

**COMMENTARIES ON THE RECENT
STATUTES RELATIVE TO
CONVEYANCING, BEING A
SUPPLEMENT TO TREATISE ON
FEUDAL CONVEYANCING**

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Commentaries on the Recent Statutes Relative to Conveyancing, Being a Supplement to Treatise on Feudal Conveyancing by Alexander Duff

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ALEXANDER DUFF

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STATUTES RELATIVE TO
CONVEYANCING, BEING A
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FEUDAL CONVEYANCING**

John Wilson
7 York Place

COMMENTARIES

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ON THE

RECENT STATUTES

RELATIVE TO CONVEYANCING,

NAMELY,

THE INFERTMENT ACT OF 1845, THE HERITABLE SECURITIES ACTS OF 1845 & 1847, AND THE TRANSFERENCE OF LANDS ACTS, CROWN CHARTERS ACT, AND SERVICE OF HEIRS ACT OF 1847.

BEING

A SUPPLEMENT

TO

TREATISE ON FEUDAL CONVEYANCING.

BY ALEXANDER DUFF,

WRITER TO THE SIGNET,

AUTHOR LIKEWISE OF A "TREATISE ON DEEDS CHIEFLY RELATING TO MOVEABLES."

SECOND EDITION.

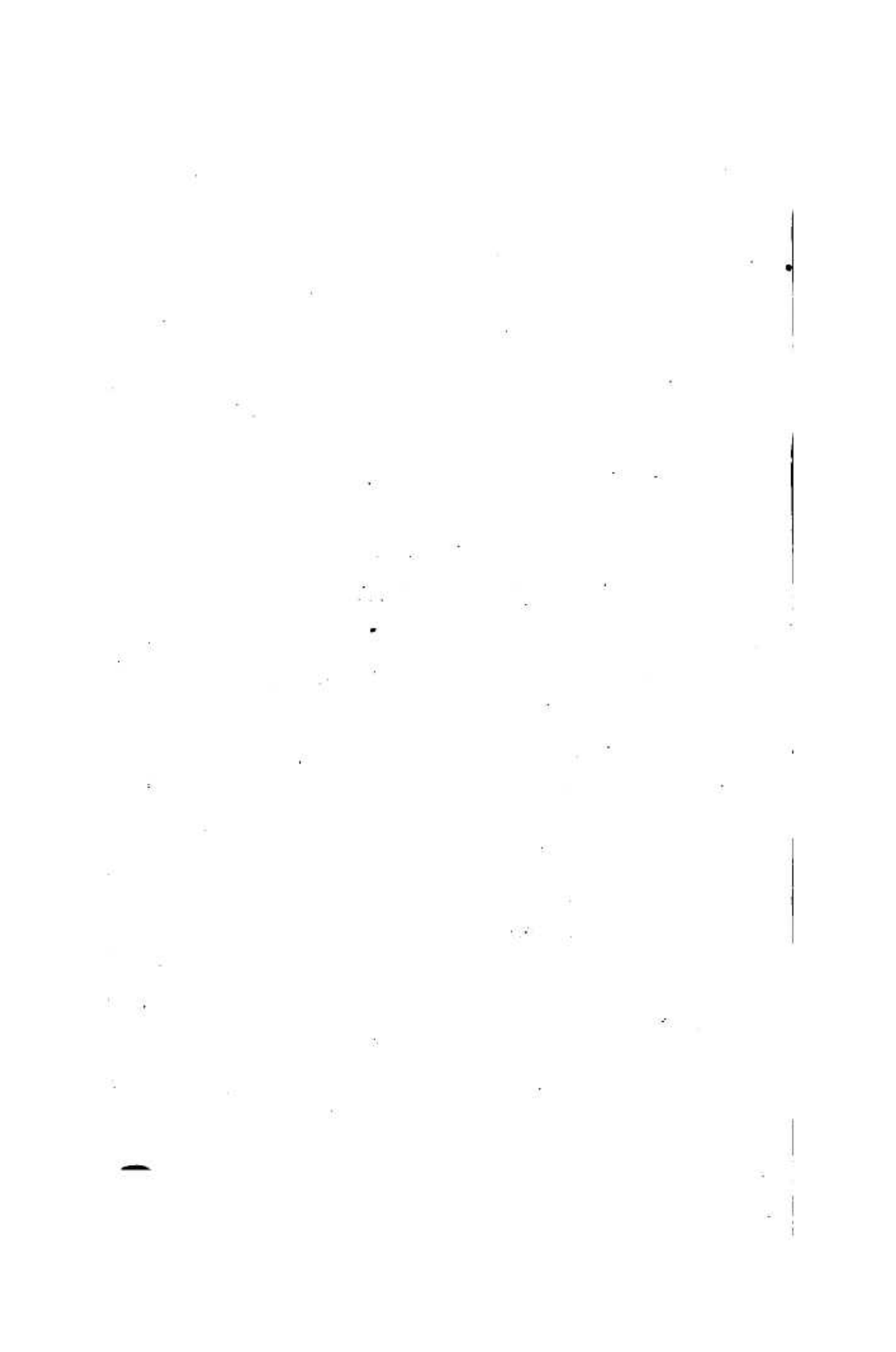
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MDCCCXLVIII.

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TO THE HONOURABLE
LORD CUNINGHAME,
ONE OF
THE SENATORS OF THE COLLEGE OF JUSTICE,
THIS WORK
IS RESPECTFULLY DEDICATED
BY
THE AUTHOR.



PREFACE TO THE FIRST EDITION.

THE changes in the law of real rights and in the forms of deeds, introduced by the recent statutes, are probably more extensive and important than all those combined which have been effected since the time of Lord Stair;—certainly than those subsequent to the statute of the 20th of George II., which gave the means of compelling superiors to grant entry to disponees.

Those changes began in 1845, with the Infertment and Heritable Securities Acts of that year, promoted by Lord Advocate M'Neill. The former, which is a perfect example of successful legislation, swept away the ancient but now useless ceremony of giving *real, actual and corporal possession* by the delivery of symbols on the ground of the lands, and much superfluous matter from the instrument of sasine; while the latter, although, perhaps, less free from criticism, dealt with heritable securities on the correct principle of recognising a distinction between them and rights of property as respects the forms of transmission.

The legislation of the present year, again, relates to subjects of so wide a class, and so eminently important, as to have required a bold as well as skilful hand to deal with them. Besides the introduction, by means of the *Service of Heirs* and *Crown Charters* Acts, of a more precise and accurate form of process in Services, and removing what was superfluous in the entry by Crown Charter and Precept, the *Transference of Lands*, the *Burgage Tenure*, and the *Heritable Securities* Acts, sanction abbreviated clauses of deeds, enact summary modes of entry, and of completing the titles of heirs, disponees, and adjudgers, and give additional powers to creditors in the sale of property, which cannot fail to be of much advantage to the country, as well as afford great facilities in the

practical details of business. The changes thus introduced by Lord Advocate Rutherford's Acts have been welcomed by all classes of the legal profession.

So great an alteration have those measures produced on the entire system of conveyancing, that every deed, instrument, and form of proceeding treated of in my work on Feudal Conveyancing, with scarcely a single exception, have been more or less affected by them. The following pages have therefore been thrown into the form of a supplement to that treatise: at the same time, if I should have in any degree attained my object of assisting the profession to apply the details of the Acts to practice, I trust that the shape which the work has thus naturally taken will be found not to affect its usefulness in the hands of those who may not have access to the Treatise.

New forms, compared with old, are experimental, not practical; and it is, therefore, with many doubts as to their accuracy that I offer to the profession the styles in the Appendix, which, although they cannot pretend to completeness, will be allowed, perhaps, some share in putting the Acts in operation. It seems, indeed, certain that it requires the united labours of many to frame a correct system of Conveyancing, and it is to be hoped that, after a certain probationary period, the new forms will find favour with the Juridical Society in a new edition of their valuable work. If any efforts of mine can assist that Society, or the Society of Writers to the Signet, in the compilation of styles, whether for the use of their own members or of the profession at large, I heartily place my forms at their service.

EDINBURGH, }
1st September 1847. }

ADVERTISEMENT
TO THE
SECOND EDITION.

THE rapid sale of a large impression has imposed on me the duty of revisal at a much earlier period than I anticipated.

It was my intention to have printed the additions and altered portions in a separate form ; but these, although not extensive, are so equally spread over the Commentaries, that it was found impracticable to carry my wish into execution.

The Appendix has been carefully revised, but not enlarged, as it seemed to me that any considerable addition to the Forms which it contains would have altered the character of the Work, which makes no pretensions to a system of Styles, or to encroach on a field so ably occupied by one of the learned bodies mentioned in my Preface.

EDINBURGH, }
15th March 1848. }