions of Aliment, Actions of honorum, Actions of wakening, Actions of transference, Actions for Ministers Stipends, College or Hospital rents and School masters fees, Actions against absent persons Cited for Contempt of the Lords Authority, or for Attacking their adversaries with whom they have process Depending, actions Continued against persons called Incidenter, Warrands for discussing Reasons of Advocation or Suspension on the Bill, and others, which are privileged as to the summary way of calling & discussing thereof as is afterwards taking notice of in his proper place. Actions in the first Instance are either principal or accessory.

Tit. 1.

Principal ordinary Actions in the first Instance.

Principal Ordinary Actions are Independent Actions, pursued without Regard to others.

Such Principal Actions may be Considered, either as personal, or Real, or Declaratory. We do not use these terms personal and Real Actions, in the same sense as they are taken in the Civil law. For in that Law a personal Action, called Condictio, is what Ariseth from a personal obligation: a Real Action, called Rei Vindicatio, that which flows from a Right of property against one who is Not Conveened upon any personal Account, but only as possessing what belongs to Another, that he may not hinder him to take his own. Both which kinds of Actions are justly termed personal in our law. For all Actions for Restoring Moveables to the owner, termed Actions of Recovery pro