NOTES.

SINCLAIR.

This MS. Collection is contained in the same volume as Maitland’s and Colvil’s. The cases extend from 1540 to 1546. About 105 of them are supposed to be printed in Morison’s Dictionary, and 450 omitted. They are very short.

MAITLAND.

Maitland’s Collection has not been printed. The same MS. Volume in folio contains it and the Collections of Sinclair and Colvil. His reports begin with 1550, and end with 1589. About 190 of them are contained in Morison’s Dictionary, and 240 omitted.

Sir Richard Maitland of Lethington was a poet as well as a reporter; and father of Sir William Maitland, who was Secretary of State to Queen Mary. His poems shall soon be presented to the public.

BALFOUR.

The oldest of the printed Collections of Decisions is the volume of Practicks, by Sir James Balfour of Pittendriech; a work which, in MS. “continued to be used and consulted, both by students and practitioners, as the best of our law books till near a hundred years after his decease, that the Lord Stair’s Institutions were published.”—Preface, p. 8, 9.

Balfour’s Practicks were not printed until the year 1754. “The Decisions of the Court of Session make a very considerable part of the book. These had been entered in two large volumes, which are cited sometimes by the appellation of registers; but, for the most part, very briefly, tome i. or ii. with the number of the decision, the names of the parties, and the date. The style in which these Decisions are entered is both concise and perspicuous; and the ratio decidendi, for the most part, extremely plain and satisfactory.”—Preface, p. 10.

“And doth not appear clearly that there had been any Decisions here (in the Practicks) noted later than the beginning of the year 1579.”—Preface, p. 10.

The Decisions noticed by Balfour are very numerous. Nothing but the premises and judgment is given, stated in the briefest and plainest manner. The nature of the work is strictly institutional; the decisions being appealed to, as authority for the legal positions which had been deduced from them;—not reported.

A small proportion of Balfour’s Notices of Decisions were printed in Lord Kames’s Dictionary, and of course in Mr. Morison’s. The preceding Index contains references to these; and to the other notices of the same case, in other parts of the Practicks, not included in the Dictionary. There are also inserted in the Index references to Balfour’s Notices of Cases, of which Reports by prior or contemporary Reporters had found a place in the Dictionaries. The references to the other cases quoted by Balfour were thought of no use by my friends at the bar; and were therefore, after all the trouble of writing and arranging them had been overcome, omitted. They would have added very considerably to the bulk of the Index.

This work, being a curious and authentic repository of our old laws and customs, is highly valued by Scottish antiquaries, as well as lawyers. It may be purchased for about £1 11s. 6d. at present, but is getting scarce.

COLVL.

Of the Decisions observed by Alexander Colvil, Commendator of Culross, about 290 are supposed to be included in Morison’s Dictionary, and about 450 omitted. They are contained in a folio volume, along with the Reports of Sinclair and Maitland; and, like theirs, are very concise. Their dates extend from 1570 to 1584.

The lady of the Commendator of Culross, gave to the world a poetical “Dream.” Samuel Colvil, author of the Scots Hudibras, is said by Forbes, (p. 26.) to have been the second son of Lord Culross, to be sufficiently known by his exalted genius for poesy, and to have had a stock of learning and extraordinary parts that might have been improved to better purposes. His learning might have been improved, no doubt, if his parts could not, and both might have been applied to better purposes than the production of bad poetry.

HADDINGTON.

Lord Haddington’s Collection contains the Decisions from 1592 to 1624, in three volumes folio, one of which is occupied by an Index of Subjects. Two volumes of prior Decisions have been lost. About 680 of the remaining cases have been printed in Morison’s Dictionary, being about one-fourth of the whole. The rest have never been in print.

I have heard Lord Haddington’s Reports represented as models, by very high authority at the bar.

This excellent Judge and Reporter went by the name of Tam of the Cowgate, before he acquired the title of Earl of Haddington. Being appointed King’s Advocate, in conjunction with Mr. David McGill of Cranstoun-Riddell, the latter is said to have taken it so much to heart that, a few days afterwards, he died of grief.

“In an action of improbation of a writ, which the Lords were convinced was forged, but puzzled for want of a clear proof, Lord Haddington, taking up the writ in his hand, and holding it betwixt him and the light, discovered the forgery by the stamp of the paper being of a date posterior to the date of the writ. At another time, a Highland witness in a cause, who had been hard put to it by his Lordship’s interrogatories, meeting another Highlander, who came to depone in favour of the same party, advised him to beware of the man with the partridge eye.”—Forbes, Preface, p. 26, 27.
Mr. Morison, in the preface to his Dictionary, mentions "the decisions observed by Lord Kerse, in his Law Repertory; a valuable MS., which Lord Kames seems to have overlooked when compiling his Dictionary of abridged cases." Lord Kames did not overlook this Collection. It is included in the List of the MS. Collections prefixed to his Dictionary, under the name of Hope. Kerse is the title; Hope the name.

Perhaps Lord Kerse is the person whose manner of pleading is thus described by Sir George Mc'Kenzie, in his *Characters quorundam apud Scotos Advocatorum.* "Hopius mira invenzione pollebat, totque illi fundebat argumenta, ut amplificationi temperant secesset. Non orabat, sed arguebat; modo uniformi, sed sibi proprio: nam cum argumentum vel exceptionem protulisset, rationem addebat; et ubi dubia videbatur, rationis rationem." Lord Kerse's Decisions belong to the years between 1610 and 1632; at least, these are the first and last dates I recollect having observed in his Collection; which is arranged, not according to dates, but subjects. About the half of it is included in Morison's Dictionary; a greater proportion by far than would have been admitted had Mr. Morison, as usual, confined himself to the cases previously noticed by Lord Kames.

Sir Thomas Hope of Craighall, the father of Lord Kerse, and advocate to King Charles I., was the first of the king's advocates who was indulged in the privilege of pleading with his hat on. This indulgence he owed to his having two sons on the bench; Sir John, his eldest, and Sir Thomas, Lord Kerse.

**Nicolson.**

Nicolson's Decisions are arranged according to their subjects, and 690 in number. Very few of them are in Morison's Dictionary. The earliest and latest dates I have observed in the volume are 1610 and 1632.

This Nicolson is probably the eloquent advocate whose character as a pleader is given by Sir George MacKenzie in these terms: "Nicholsonus, Hopio, (probably Lord Kerse,) erat contrarius, faceto praeludio, facienda causa narratone, argumentisque paucis, at summo cum judicio selectis, strenue et eleganter causam tuebatur. Hic primus nos a syllogismorum servitute manisit, et Aristotelem De-syllogismorum servitute, et Aristotelem De-syllogismorum servitute manisit, et Aristotelem De-syllogismorum servitute, et Aristotelem De-syllogismorum servitute manisit, et Aristotelem De-

**Auchinleck.**

About 700 Decisions were reported by Auchinleck. They are arranged according to their subjects, and are included in Morison's Dictionary, with the exception of about a fourth part only. 1627 is the earliest, and 1635 the latest date, that I have observed any of them bear.

**Durie.**

Durie's Collection comprehends the Decisions from July 11, 1621, to July 16, 1642; arranged according to the order of their dates, with an index of subjects.

**Notes.**

This large Collection of Decisions lay in MS. until July, 1688, when the Lords of Session did "recommend and give warrant to Sir Alexander Gibson, one of their clerks, to cause print the saids Decisions, with an index thereto, as a book useful and profitable for the lieges."

Sir Alexander's edition was protected from piratical booksellers by an act of the Privy Council, denouncing certain penalties to be incurred, *toties quoties,* by the publisher of other editions within 19 years. A similar protection was needlessly given to several other Collections of decisions.

No less than 183 cases in Durie's Collection are printed in Morison's Supplemental Volume, in consequence of having been omitted in his Dictionary. Fourteen more have been omitted in the Supplemental Volume also. Three are printed in both works.

Durie's Collection is sold at about ten shillings.

The following strange story is told in Forbes' preface to his Journal of the Session, p. 28. "This commonly reported that some party in a considerable Action before the Session, finding that the Lord Durie could not be persuaded to think his plea good, fell upon a stratagem to prevent the influence and weight that his Lordship might have to his prejudice, by causing some strong masked men kidnap him in the links of Leith, at his diversion, on a Saturday afternoon, and transport him to some blind and obscure room in the country; where he was detained captive, without the benefit of daylight, a matter of three months, though otherwise civilly and well entertained: during which time his lady and children went in mourning for him, as dead. But after the Cause aforesaid was decided, the Lord Durie was carried back by incognitos, and dropt in the same place where he had been taken up."

**Spotiswoode.**

The earliest decisions which I have observed in Spotiswoode's Practicks, reported by the author, and not merely quoted from prior works, belong to the year 1623; and the latest, to the year 1636. His Decisions are all arranged under the subject or title to which they belong. These titles generally commence with long extracts from the Pandects, from Craig, the Scottish Acts, &c. Then follow the decisions belonging to that title, arranged, for the most part, in the order of their dates. The reports are generally very short; many of them merely mentioning the decision.
In the completeness of that part of the Index which contains Spotiswoode's cases, I have not altogether the same confidence as in the rest; having had no previous index to check it with. From the care, however, with which I went down the titles of the cases, I am certain that there can be few omissions, and almost no mistakes of any other kind.

The assistance of the preceding Index is necessary to enable a practitioner to find Spotiswoode's Decisions, either in his own volume, or in Morison's Dictionary.

It may be supposed that little of what is original and valuable in the institutional part of Spotiswoode has escaped the vigilant eyes and large Institutes of Stair and Erskine; and the Supplement to the Dictionary of Decisions, at present in preparation, will render it unnecessary to have the other parts. The most valuable part of the volume, perhaps, will therefore be, "The Memoirs of Sir Robert Spotiswoode's Life; with his Trial for an alleged crime of High Treason against the States; in the pretended Parliament at St. Andrew's, in December, 1645, and January, 1646;" which are given at great length.

Sir Robert Spotiswoode was the son of Archbishop Spotiswoode, author of the History of the Church of Scotland. Being employed by his father to recover from the Scottish priests and monks the ancient manuscripts and records of the Church which they had abstracted, and taken with them into foreign countries, when their houses, at the Reformation, were abolished; Sir Robert succeeded, in this commission, to his father's satisfaction, though with much pains and expenses; and brought home with him many of these ancient records, and particularly the famous manuscript called, The Black Book of Pasly, which he got at Rome." The valuable library, collected by the Archbishop and his son, was, unfortunately, destroyed by the mob, "at the beginning of the troubles" which took place in Scotland during Sir Robert's time.

"Sir Robert was prosecuted for not taking The solemn League and Covenant: in which process he defended himself with such arguments from reason, the practice of the Church, and the authority of the Fathers and Divines, both ancient and modern, that the party thought not fit to insist further."

A Commission to the Marquis of Montrose to be Generalissimo of all King Charles' forces, was disconcerted by Sir Robert, after being created Secretary of State. With this and other papers he was dispatched by the king to Montrose; and taking the opportunity of the Marquis' army marching to the South, to be a safeguard to him in his return, he was taken prisoner by the Covenanters, at the battle of Philiphaugh, with his sword in his hand; which he declared was not drawn until after the battle, to protect himself from some troopers in pursuit of him, until he might obtain quarter; tried at St. Andrew's, and after a long and ingenious defence, condemned and executed.

"The fate of this gentleman," remarks the writer of these Memoirs, "very much resembles that of the French lawyer, Barnaby Brisson, president of the Parliament of Paris; who was, without formal trial, hanged by those of the Holy League, for being of the king's party; and whose ominous symbol was, Nondum effugimus laeque Fortunae. On the other hand, Sir Robert Spotiswoode was put to death by the Scots Covenanters, their Covenant being the copy of the French Holy League; and his motto was, Patitur ut potuerat."—Memoirs, p. 40.

In the Memoirs, there is preserved a speech, (or, as it is there called, a discourse,) of Spotiswoode, when president, addressed to the advocates at the down-sitting of the session, which affords a curious specimen of the sort of eloquence then in fashion. Some of the misdemeanours prevalent at the bar two hundred years ago, may also be gathered from the admonitions delivered by Spotiswoode.—It seems that the advocates were much addicted to "that inimmisible malum of keeping the pieces," that there was no getting them to assemble before half an hour before ten o'clock; that there was "never an action that they could be brought to reason in, at the first calling;" that they were not free from "tediousness and idle repetitions;" and that "a most uncivil custom, to interrupt one another," was generally acquired in the outer house.

Spotiswoode's volume, being scarce, sells at about ten shillings; but it is seldom to be had at all.

GILMOUR.

Gilmour's Collection comprehends the Decisions from July, 1661, to June, 1666, arranged according to their dates, with an Index of Subjects. They are printed in the same volume with those of President Falconer.

Morison's Dictionary wants 22 of Gilmour's Reports; 19 of these are in his Supplemental volume.

See Note to President Falconer's Collection.

This reporter, who is said to have been a man of great strength of body and spirit, seems, while at the bar, to have possessed a sort of knock-me-down eloquence. "Quasi alter etiam Hercules, nodosa et nulla arte perpolita clava adversarios prostravit;" says Sir George M'Kenzie. Lest it might betheought from the above passage, that our Reporter's practice was confined to what is called club-law; the rest of Sir George's character of him shall not be withheld. "Sine ullo Juris Civilis auxilio, doctissimus, raro miraculo, dici poterat; ingenioque suo praxin Fori Scoticani juri etiam Romano aquabat. Illum jura potius poneræ, quam de jure respondere dixisses; eique appropinquabant Clientes, tanquam judici, potius quam Advocato. Quasi alter etiam Hercules, nodosa, et nulla arte perpolita clava, adversarios prostravit: sine rhetorica, eloquens; sine litteris, doctus. Opposuit ei Providentia Nisbetum, ut justitie scale in equilibrio essent." ---

NEWBYTH.

This Collection begins in 1664, and ends with 1667. It is contained in a folio volume, which also includes Gosford's Collection, neither of which have been published.

About 70 of Newbyth's Decisions are omitted in Mr. Morison's Dictionary, being nearly one-third of the total number.

DIRLETON.

Dirleton's Collection comprehends the Decisions from December 7, 1665, to June 29, 1677, arranged according to their dates, with an Index of Subjects.

Many of Dirleton's Reports are without the names of the parties. These cases are inserted in that list of the Index which contains the cases whose dates only are known.

Where the names have been discovered by means of the same case having been reported by another collector, Dirleton's report is referred to, under the names of the parties; and, in the other list, reference is made to that part of the Index where the whole Reports of the case are enumerated.

Lord Dirleton's character at the bar is thus given by Sir George M'Kenzie. "Opposuit ei (Gilmoro) Providentia, Nisbetum; qui summa doctrina consummatissimae eloquentiae causas agebat, ut Justitie scale in equilibrium essent. Nimia, tamen, arte semper utens, arte suam suspectam causas agebat; quoniam in hoc plus etiam Romano aequabat. Ilium jura potius poneræ, quam de jure respondere dixisses; eique appropinquabant Clientes, tanquam judici, potius quam Advocato. Quasi alter etiam Hercules, nodosa, et nulla arte perpolita clava, adversarios prostravit; sine rhetorica, eloquens; sine litteris, doctus. Opposuit ei Providentia Nisbetum, ut justitie scale in equilibrium essent."
Morison's Dictionary has the misfortune to want 46 of Dirleton's Reports; 43 of these omitted cases have found a place in the Supplemental Volume. Four cases more were printed in the Supplemental Volume, under the erroneous supposition that they had been omitted in the Dictionary.

Dirleton's Decisions were published in 1698, along with the celebrated "Doubts," a work "written (as Forbes tells us, p. 42.) without any order, but brushed into form and method by Sir William Hamilton of Whitelaw, a senator of the College of Justice, and Lord Justice Clerk." Both the Doubts and Decisions being highly esteemed, the volume containing them has become scarce, and sells for about £2 2s. The volumes are frequently not uniform; and most copies bear marks of the esteem in which they have been held by their possessors.

Two hundred and ten of Lord Stair's valuable Reports have been omitted in Morison's Dictionary. One hundred and eighty-one of these were printed in his Supplemental Volume; and twenty-nine are omitted in the Supplemental Volume also. Four cases were printed in that volume, under the mistaken belief that they had been omitted in the Dictionary.

James Dalrymple, who, under the title of Lord Stair, has attained, as a writer on the law of Scotland, universal and deserved celebrity, was the son of Sir James Dalrymple of Stair; and was born at Dunmorchie in Carrick, in May, 1619. "Being left fatherless when he was not full five years old, his mother, a woman of an excellent spirit, took care to have him well educated. He was taught his grammar at Mauchline, a neighbouring village; and his Greek and philosophy at the University of Glasgow, where he took the degree of Master of Arts. He came to Edinburgh in the year 1638, when capable to make observations on the affairs of the world; and there never was in Scotland a more important scene than that which he had occasion first to open his eyes on. The first employment Mr. Dalrymple betook himself to, was the war; and he soon had a company of foot in the regiment commanded by William, Earl of Glencairn, afterwards chancellor. Upon the solicitation of some of the professors in the University of Glasgow, his old acquaintance; a Martis ad musarum castra traductus fuit, (to use his own phrase;) he stood a candidate, in buff and scarlet, at a comparative trial for a chair of philosophy then vacant there; to which he was preferred with great applause, though he kept his company a considerable time after. During his stay at Glasgow, he studied hard the Greek and Latin languages, with the history and antiquities of Greece and Rome, in order to the study of the civil law."—Forbes’ Preface, p. 92, 93.

When the Prince of Orange, afterwards King William, was setting out to sail for Britain, in the year 1688, the Lord Stair asked him, some few days before his embarkation, what his true design in going to England was. The Prince answered, That he designed the glory of God and the security of the Protestant religion, then in imminent danger. Upon which the Lord Stair pulled off his wig and said, "Though I be now in the seventieth year of my age, I am willing to venture that, (meaning his head,) in such an undertaking."—Forbes, p. 37.

A more necessary parenthetical explanation can hardly be imagined.

President Falconer's Collection comprehends the Decisions from November, 1681, to December 9, 1685, arranged according to their dates, with a full Index of Subjects.

Many of those Decisions have not the names of the parties prefixed to them. The names of the defendants are only to be found from reading the case. The day on which a case was decided is not mentioned in several both of Gilmour and President Falconer’s Reports; only the month and year being given.

We are informed by the Preface to Spottiswoode’s Prac- ticks, that the editor of those two Collections of Decisions, was John Spottiswoode of that Ilk, Advocate.
Four of President Falconer's Reports are not in Morison's Dictionary. Three of these may be found in the Supplemental Volume; along with four more, that were erroneously supposed to have been omitted in the Dictionary.

The small 4to. volume which contains Gilmour's and President Falconer's Collections, is easily procured for about five shillings.

SIR P. HOME.

Of this large MS. Collection, only about 400 Decisions, or one-third of the whole, have been printed in Morison's Dictionary. Sir P. Home's cases embrace the period from 1681 to 1698; are contained in 3 volumes folio; and are generally of considerable length.

HARCARSE.

Harcarse's Collection comprehends the Decisions from 1661 to 1691, arranged according to the alphabetical order of their subjects.

"As he intended them for his own private use only, he deduced them very concisely, but at the same time accurately, and always pointing out the principles upon which they were determined."—Preface.

Harcarse's Collection is very inaccurately printed. The dates and names of the parties, in particular, are frequently erroneous. It has no index of cases. Mr. Morison printed one in his Supplemental Volume, with references to his Dictionary. That index, however, gives no reference to the pages of Harcarse's volume.

Three hundred and fifty-four of Harcarse's Reports are omitted in Morison's Dictionary. Of these, 245 are printed in the Supplemental Volume. Twelve cases are included in both Dictionary and Supplemented volume.

Harcarse's Decisions are generally to be procured without difficulty for about eight or ten shillings.

FOUNTAINHALL.

That part of Lord Fountainhall's Journal which has been printed, includes, in two large volumes, the Decisions of the Court of Session from June 6, 1678, to July 30, 1712, in the order of the dates.

These volumes were not printed until 1759. Mr. Forbes mentions having seen, in manuscript, the decisions of the Court of Session observed by his Lordship, from November, 1689, till November, 1712: adding, "but his Lordship's excessive modesty can't be prevailed on to make them public."

Fountainhall's work is not, like the others which we have had, or shall have, occasion to notice, a mere collection of Decisions. It is a record of every remarkable occurrence that took place in his time. "From his Lordship's opportunities as a Judge of the Court of Session and Justice, and a member of the Privy Council, no occurrence of any importance could escape his knowledge; and, fortunately for us, he was in the regular habit of committing them all to his journal. No conventicle could be held; no scuffle between the Covenanters and the king's troops could take place; no execution or torture of a Cameronian; or notary get his ear nailed to the iron, for malversation; but it was sure to find a place in his Lordship's record. In short, we are indebted to Lord Fountainhall for not only a large and most valuable Collection of Decisions, but also for a faithful and minute picture of the eventful times in which he lived."

During that period, fanaticism was at its height in Scotland, and made striking displays of itself. Witches were frequently apprehended and tried. Several were burnt. Some of them had their own imaginations so deranged as to believe themselves guilty of those strange freaks generally attributed to these imaginary beings. A pricker (or torturer) of witches was then a trade. Murders were so frequent, that they ceased to excite either surprise or indignation. Lord Fountainhall mentions such a person being pursued "for killing" such another, with the most apparent unconcern.

There is a valuable manuscript in the Advocates' Library, known by the title of Fountainhall's Diary, full of anecdotes characteristic of the times. A beautiful edition of this curious little work has lately been printed, with the addition of much interesting information conveyed in Notes by the Editor,—a man of whom Scotland is justly proud.

It was Lord Fountainhall's custom, (as it was that of most of the old reporters, although not to the same extent,) to write in his Journal the proceedings that took place on each occasion when a case was heard. His Reports, in consequence of this practice, must, in many instances, be traced from their beginning through a great part of the volume in which they occur. Sometimes, in these partial notices of a case, a reference is given to the date when the case was formerly before the Court, sometimes to the date when it was afterwards discussed; in a few cases to both: but frequently no reference at all is given. In Morison's Dictionary we often meet with one of these incidental notices of a case, without the other parts of the report. Any person who will take the trouble of looking over the pages of the Index, directing his attention to the cases from Fountainhall, will see that not unfrequently a part only of the report of the procedure in an action is to be found in Morison; to the exclusion, sometimes, of what should have gone before; in other instances, of what should have followed; and, sometimes, to the exclusion of both what should have gone before and what should have followed the part of the case admitted into the Dictionary. The deficiencies of the Dictionary in this respect did not escape the attentive observation of Mr. David Robertson, the valuable information in whose Reports of Appealed Cases will sometimes be brought very opportunely into the view of the practitioners of the law, by the references to his work in the preceding Index. "Some cases have occurred (observes Mr. Robertson) where it appears from the Dictionary and the books of authority, that the judgments of the Court below had been given in a certain way; whereas, in fact, such judgments were merely interlocutory, and were afterwards altered by the Court, and the latter judgments affirmed upon appeal." By "the books of authority," Mr. Robertson perhaps means the collections of decisions; the judgments reported in which, he remarks, "are often interlocutors pronounced upon separate points of a cause, the rest of which is sometimes not to be found in such collections." There is every appearance of the volumes of several of the collectors of decisions being liable to this objection. But the Dictionary is much more defective than the collections of decisions; other interlocutors belonging to the same case being, in many instances, to be found in them, besides those admitted into the Dictionary, and placed in juxtaposition. Sometimes the additional interlocutors are given by the same, and sometimes by another reporter. No small part of the utility of the preceding Index will consist in its bringing together the Indexes of all the different collections, and by that means eu-
NOTES.

DALRYMPLE.

Dalrymple’s Collection contains the decisions from June, 1688, to June 21, 1720, arranged according to the order of dates, with an index of subjects.

Of the cases which were decided during these twenty-two years, only 182 have been admitted into Dalrymple’s Collection.

This volume is not in great demand. It may often be purchased, bound, at less than the price of the binding.

Only nine of Dalrymple’s Reports have been omitted in Morison’s Dictionary; seven of which are printed in his Supplemental Volume.

FORBES.

Forbes’s Collection contains the decisions from June 8, 1705, to July 30, 1712, arranged according to their dates; with an Index Materiarum.

This Collection came out with the approbation of the Lords of Session, manifested by an Act of Sederunt.

Mr. Forbes was the first of the Reporters appointed by the Faculty. He was allowed a salary of 700 merks; which was continued after his resignation. In July, 1714, until the year 1715, to Bruce, Edgar, and David Faldoner, in succession.—Mr. Hannay’s Pamphlet, p. 19.

In the Preface to Forbes’s Collection, we are presented with a History of the Court of Session, and of the various officers and societies connected with it; including the Historical Notices of the Collectors of Decisions, from which several extracts have been given. These short histories of the persons to whom the profession of the law is so much indebted, must be in some degree interesting to all who are acquainted with their works.

Although Forbes, as a reporter, enjoyed the approbation of his contemporaries, he is not universally a favourite with the lawyers of the present day. His collection, however, is scarce, and has been called excellent by Mr. Hannay; two circumstances in favour of its reputation. When a copy can be procured, it generally sells at about sixteen shillings.

No fewer than 93 of Forbes’s Reports have been omitted in the Dictionaries of Kames and Morison. Of these 81 were printed in Morison’s Supplemental Volume, and 12 omitted even in that list of omissions. One case is in both the Dictionary and Supplemental Volume.

ROBERTSON.

Mr. Robertson’s Volume is entitled, “Reports of Cases on Appeal from Scotland, decided in the House of Peers. Volume the first, containing the period from the Union, in 1707, to the commencement of the reign of George II. By David Robertson, of the Middle Temple.”

Mr. Robertson’s Cases are printed in the order of their judgements. The judgment in the first case, was dated March 10, 1709. The last case in the Collection was decided on April 17, 1757. An index of subjects is subjoined to the Reports.

This is not merely a collection of the interlocutors of the House of Lords in Scottish appeals. In Mr. Robertson’s work are to be found reports of the proceedings in the Court of Session, in many cases not noticed by any of our collectors of decisions. The method adopted by Mr. Robertson was, to give “a statement of the circumstances involving each case, and of the proceedings leading to the
interlocutors appealed from; these interlocutors, with their dates; and, to ascertain from the Journals of the House of Lords, where this can be done, what interlocutors were appealed from, in every case, with their dates. If the case depends upon matter of argument in law or of construction, to give the heads of such argument. Where it depends upon disputed facts, it has been considered unnecessary, in most instances, to detail these disputed facts. The judgment is then given, as stated in the Journals."

"Many cases (Mr. Robertson observes) have been appealed which are not to be found among the decisions of the Court of Session hitherto published. In sundry instances, also, where the judgments of the Court of Session have been reversed in Parliament, the original decisions still remain as precedents, (and these, in some questions of much moment,) in the collections of decided cases in the Dictionary of Decisions, and in the works of the law writers of authority. The instances where such reversals are properly stated in this period are so few, as only to form exceptions to the general practice. Some cases, also, have occurred where it appears from the Dictionary and the books of authority that the judgments of the Court below had been given in a certain way; whereas, in fact, such judgments were merely interlocutory, and were afterwards altered by the Court, and the latter judgments affirmed upon appeal. In the questions here collected, there is a degree of certainty that the whole of the matter at issue is before the reader; but, in the collections of the decisions of the Court of Session during the period before-mentioned, the judgments reported are often interlocutors pronounced upon separate points of a cause, the rest of which is sometimes not to be found in such collections. In general, in the printed decisions of the Court of Session during that period, there is little certainty that the judgment reported was either the final decision in the cause, or that such judgment was not brought before a court of appeal."

It was Mrs Robertson's intention to proceed with his meritorious work; but the sale of the first volume fell far short of the expectations which its value well warranted him to form. Although the first volume was published in 1807, the impression is not yet sold. The price is twenty-three shillings in boards; which, considering the size of the volume, the smallness of the type, and of the impression, is not too much.

The whole of Mr. Robertson's cases are inserted in the Index to the Decisions, under the name of the appellant, under that of the respondent, and, in many cases, also under the capacity or character in which the appellants or respondents acted; as the trustee of some deceased person, the magistrates of a burgh, &c. Indeed the same case was done. The cases in the volume published by Mr. Bruce are all marked with crosses on the margin opposite such arguments as had any influence on the decision, (where that was discoverable;) packed in good order, and laid up in a repository in the lawyers' library. The reader is also advertised, that the Faculty of Advocates, although they alone paid the expense of Mr. Bruce's Collection, "are willing the benefit thereof be communicate to the whole nation." For that end, as it is expressed, the work was intended to be continued from year to year.

Only the decisions of the two succeeding years were reported by Mr. Bruce: the benefit of which additional reports was not communicate to the whole nation until 1772, when they were printed at the end of the third volume of the Faculty Collection. This small collection is referred to, in the Index to the Decisions, as "Bruce, vol. ii." It has an index of names: but no list of the subjects of the cases, rubric, or title, to abridge the labour of consultation. Only twelve of these cases were omitted in Morison's Dictionary. All of these, and one which was not omitted, may be found in the Supplemental Volume.

KAMES' REMARKABLE DECISIONS, VOL. I.

Lord Kames's First Collection of Decisions commences at November 22, 1716, and extends to February 27, 1729. It has an index of subjects, the cases being arranged according to their dates.

This Collection was at first undertaken with the view of its being engrossed in an edition of Lord Stair's Institutions. "Only those decisions are noticed in this volume in which some new point is established; or which, in some shape, may contribute to make the intended edition of Stair's Institutes more complete; the task of making a complete Journal of the Court of Session being entrusted to a Collector for the Faculty."—Preface.

"These reports are executed with great judgment, and contain a very faithful statement of each cause on its proper merits, rejecting all the rubbish and chaff which usually load the arguments of the counsel."—Woodhouselee's Life of Kames, vol. i. p. 43.

There are two editions of Lord Kames's first Collection of Remarkable Decisions, the first was published in 1728. It is generally found bound up with Bruce's Cases from 1714 to 1715. The other was printed in 1790. The paging of these editions is entirely different. The references, in the preceding Index to the Decisions, are to the second edition, on account of its being more frequently to be met with than the other, and uniform with the other two collections of Lord Kames. However, that the Index may answer the first edition also, the number of each case is given, as well as the page of the second edition.
The whole of the cases in this volume are printed in Morison's Dictionary.

Copies of Bruce's and Home's Decisions, as the volume is called, may be found in the shops at about six shillings.

The second edition may readily be had at fourteen shillings; or, with the three Collections of Lord Kames, uniformly printed, at £2. 2s.

EDGAR.

"Mr. Edgar was appointed Collector for the Faculty on January 7, 1734; and kept his situation till his death in 1744, although he neither published, nor even lodged in the Faculty's Library, the Decisions of more than three sessions and a half; namely, from January 21, 1724, until July 31, 1725."—Mr. Hounsay's Pamphlet, p. 19—

His Reports are printed in the order of their dates, and have an index of the titles under which each may be ranked.

Edgar's Volume, bound, sells frequently at half the price of the binding; seldom above five or six shillings.

Six of Edgar's Reports are not to be found in Morison's Dictionary; but are included in his Supplemental Volume, one only excepted.

KAMES' REMARKABLE DECISIONS, VOL. II.

Comprehends the period from February, 1730, to June, 1752. The cases are arranged according to the dates; but there is an index of subjects subjoined.

This second Collection of Remarkable Decisions observed by Mr. Home, afterwards Lord Kames, was published anonymously. A short preface mentions, that "this compilation is the performance of an advocate, who, having been employed as counsel in every one of the cases contained in the Collection, had the fairest opportunity of being well acquainted with the res gesta. To vouch for the accuracy of the facts, the session papers are appealed to, which are deposited in the Advocates' Library. And as to the arguments, which were borrowed from the bench not less frequently than from the bar, every reader will judge for himself, whether they be properly adapted to the facts stated."

"These reports (says Lord Woodhouselee) afford the strongest evidence of the great abilities and legal knowledge of their compiler. But it has been remarked, and with justice, that the patris manus is very observable; and that the author's own argument is generally stated with greater amplitude, and is more strenuously enforced, than that which opposed his side of the question. Allowing for this very natural bias, the composition is useful in practice; and affords a model of clear and perspicuous brevity of statement, which touches only the important points of a cause, and rejects all that is superfluous in the detail or argument."—Woodhouselee's Life of Kames, vol. ii. p. 70.

During the twelve years to which this volume applies, only 130 cases were reported by Lord Kames. It does not appear that his Lordship, while making his second Collection of Remarkable Decisions, was aware that Lord Elchies and Lord Kilkerran were employed in the same way. There is no mention of either, in his preface. Their Collections were not published until long after that of Lord Kames.

There are two editions of this volume. In printing the second, the paging of the first was very properly preserved. The second edition can be had without difficulty at fourteen shillings; or, with Lord Kames's other two Collections, at £2. 2s.

NOTES.

Two of the cases in this volume are omitted in Morison's Dictionary, and printed in his Supplemental Volume.

ELCHIES' DICTIONARY.

This valuable Collection of the Decisions from 1733 to 1754, was published by Mr. Morison in 1813; the existence of the MS. having been unknown until a few years before, when it was deposited in the Advocates' Library by Sir James Montgomery, Bart.

Lord Elchies' Decisions were arranged by himself in the form of a Dictionary. Mr. Morison says that he corrected some verbal inaccuracies; and made some slight changes in the order, with the view of adapting it to the settled arrangement of his own Dictionary.

The Reports in this Collection are very short. Recourse, however, may be had to the session papers relative to them, which were presented to the Faculty along with the Decisions. According to Mr. Morison, more particular details are, in many instances, to be found in the printed volume of Notes.

Elchies' Decisions are printed in such a manner as to admit of each title being placed after the same title in Morison's Dictionary. It is surprising that almost no advantage has been taken of this very useful arrangement. Hardly a single copy of the Dictionary is to be found with Elchies' Decisions interspersed through it.

At the end of many of Lord Elchies' Reports, are useful references to the pages of Morison's Dictionary, where other reports of the same cases may be found.

An useless table of contents occupies 64 pages of the volume; useless, because it gives, under the same titles that are contained in the Dictionary itself, only the same cases, in the same order.

The volume of Decisions has no index of names; but there is a kind of one at the end of the Volume of Notes, which applies equally to both volumes.

These volumes should be in the possession of every practising lawyer; Lord Elchies' Reports being numerous, concise, and in the highest esteem.

The volume of Decisions was published at £3. 3s., a price which has justly been deemed exorbitant; considering the very little trouble that the editor had, and that the MS. was not his property. The impression is not nearly sold off; so that copies may readily be procured. The Dictionary and Lord Elchies' Notes almost invariably go together as two volumes of the same work. They are generally sold at about £2. 8s., instead of £4. 14s. 6d.

The printing of this Collection is excessively inaccurate.

"Patrick Grant, of Elchies, owed his most extensive practice as a barrister to the pure force of his natural abilities. He had a head peculiarly fitted for the investigation of the most intricate points of the law; which his genius developed, as by a species of intuition; reducing every question to some great and leading principle, and thence shewing its derivation, either as a necessary corollary, or accounting for its departure from the general axiom, upon some obvious ground of exception. It was from him that Mr. Home (Lord Kames) learned that habit of logical investigation, which he found of the utmost advantage in the daily practice of his profession as a barrister, and which he carried into all his researches on the subject of law as a science. Assuming it as a fixed position, that every case is governed by some general principle, unless it be taken out of the rule by its special circumstances, the only matter is the discovery of that principle. When once that is attained, every argument ranges itself in order, as a regular corollary from the position;"
and every objection admits of an easy solution. In this
habit lay the chief talent of Elchies; and, conscious of the
great advantage which this subjection of all his stores of
the law to a few great and ruling principles gave him over
his less scientific competitors, his manner as a barrister
the law to a few great and ruling principles gave him over
the bench, impaired his dignity as a Judge: yet, in that
character, his perfect probity, and sincere regard for jus-
tice, were confessed by all."—Woodhouselee's Life of

"There can be no doubt, (remarks Mr. Morison,) that
Lord Elchies received from nature a most powerful and
vigorous understanding, which was peculiarly adapted to
legal reasoning; but his Dictionary and Notes shew, that
he had improved it by the most laborious cultivation. He
appears to have considered every case with the most minute
attention. Not satisfied with attending most diligently to
the deliberations of the Judges, he recorded them, where
they were of importance, in his Notes; and supplied, from
the information of his brethren, cases decided while he was
absent as Lord Ordinary. He afterwards arranged in his
Dictionary, in systematical order, the general principle de-
termined by the Court. A Judge or lawyer who submits
to these labours, may, no doubt, appear to those around
him to possess an intuitive knowledge of law; and the
powers which he will acquire from such patient and con-
tinued cultivation, will enable him at once to divest a case
of those circumstances which seize hold of rash and hasty
reasoners, and distract the judgment of a less vigorous and
practised mind.

"Few circumstances relative to Lord Elchies' private
life or opinions have reached the present day. He ap-
pears to have inherited the property of Elchies, which de-
scended to his son, the late Baron Grant. He was called
to the Bar in February, 1712; was promoted to the Bench
in November, 1732; and died in the year 1753."—Preface
to Elchies' Decisions.

ELCHIES' NOTES.

This volume consists of the Notes from which Lord
Elchies compiled his Dictionary of Decisions. From this
circumstance, some may conclude, that the Dictionary
contains all the materials in the Notes that his Lordship
thought worth preserving; and that any thing found in
the Notes, without having been adopted into the Diction-
ary, must be looked upon as rubbish which the author had
deliberately rejected, and should not have been printed.
Mr. Morison, however, is correct when he remarks, that
the Notes, "in many instances, contain a more particular
detail, both of the facts and of the opinions of the judges,
than appears in the Dictionary."—Preface to Elchies' De-
cisions.

The Notes are printed in the same order as the Deci-
sions; that any person having read a decision may, with-
out difficulty, find the corresponding note.

At the end of the Notes is an index of names, applicable
like to the Notes and to the Decisions. Mr. Morison seems
to have had an aversion to strictly alphabetical indexes. In
this one, the pursuers, whose names begin with the same
letter are, indeed, all placed under that letter; but the
subordinate arrangement is not alphabetical, being accord-
ing to the subject or title under which each case is rang-
ed. Thus, we have first the A's under Adjudication,
then those under Aliment, &c. so that, unless a person
knows under what title Lord Elchies or his Editor must
have placed a case, the whole of the cases ranged under
the letter with which the pursuer's name begins, must be
looked over.

This volume was published at £1. 11s. 6d., but is never
sold separately.

"In his Collection of Decisions, it appears to have been
Lord Elchies' object to record with the utmost brevity the
principle of law decided by the Court; and his great legal
powers are shown in the singular ability with which all
unnecessary circumstances are rejected, and those alone
preserved which entered materially into the decision. In
the Notes, which were intended for the instruction of his
son, his Lordship has taken a wider range. In many im-
portant causes he has preserved his own view of the case,
and those of the leading Judges who differed from him in
opinion, and the votes of the Court. The Notes also oc-
casionally contain references to the arguments maintained
by the Bar; and discussions on matters connected with the
history and antiquities of the law of Scotland, which show
great knowledge and discrimination."—Preface to Elchies'

KILKERRAN.

The Decisions recorded by Lord Kilkerran may be said
to extend from 1738 to 1752; as only a few of them be-
long to the years 1736 and 1737. They are arranged ac-
cording to their subjects.

Kilkerran's Collection has been always much valued.
The publication of Morison's Dictionary, which greatly
reduced the price of the other Collections of Decisions, did
not affect the price of Kilkerran's. It is at present much
sought after, and sells at the high price of £2. 19s. 6d. I
understand this to be chiefly owing to a mistaken idea,
that a very great proportion of Kilkerran's Reports are not
included in Mr. Morison's Dictionary. A desire to have
the Decisions of such an eminent reporter as Lord Kilker-
ran, in his own arrangement, which Lord Woodhouselee
found it necessary to adapt to that of Lord Kames, may
also induce many who have Morison's Dictionary to pur-
chase Lord Kilkerran's volume likewise. Mr. Morison al-
ways followed the arrangement of Lords Kames and Wood-
houselee, in the Folio Dictionary; not that of the Re-
porters.

Only 14 of Kilkerran's Reports were omitted in Mr.
Morison's Dictionary. Nine of these may be found in his
Supplemental Volume. Five cases are omitted in both
the Dictionary and Supplemental Volume. And one in-
cluded in both.

"Sir James Ferguson of Kilkerran, was undoubtedly
one of the ablest lawyers of his time. His knowledge was
founded on a thorough acquaintance with the Roman ju-
risprudence, imbibed from the best commentators on the
Pandects; and with the recondite learning of Craig, who
has laid open the fountains of the Scottish law, in all that
regards the system of Feudalism. Of his manner as a bar-
rister, we have no other record than the printed papers of
his composition; which evince a skilful arrangement of
his matter, a judicious selection of his ground of argument,
and a nervous brevity of expression, which admits of no
rhetorical embellishment. The probity and integrity of
his moral character entitled him to respect and veneration.
The decisions which he has recorded, during the period
when he sat as a Judge of the Supreme Court, exhibit the
clearness of comprehension and the soundest views of jurispru-
dence; and will for ever serve as a model for the most use-
ful forms of law reports."—Woodhouselee's Life of Kames,
vol. i. p. 36, 37.
CLERK HOME.

This Collection contains the Decisions from Nov. 25, 1735, to July 28, 1744, arranged according to the dates, with an index of subjects. It is not, like the others, the work of a person who observed and recorded the proceedings of the cases he reported, at the time they were in Court. The Preface informs us, that "it was with a view to supply the deficiency of a particular Collection of the Decisions, from Feb. 1728, to Nov. 1744*, that the sheets of this Collection were composed from a parcel of printed papers which occasionally came into the author's possession. The plan that he proceeded upon in executing the work, was to collect some of the important Decisions in that period, which either were not marked in the Dictionary at all, or merited to be more particularly observed than the nature of such a performance could admit of."

Clerk Home's volume contains ten cases not to be found in Morison's Dictionary. Nine of these have found their way into the Supplemental Volume. One case is omitted, and another included, in both the Dictionary and Supplemental Volume.

This Collection of Reports is not so much esteemed as any of the others that embrace the same period; and yet a second edition was found necessary in 1791. The Preface having been improperly included in the paging of the second edition, a difference of four pages throughout the book, between it and the first edition has thereby been occasioned. The number of each case is therefore referred to, in the preceding index, in addition to the page of the first edition.

DAVID FALCONER

Succeeded Mr. Edgar as collector for the Faculty; with somewhat more of ability and diligence, as Mr. Hannay observes, than either his immediate predecessor or Mr. Bruce. His first Report is dated Nov. 9, 1744, and his latest Dec. 21, 1751. This Collection is in two volumes, each of which has its own indexes of subjects and names. It is sold at about £1. 4s. and is in considerable demand, being one of the Collections generally wanted by those who have not Morison's Dictionary.

Five of David Falconer's Reports were omitted in Morison's Dictionary, and printed in his Supplemental Volume.

KAMES' SELECT DECISIONS.

This volume contains two hundred and sixty-four Decisions belonging to the period from Feb. 14, 1752, to Nov. 25, 1769; arranged according to their dates, with an index of subjects. Mr. Hannay observes, (p. 24,) "that 134 of these Select Decisions are not reported by the Faculty Collectors." During the whole of the period to which this select collection applies, Lord Kames was upon the Bench. He made it his practice to take down instantly in writing the opinions of his brethren, with what observations occurred to himself. (Preface, p. 4.)

The publication of this volume was delayed until 1779, for a reason explained in the following note:

"As it has been one of my chief objects in a long life to improve the law of my native country, I have in this Collection ventured my thoughts on particular Decisions for illustration or for correction. The extreme delicacy requisite in criticising the decisions of a supreme court, I am deeply sensible of; nor am I certain that consciousness of impartiality ought to justify me. But of one thing I am certain, that to have published this Collection recently, with my animadversions, in the face, as it were, of my brother Judges, from whom I differed, would admit no justification: It would have had the insolent air of challenging them to a paper war. I was resolved, therefore, while any of these Judges were alive, that this Collection should be kept private; and I gave orders accordingly. After waiting with self-approbation ten full years, I am now certain that my animadversions cannot be taken amiss by any person alive; and as I flatter myself that the work may be of some use to the public, I can discover no reason for denying myself the satisfaction of having it correctly published under my own inspection."—Select Decisions, p. 339.

"This Collection exhibits, like the former, a perspicuous statement of the fact and argument of each case; though betraying, too, like the former, a bias, not unnatural, to the reporter's particular opinions, and the grounds of his own judgment on the case. The work, indeed, may be considered in some respects as a review of the Decisions of the Court, during the period to which it relates."—Woodhouselee's Life of Kames, vol. ii. p. 34.

There are two editions of this volume, as well as of the other two Collections, by Lord Kames. They are printed page for page.

Two of the Select Decisions were omitted in Morison's Dictionary, and inserted in his Supplemental Volume. A much greater number had been omitted; but all of them, except these two, were printed in Appendix, part 1, along with the omitted cases belonging to the Faculty Collection.

Sets of Lord Kames's Decisions in 3 vols. uniformly printed, may readily be procured for £2. 2s. as a stock of them still remains with the publishers. The Select Decisions are sold for fourteen shillings.

THE FACULTY COLLECTION.

"Although what is called the Faculty Collection commences at 1752, the Faculty of Advocates, long before that date, had employed individuals of their number to collect the decisions worthy of preservation that occurred during their respective periods. Until 1705, the reporters had all belonged to the Bench. In that year, the Faculty bestowed a salary of 700 merks upon Mr. W. Forbes, to encourage his undertaking to keep a Journal of the Session. This was the first Collection to which the Faculty contributed, and the last that was published under the express sanction of the Court."—Vide Mr. Hannay's Pamphlet.

The office of collector for the Faculty was successively occupied by Bruce, Edgar, and David Falconer; to each of whom the salary of seven hundred merks was continued.

Mr. Bruce was appointed in 1714, and continued in office until 1723, when he was dismissed for negligence; for though nine years Collector, he had published no more than the Decisions of one year, and these insufficiently done."

"Mr. Edgar was appointed on Jan. 7, 1724, and kept

* The interval between Lord Kames' first Collection and the Collection of David Falconer. In 1757, when Clerk Home's Decisions were published, neither Kames' second Collection, Kilkerran's, nor Elchies' Decisions were in print. These Collections belong to the period which Clerk Home found void, and wished to fill up.
his situation till his death, in 1744; although he neither published, nor even lodged in the Faculty's Library, the Decisions of more than three sessions and a half, namely, from Jan. 1734, until July, 1739.

"To him Falconer succeeded, with somewhat more ability and diligence than either of the former, and continued collector until 1732."

"From the resignation of Mr. Forbes, in 1714, until that of Mr. Falconer, in 1732, there were numberless meetings of the Faculty, to regulate the manner of collecting, reporting, and publishing the Decisions; in which their conviction of the necessity for the office, and the importance and difficulties of its duties, are strangely contrasted with the utter neglect of their performance."

"The Faculty, for instance, resolve that the office is indispensable, yet its duties are left undone; they prudently determine to appoint none but upon "'probation, yet sloth and ignorance are preferred; they order that the Decisions shall be published yearly, yet suffer twenty years of arrears; they nominate committees to revise the Collection, and allot to each member his portion, yet nothing is ever done."

"Of the Decisions of thirty-nine years, namely, from 1714 to 1752, the Faculty's reporters have preserved no more than the decisions of ten years, and these but insufficiently. The rest would have been utterly lost and unknown, but for the zeal and industry of three eminent Judges, Lord Elchies, Kames, and Kilkeran; who had devoted their leisure to supply the defect, and whose Collections (with that of Clerk Home, a work undertaken from similar motives, but of less merit,) form the only true history of the decisions of that time."

"Upon the resignation of Falconer in 1759, the Faculty held a meeting for considering how the office of Collector should be supplied, at which four gentlemen made a gratuitous offer of their services, one of whom was Sir David Dalrymple."—Mr. Hannay, p. 19, 20. Their publication, containing the Decisions from February 4, 1732, to December 14, 1746, is the first of what is called The Faculty Collection."

"The Faculty Reporters are much blamed by Mr. Hannay, for omitting many cases that were worthy of being recorded. From February to July, 1753, Lord Kilkerran reported 98 Cases omitted by the Reporters for the Faculty. Lord Kames's Collection of Select Decisions contains 154 Cases not in the Faculty Collection. Two hundred and forty-five Cases are reported in the Polio Dictionary; and 39 by Mr. Robert Bell, from May, 1794, to July, 1795, "'some of them of much interest," which have been omitted by the Reporters.—Hannay, p. 24 and 25. It may be added, that very few of Mr. Bell's Cases between 1790 and 1792 are reported in the Faculty Collection."

"Another defect in our Reports," remarks Mr. Hannay, (page 3.) "is, that they want the procedure upon appeals. Since the first year of George II.'s reign, when Mr. Robertson's Reports end, we have no account that can be relied on of the procedure upon appeals; nothing beyond those occasional notes subjoined to the Decisions of the Session; and even these, but irregularly."

"The two lists of appealed cases, with the Judgments of the House of Lords, published by Mr. Morison, cannot be supposed to have been overlooked by Mr. Hannay: although they are little known, and less used, by the generality of practitioners. He must mean that they are not to be relied on. A comparison of these lists, with the occasional notes subjoined to the volume of the Faculty Collection, will not dispose any one to place much reliance upon the accuracy, far less upon the completeness of either set. Nothing relating to a proper record of the Decisions has been so much neglected as a report of the proceedings upon appeals. See the note regarding Appealed Cases, subjoined."

"By an act of the Faculty, of 1st March, 1770, the collectors are appointed to report the Decisions of the Lords Commissioners of Tithes, and also of the Court of
Justiciary, when general questions of law are determined in either of these Courts.” This duty, it seems, has been almost entirely neglected.—Hannay, p. 4.

The following character of our modern Reports is drawn by one who knows them well, whose attention has been particularly directed to the manner in which decisions should be reported, and who seems familiar with all the authorities on that important subject.

1. the suppression of many decisions of the Supreme Civil Court; the want of the procedure upon appeals; and the utter neglect of the Justiciary; our books of Reports serve no longer the end they were designed for, which was, to be a record to future times of the changes and progress of the Law.

2. But the defects of our Reports stop not here; besides these there are many, of which I will only notice a few.

3. The first, and most obvious, is the want of arrangement; and this is the more observable after the thought and labour bestowed upon this subject by several learned persons, and that a Dictionary has been compiled upon their plan. This confusion prevails throughout; following no order but time, we have no index; no connection of matter, no sort of disposition; the effect and relations of the several subjects are wholly dissipated. Again, the several parts of the same cases are often strangely jumbled; the facts of the case with the judicial procedure, the law with the argument, and all the three in the opinions attributed to the Court.

4. The want of compression is another defect in our Reports, which, indeed, is a requisite of composition whatever be the subject, but most of all required in Reports; it saves time, and enables the Judge to get at once at the case. Yet our Reporters will fill fifteen folio pages in detailing the same case, sometimes twenty, sometimes thirty, and occasionally fifty; though the examples of Elchies, Kilkerran, and Kames, might convince them that few cases occur, of what importance soever, that may not be compressed within far narrower bounds.

5. But the length of our modern Reports is seldom owing to the importance of the matter. For if the facts are to be narrated, every petty circumstance obtains a place, though foreign to the judgment as given. If a statute be founded on, the quotation runs gravely on for pages, as if the statute-book were latent as the Bible once was. If a contract or deed be the ground of the action, the Reporter copies all that the anxiety of the parties had done, though the judgment turn expressly upon some special clause, or perhaps some particular expression. If the judicial procedure in the lower courts be given, we have a tedious detail of interlocutors from Commissaries, Deans of Guild, or Water Bailies, with their notes attendant. In one instance an interlocutor with its officious note fills five folio pages, though it does not appear to have been noticed either by the Bench or the Bar.

6. Nor are our Reporters more happy in their statement of the pleadings.

7. In the place of arguments digested under articulate heads, corresponding to the propositions in law they would maintain, after the example of our best Reporters,—we have a medley of facts, circumstances, presumptions juris et hominis, law statute and common, all jumbled together.

8. In place of a style even and dignified, where the sense appears in order, brevity, and clearness, the simplest principles lie entangled and oppressed under a multitude of words; or what is worse, in the place of strict analysis, we have sentences picked out here and there without any apparent connection.

9. Nor have our Reporters followed any uniform method,” in reporting the opinions of the Judges.

If the Reporter affects to give the very words of the Judge, then we have the speech at full length. Nothing is spared: repetitions of the pleadings at the Bar, or the opinions upon the Bench; quotations for pages together from common text-books, or from the statutes at large; the Judge’s misconceptions of law or fact; how, when, and by whom these have been removed; whatever, in short, the anxiety of the Judge had introduced,—finds a place in the Record.

Again, if the Reporter speak in his own person, the judgment, learning, and language of the Bench, are leveled to the capacity of the speaker. The comprehension, strength, order, brevity, and clearness in the arguments of the judge, avail him nothing; they become narrow, weak, confused, prolix, and obscure, ere they escape from the Reporter’s pen. I would not willingly pain the feelings of any man, still less expose him to open reproach, when, perhaps, he was doing his best, and that, too, in the performance of a profitless task,—otherwise instances far too frequent might be given.

Again, our Reporters have fallen into an opposite fault, in suppressing entirely the speeches of the Judges in the most important cases, without adding a word to supply the want, or explain the judgment. Thus, in many of the important cases in the Law of Entails, that have occurred since 1815, we are told, that “the Lord Chancellor’s opinions, and those of the Judges of both Divisions, being too long for insertion, are bound up with the papers in the Advocates Library.”

I have set forth some of the principal faults in the present method of collecting and reporting Decisions. The lesser faults would fill a volume.”—Hannay, p. 5—9.

The volumes of the Faculty Collection have each an index of names; and an index of subjects, with the exception of volume VI. Two of them have, in addition, what are called Summaries of the Decisions. The names of their respective Reporters are mentioned in the title pages. A list of them down to 1820, has been printed by Mr. Halkerston, in the Supplement to his Compendium.

Several of the volumes were late in making their appearance. Volume V. (1769 to 1772) was published in 1803, being compiled by Mr. Robert Hamilton, from the papers of Alexander Tait, Clerk of Session, who, we have seen, was appointed Reporter for the Faculty in 1769. Of volume VII. (1775 to 1777,) 180 pages had been reported by Mr. Wallace, the Reporter for the period, and published soon after his death. The rest of the volume was published by Mr. Maxwell Morison, in 1810. Owing to the late publication of these volumes of the Faculty Collection, several of the early bound sets have their volumes marked in a different way from that now generally adopted, and followed in the preceding Index to the Decisions. They should be titled in the manner pointed out in the list of books referred to in the Index, which is to be found at the beginning of this volume.

In reprinting some of the earlier volumes, the pages of the new edition were not made to correspond with those of the old. That there might be no difficulty in finding a Case in either of the editions, reference has been made in the Index, to the number of each Decision, as well as to the page of the edition followed.

The volumes which have been reprinted, and the editions referred to in the Index, are mentioned in the list of books referred to.

The whole of the Cases in the Faculty Collection, up to July, 1808, excepting four, are included in Morison’s Dictionary.

Mr. Morison had discovered the omission of all these, except one,—Stevenson a. Grant, (Fac. Coll. iv. 109, No. 63) which he marked in his Index as occurring in page 2769
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of the Dictionary. The case is there indeed; but it is Lord Kames', not the Faculty Report. Stewarts a. Story, (Fac. Coll. ix. Appendix 9, No. 6.) is said in Mr. Morison's Chronological Index to the Faculty Collection, to be omitted, because it relates to criminal law. M'Dowell a. Buchanan, (Fac. Coll. ix. 458, No. 314.) is printed in the same Index to the Faculty Collection, page 46; and Oliphant a. Oliphants, (Fac. Coll. xi. 327, No. 143.) is printed on a leaf at the beginning of the Index Materialium.

Many more of the Faculty Decisions were omitted while the Dictionary was printing. But their omission being discovered before Appendix, Part I. was printed, they were included in it. As that Appendix is always dispersed through the Dictionary, no great detriment to the arrangement has resulted from the omission of these cases.

To enable those who have the Faculty Collection instead of Morison's Dictionary, to find the cases relating to any particular subject dispersed through the whole volumes, they should have Mr. Halkerston's Compendium; which is just the Indexes of the several volumes, formed into a General Index to the Collection. Indeed, that work is almost indispensable; for although the Folio Dictionary is much fuller, better arranged, and every way superior so far as it goes; it reaches no farther down than 1797, whereas Mr. Halkerston's Index extends to 1819. See the Note to Halkerston's Compendium, subjoined. The Compendium, however, by no means supersedes Lord Woodhouselee's two volumes of the Folio Dictionary. We have seen, (p. 509.) that these volumes contain much that is not in the Faculty Collection, although applicable to the same period; besides having an arrangement different from, and decidedly superior to the arrangement of the Compendium. They likewise contain several entire Collections of a date prior to the first volume of the Faculty Collection. About the utility of the first two volumes of the Folio Dictionary to those who have the Faculty Collection instead of Morison's work, there can be no doubt. See the Note to the Folio Dictionary.

Every ten years or so, an additional General Index should be collected from the indexes of the separate volumes for the period. A Synopsis of the Decisions, from November, 1808, to which Morison's Dictionary extends, to the present date, will be included in the Synopsis of the Supplement to Morison's Dictionary, presently preparing for the press.

There is subjoined to Mr. Halkerston's Compendium, or Index of Subjects, an Index of Names; constructed in such a way as to be very nearly useless on any occasion. When the date of a Case is referred to, the volume of the Faculty Collection is of course known, and the case may be found either by the index to the volume or by the date itself. When the date is neither known, nor can be guessed at within two or three years, Mr. Halkerston's Index will save the trouble of consulting a great number of volumes: but the whole of the letter with which the pursuer's name begins must be looked over; the arrangement not being any farther alphabetical, than that it exhibits, in succession, the pursuer's names begin with the same letter. The preceding Index includes a complete and strictly alphabetical index to the Faculty Collection.

A new and complete set of the Faculty Collection, up to the Division of the Court in 1808, may at present be had, bound, for about £26, in the shops; occasionally at auctions, a second-hand set may be bought a little cheaper. In some auctions at the auctions should be careful to ascertain the completeness of the set. The five complete volumes that have been published since 1808, and which extend to June, 1819, sell for £14. 17s.

The scarce volumes of the Faculty Collection, when they can be procured, generally sell at the following prices: The Decisions from 1769 to 1772 (volume V.) at about thirty shillings.

The Decisions from 1775 to 1776 (First Part of volume VII.) at about thirty-five shillings.

The Decisions from 1776 to 1777 (Second Part of volume VII.) at about thirty-two shillings.

The Decisions from 1807 to 1808 (volume XIV.) at about twenty-six shillings.

Some professional men prefer a set of the Old Reporters, the Faculty Collection, and the Folio Dictionary, to Mr. Morison's Dictionary. Such a set is, in reality, at present, nearly as complete as Morison's Dictionary, with all its Appendixes and Supplements. For, if the latter work contains the Decisions of Gosford, Haddington, and other Collections, which have not been separately printed, at full length, instead of the abridgments of the Folio Dictionary; it wants, as we have seen, entirely, many of the Decisions of Harcourt, Stair, and the other Reporters whose Collections are in print. And, with regard to any supposed superiority of Mr. Morison's work, owing to its arrangement; those who have the Folio Dictionary have the advantage of precisely the same arrangement, up to 1797, and the cases after that date are presented in an arranged form by Mr. Halkerston's Compendium, which includes the Decisions of ten years not in Morison's Dictionary. The price forms the greatest difference between the two sets of Decisions. Morison's Dictionary, including Appendix First, and his Supplemental Volume, may be had, bound, for 25s. 10s. But the Faculty Collection, up to 1797, and the other printed Collections included in Morison's Dictionary, with the Folio Dictionary, and Halkerston's Compendium,—would cost only about £38. 10s. Morison's Dictionary therefore is not entitled to the preference, at present. Nor will it, when completed, by means of the Supplement at present in preparation, acquire a very decided superiority to a set of the separate collections. A more particular estimate of the advantages and disadvantages attending each of these two sets of Decisions, may be seen in a subsequent Note.

BELL'S CASES, (In Royal 8vo.) from 1790 to 1792.

We are indebted to the late Mr. Robert Bell, Advocate, Lecturer on Conveyancing, for two volumes of important Decisions. The first of these contains the Decisions from November, 1780, to July, 1792, arranged according to their subjects.

The most distinguishing feature of Mr. Bell's reports is his giving the substance of the observations made by the Judges on the bench, attaching the name of each Judge to his remarks; at that time not a common practice. Mr. Bell, as we are informed in his preface, had "been long thoroughly convinced that the plan on which most of our decisions have been collected, and more particularly those of a later period, is incapable of attaining the end in view." "It is what passes on the Bench; it is the opinion of the Judges," says Mr. Bell, "which ought to be preserved in our reports. It is not what is to be found in printed papers, that can give a just notion of the principle of a decision."—Preface, p. 3.

As none of these reports are included in Morison's Dictionary, and very few of the same cases are reported in the Faculty Collection, this volume should be procured by all who would have a complete collection of the reported decisions. It is sold for fifteen shillings in boards.
BELL'S CASES, (In folio.) in 1791 and 1795.

The decisions in this volume, which commence with May 14, 1794, and end with July 8, 1795, were collected by appointment of the Clerks to the Signet; who, when they instituted a course of Lectures upon Conveyancing, "joined with that institution a Collection of Decisions directed more particularly to that subject." They are arranged according to their dates, and have no index of subjects: but the question discussed in each case is generally found stated distinctly in the first line of the report.

What is called a "private collection, in which the names, as well as the opinions, of the Judges were to have been given," had been in the contemplation of the Clerks, or Writers to the Signet. But the plan of this private collection was disapproved by the Judges, and Mr. Bell's folio volume appeared in its stead. The Collection of Decisions instituted by the Writers to the Signet, went no farther.

This volume, consisting of only seventy-six cases altogether, contains thirty-nine, some of them of much interest (Hamilton, p. 25.) omitted by the Reporters for the Faculty. None of Mr. Bell's reports are included in Morison's Dictionary. This collection, therefore, as well as the other, should find a place in the libraries of professional men. It may be had at the moderate price of fifteen shillings in boards.

THE FOLIO DICTIONARY.

This invaluable work, to those who have not the enlargement of it published by Mr. Morison, consists of three different dictionaries, arranged after the same manner; or rather, of one dictionary, and two supplements to it. Lord Kames' Dictionary includes abridgments of the decisions before 1741, with the exception of the Collections of Edgar, Clerk Home, Kilkerran, David Falconer, and his own two Collections of Remarkable Decisions. Lord Woodhouselee's Supplement contains those collections and the Faculty Decisions up to 1797, abridged; with the addition of many cases reported by himself. Mr. M'Grugar's Supplement contains the cases omitted by Lord Woodhouselee. The information regarding each of these three works is thrown into a separate note.

The publication of Morison's Dictionary brought down the price of the Folio Dictionary to a trifle; but its intrinsic value, to those who have not Morison's Dictionary, is as great as ever. Perhaps there is no book of the same utility so much undervalued as the Folio Dictionary. It is almost entirely disregarded, not only by those who have the larger Dictionary, but by those also who have it not.

To students of law, the Folio Dictionary is a most useful book. It may, in a great measure, supply the want of the various Collections of Decisions to those whose circumstances will not admit of their purchasing them. Besides, by its ingenious construction, it is adapted to study no less than to reference. "The examination of various cases which turn upon one common ratio decidendi, familiarises the mind, in all points of doubt, to recur immediately to a principle. And this habit of reference will not only be found of the utmost benefit when any abstruse or intricate question is the subject of discussion: but it tends, from the agreeable and vigorous exercise it affords to the intellectual powers, to give to jurisprudence that dignity as a science which it merits; and to render the study of the law, instead of a servile drudgery, the manly employment of a philosophic mind."—Woodhouselee's Life of Kames, vol. i. p. 111.

To practitioners, who cannot be expected to content themselves with abridgments of Decisions, the principal utility of the Folio Dictionary consists in its furnishing a key to the numerous Collections of Decisions preceding its date, or with which it was contemporary.

It forms a most useful synopsis to the older collections, and to a great part of the Faculty Decisions, besides containing many original reports. It saves the practitioner (who has not Morison) the trouble of looking over the Indexes of Subjects of all the printed Collections, and enables him to find the substance of the decisions still in MS. which apply to the matter he is engaged in. To those who have not complete sets of Decisions, the Folio Dictionary may in a great measure supply the place of those in which their library is deficient.

A new copy of the Folio Dictionary sells at about £3. 10s. bound. Second-hand copies, without M'Grugar's Supplement, may occasionally be procured for about £2. 2s.

LORD KAMES' DICTIONARY.

This is a work "of great and general benefit to the profession of the Scottish law. It has tended more than any other of the writings of our lawyers to mature the system of our jurisprudence; and has had the inestimable advantage, in a country where the statute law lies within a very narrow compass, and is therefore often inapplicable to the diversity of cases, of reducing the practice of the Court to a degree of uniformity which supplies the defect of positive statute, and gives to the common law that just weight which it can derive only from the stability and certainty of its decisions."—Woodhouselee's Life of Kames, vol. i. p. 114.

The idea of abridging and arranging, under proper titles, the numerous reports that were in print, and the still more numerous ones that were in manuscript, did not, it would seem, originate with Lord Kames. A note at the end of the preface to his Dictionary informs us, that he began the Dictionary "upon an abridgment done by another hand." In the same note, Lord Kames announces the degree of responsibility for the accuracy of his Dictionary which he allowed to attach to himself. "As the author," says he, "I began this work upon an abridgment done by another hand, he will not take it upon him to answer for the exactness of the abridgment in every single instance: though he has been careful to consult the originals, wherever he had suspicion of error; and this gives him hopes the errors will not be frequent. Yet, after all, he is aware, that 'tis next to impossible, through the course of a long work, to carry on that strict application and attention one may have at certain times. The mind must often flag, and, in such intervals, is too apt to take things upon trust. The author has had occasion to discover this weakness in himself too frequently to be ignorant of it, and of its consequences. In a word, as to faults that may be discovered in the distribution, he acknowledges they must be charged wholly upon himself; but as to errors committed in abridging the decisions, they may be partly owing to another."

The great utility of Lord Kames' Dictionary is evident. It is wonderful that one man could produce a work of such excellence; considering the extent of the materials from which it was compiled, and that many of the Collections of Decisions, now in print, were in MS. only, when the Dictionary was printed. That either the arrangement or the execution of such a work, should, in the first edition, be altogether perfect, or be within many degrees of the same perfection which a careful revival could have bestowed upon a second edition, will not be supposed.
Its chief deficiency, according to common report, arises from his Lordship's having been led, by "the structure of his own mind," occasionally to prefer an ingenious, to a useful, arrangement; not recollecting that men of business are not always ingenious men, and that those who are, may, in the hurry of business, prefer a book of reference in which they can find at once what they want, without being compelled to exercise their ingenuity. His Lordship is said to have not unfrequently contended himself with placing a case under one head, when there were others under which it was as likely to be sought for as under the one chosen. Several of the titles in the Dictionary, it has been observed, are so nearly allied, that a great number of cases must be common to both, and the principal distinction between them is, that each may include some cases which cannot, with the same propriety, be referred to the other; while other titles, such as Competent, Competition, Clause, Bankrupt, &c. are of too extensive an application. Professional men have been heard to remark, that it might have been better to have thrown the nearly synonymous or cognate titles into one, putting a reference under the rejected one to the other. Or an abridgment of each case which seemed to demand a place under several titles, might, if short, have been placed under each of them; and, if long, have been placed under the title to which it appeared most properly to belong; a very concise statement of the import of the decision, in so far as it related to the other titles, being placed under each of them. This has been done in a great many instances; in so many as to entitle the author to the gratitude of the profession. If it had been done to a still greater extent, the size of the book would have been increased; but its utility, even to men of genius, and extensive knowledge of law, would have been increased in at least a similar proportion; and the Index Materialum, which it is necessary to consult at present, might have been dispensed with. The Dictionary itself would have been a great index of all the points of law illustrated by all the decisions; in which, by turning up any title connected with the object of his pursuit, a lawyer would have been sure of finding abridgments of the decision in point, or a reference to some other title to which they more properly belonged. There are few cases which it might not be advantageous to notice, in a work where facility of reference is the grand object, under several titles. The rule should be, to put a notice of each case under every head where it could be supposed that a professional man or student, not familiarised to the arrangement of the Dictionary, nor gifted with the faculty of seizing with precision upon those more distinguishing features of a case which mark its connection with a particular title, and therefore likely enough to consult some title only remotely connected with his case,—might chance first to look for it. An Index, Synopsis, Compendium, or Dictionary, in which a professional man of moderate capacity, and little experience, may perhaps find it necessary to consult half a dozen titles, and still be far from certain that there are not as many more under which a valuable part of the information he is in search of, may be very useful; but such a complete work as has been contrasted with it, would be invaluable.

According to Lord Woodhouselee, the Dictionary of Lord Kames has, along with the useful purpose of "simply exhibiting the whole train of the judgments of the Court in a regular and connected series, and in an abridged form, without that prolix detail of fact and argument which loads the original reports,—a still higher aim. The plan of the compilation is scientific, and affords a strong proof of the ingenuity of its author, and his habit of conducting all his researches according to systematic arrangement, and a philosophical reference to general principles." The higher aim was, "to furnish instruction in the law as a science, and to "familiarise the mind in all points of doubt, to recur immediately to a principle." To attain that important object, and render the dictionary a book of study, as well as reference, some portion of its utility to ordinary practitioners, has, Lord Woodhouselee latterly admitted, been sacrificed. "I will take upon me to affirm," (says his Lordship, in the Preface to his own Dictionary,) "that the more attention is paid to the method and arrangement of the Dictionary of Decisions, the more it will be admired and approved: and that distribution which, to the careless observer, may not seem the most natural and obvious, will soon appear to be the result of much genius and penetration; and, to him who wishes to study law by its principles, the only method of arranging cases which could afford improvement in the science." Such was Lord Woodhouselee's opinion of the method and arrangement of the Dictionary, about the year 1770, when he published his first Supplement. Upon the occasion of his publishing a Second Supplement, incorporating the former, in 1797, no farther remark upon Lord Kames's Dictionary was made by his Lordship; but, in 1810, when he published the Life of Lord Kames, with criticisms upon his works, Lord Woodhouselee, although he retained his admiration, had lost some part of his approbation, of the ingenious arrangement of the Dictionary. "From the very circumstance of the scientific arrangement of this work," observes his Lordship, "it was to be expected that the order of the cases should not, in every instance, appear the most natural and obvious to the class of ordinary practitioners; who consult the Dictionary of Decisions only as a magazine of precedents, and whose turn of mind is seldom fitted to develop a systematic analysis. Nor, indeed, can it well be denied, that the ingenuity of the plan, while it recommends the work the more to the man of science, and the intelligent student of jurisprudence, does, in some degree, impair its more general utility."

Many practitioners of the law have been heard to complain of the number of titles in Morison's Dictionary, (the arrangement of which is copied from the Dictionary of Lord Kames,) which they had to consult before they found the decision applicable to their own case; and declare that they sometimes stumbled at last upon what they wanted where they least expected it. In all probability, these gentlemen were wrong; and the cases found with so much difficulty were just where they should have been; for the opinions of men whose attention had not been particularly directed to the arrangement of decisions, and whose turn of mind, perhaps, was not "fitted to develop a systematic analysis," cannot be put in competition with the judgment of the compilers of the Dictionaries. But these useful works would have been more useful, if they had contained notices of the import of the decisions only found after a long search, under each of the heads which occurred to these gentlemen, before the one which happened to contain the decisions relating to the point of law of which they were anxious to find illustrations.

At the time when Lord Kames published his Dictionary, (1741) he was forty-five years of age, and had been seventeen years at the bar. A very large number of decisions have been omitted in
the Dictionary. The number of omitted cases belonging to collections that were in print when the Dictionary was compiled, shows that proper attention was not paid to accuracy in this respect. Under the note to Morison's Dictionary may be found Lists of the Decisions omitted in its work. Most of these were omitted in consequence of having been passed, without notice, by Lord Kames; whose Dictionary Mr. Morison contented himself with following. The omissions from Fountainhall and Spotswood are particularly numerous; amounting, in the one, to above a third, and, in the other, to a half of the collection. So many cases of seemingly equal importance with those abridged in the Dictionary, can scarcely be supposed to have been omitted by accident. Possibly Lord Kames did not examine the completeness, in point of number, of the abridgments by another hand which he adopted.

The Dictionary has, at the beginning, a table of its several titles, with their divisions; and, at the end, a very useful Index of Subjects, referring to the titles under which they are treated.

No index of the names of the cases was given: the Dictionary itself being considered by his Lordship merely as an index by which the decisions might "more easily come at than formerly;" and not as a book to be consulted to find the particulars, or even the substance, of a case referred to in the course of reading or practice. The want of an alphabetical index of names, however, becomes a serious defect, when the Dictionary is used as a substitute for the older collections of decisions, instead of a synopsis of them. It is also felt by those who, not having Morison's Dictionary, wish to see Lord Kames's account of Cases in Kerse, Haddington, Gosford, and other MS. Collections referred to by the institutional writers as authorities for rules of law which they have admitted into their institutes. There is an index to Lord Kames's Dictionary in MS. in the Advocates' Library, said to have been the work of Mr. Morison's clerk, which, from its small size, I cannot believe to be complete. In the preceding Index, I have, for the benefit of those who have not Morison's Dictionary, inserted opposite most of the cases taken from MSS. a reference to Lord Kames's Dictionary, where a report of the same case is not to be found in any of the printed collections.

I would have taken the additional trouble of making a complete Index to Lord Kames's Dictionary, and included it among the many other indexes incorporated in the preceding compilation; had there been a probability of a certain number of copies of an index to be sold at £2. 15s. bound, for the sake of making accessible the contents of two volumes which are seldom sold at more than one-half of that sum. The Supplements of Lord Woodhouselee and Mr. M'Grugar, have each an index.

The memory of a man, who, with a relish for literary enjoyment, and talents sufficient to insure him the applause of his contemporaries in several more agreeable kinds of composition, undertook and accomplished a task, so appalling in its extent, and forbidding in its nature, as the Dictionary of Decisions, must ever be held in grateful respect by the legal profession. His is the nature, as the Dictionary of Decisions, must ever be held as an index by which the decisions might "more easily come at than formerly;" and not as a book to be consulted to find the particulars, or even the substance, of a case referred to in the course of reading or practice. The want of an alphabetical index of names, however, becomes a serious defect, when the Dictionary is used as a substitute for the older collections of decisions, instead of a synopsis of them. It is also felt by those who, not having Morison's Dictionary, wish to see Lord Kames's account of Cases in Kerse, Haddington, Gosford, and other MS. Collections referred to by the institutional writers as authorities for rules of law which they have admitted into their institutes. There is an index to Lord Kames's Dictionary in MS. in the Advocates' Library, said to have been the work of Mr. Morison's clerk, which, from its small size, I cannot believe to be complete. In the preceding Index, I have, for the benefit of those who have not Morison's Dictionary, inserted opposite most of the cases taken from MSS. a reference to Lord Kames's Dictionary, where a report of the same case is not to be found in any of the printed collections.

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We are indebted to Lord Woodhouselee for "Memoirs of the Life and Writings of Lord Kames," in two vols. 4to. with a supplement: "containing sketches of the progress of literature and general improvement in Scotland during the greater part of the eighteenth century." Much interesting information regarding the state of the Scottish bar during Lord Kames's era, and regarding the many eminent men with whom his Lordship was on terms of intimacy, is also to be found in these volumes. Among Lord Kames's friends and correspondents were, Baxter, Samuel Clarke, Colonel Forrester, Hamilton of Bangour, David Hume, Dr. Robertson, Dr. Franklin, Dr. Blair, &c.

The following passage from Lord Woodhouselee's work is selected, for the encouragement of those young lawyers who are allowed more leisure by the agents than they find either profitable or agreeable.

"It is a natural consequence, that when many men of eminent talents engross the practice of the Courts, the progress of a novice must be extremely slow; however great his abilities, his industry, or his ambition. " In the first years of Mr. Home's attendance at the bar, he found abundant leisure to store his mind with miscellaneous learning, as well as to increase his knowledge of the law. His first appearances may have given evidence of his talents as an ingenious reasoner; but as he never possessed those shining powers of oratory which have frequently raised into notice, and brought at once into high employment, young men who were much his inferiors in solid abilities, it was not till after the publication of his first work on the law, that we find him enjoying even a moderate share of practice as a barrister." vol. i. p. 43.—At the date of that publication, Mr. Home had attained the mature age of thirty-two.

"One peculiarity extremely worthy of notice, (we perceive from his law papers,) attended Mr. Home's mode of reply; which was the fair concession and abandonment of all the weaker points of his cause. Yielding these at once to his antagonist, and before the concession was demanded, he gained the manifold advantage of creating the most favourable impression of his own candour, and a persuasion of the strength of his cause; while, with admirable good policy, he frustrated all attack on those weak parts which would have furnished matter of triumph to his opponents, and prejudiced his more solid ground of support or defence. A most estimable quality this, in a lawyer; but rare as it should seem, in proportion to its value."—Life of Kames, vol. i. p. 45, 46.

Kames's Dictionary sells alone at about £1. 10s. bound: along with Lord Woodhouselee's Dictionary, at about £2. 15s. bound: with the farther addition of M'Grugar's Supplement, at about fifteen shillings more.

There is a small edition of Lord Kames's Dictionary, which was published in 1774, in 5 vols. 1mo. including the Decisions to that date. The first edition, it seems, then sold "at an exorbitant price." We are told, by the anonymous editor, that he "diligently compared the former abridgment with the Decisions at large; a circumstance which enabled him to correct many inaccuracies in it, and to supply omissions which appeared to him of importance. Its general scheme and order he has followed." When he met with Decisions of which the matter suited neither profitable nor agreeable.
had been appeals, he has been careful to subjoin the judgments of the House of Lords.—Preface.

I have not chanced to meet, in the course of a very cursory examination of the contents of this edition, any variation between it and the prior one, with the exception of the additional cases down to 1774. A revival of Lord Kames's abridgments is too laborious a task to admit of the accomplishment of it being readily believed. This edition is seldom seen, and sells for a trifle when it appears.

LORD WOODHOUSELEE'S DICTIONARY.

A Supplement of two additional volumes was, in the year 1797, added to Lord Kame's Dictionary of Decisions by Lord Woodhouselee, at that time at the bar. "This task was committed to me," says Lord Woodhouselee, "by Lord Kames himself, and carried on under his own eye."—Life of Kames, vol. 1, pp. 115.

"The authorities from which this work was compiled are the session papers; and the printed Collections of decisions by Edgar, Clerk Home, Lord Kil Kerran, David Falconer; Lord Kames's Remarkable and Select Decisions, and those collected by the Faculty of Advocates; also the Manuscript Collections both of Judges and of Lawyers."—Preface. The plan of the two former volumes was adhered to in the continuation as nearly as possible.

"I may be censured, perhaps," observes Lord Woodhouselee, "for being too diffuse in my cases, when they are contrasted with the perspicuous brevity which distinguishes the former volumes. But, let it be considered, that to record the judgments of the Court during so extensive a space as 200 years, required, of necessity, the greatest conciseness." Conciseness, in a work designed to lead to the Decisions at length, not to supersede reference to them, is surely a most essential requisite.

This work has a list of the titles, with their divisions, at the beginning; an index, chiefly of matters not specified in the titles and divisions, at the end; and an index of names, in exact alphabetical order, as far as regards the pursuers.

A prior supplement, contained in a single volume, which had been published about twenty years before, was incorporated in these two volumes.

Lord Woodhouselee's Dictionary is held in the highest esteem. It is seldom sold without Lord Kames's. The two Dictionaries may be had for about £2, which is a trifle, compared to their value, to those who have not Mr. Morison's more comprehensive work. Copies of Lord Woodhouselee's Dictionary, on large paper, may occasionally be purchased as low as £1. 1s., and ordinary copies at 1s.

M'GRUGAR'S SUPPLEMENT TO LORD WOODHOUSELEE'S DICTIONARY.

The Cases which Lord Woodhouselee omitted, or was supposed to have omitted, were printed by Mr. M'Grugar, arranged in the same manner as the dictionaries, with the addition of a number of very useful references from one title to another. No additional Reports by Mr. M'Grugar himself are contained in his Supplement; nor did he, as has been sometimes supposed, extend the date of the Folio Dictionary beyond the period embraced by Lord Woodhouselee's Supplement.

Mr. Morison very properly availed himself of Mr. M'Grugar's references and arrangement, which is said to be good. A summary of such of the more remarkable Decisions of the Court of Justiciary as are to be met with in the printed Collections, is, we are given to understand, included in this Supplement. These cases were not admitted into Mr. Morison's Dictionary.

Mr. M'Grugar's valuable addition to the Folio Dictionary, may be purchased for about fifteen shillings. It should be divided, and each half bound with the corresponding half of Lord Woodhouselee's Dictionary.

MORISON'S DICTIONARY.

A considerable time before the publication of Mr. Morison's Dictionary, the Collections of Stair, Fountainhall, Kilkerran, and, indeed, of most of the reporters; from the increased numbers employed in the profession of the law, had become scarce, and sold at extravagant prices. The demand for new editions of them suggested to Mr. Morison the idea of reprinting the whole in a uniform manner, and in the order in which they were arranged in the Folio Dictionary.

This was a large undertaking. One or two Encyclopedias, considerably smaller than those which have since been published, had found publishers sufficiently wealthy and adventurous to allow them to emerge; but the proposal of a work, in twenty-one thick volumes in 4to, the sale of which was to be limited to a profession, and to Scotland, was enough to astound the most enterprising bookseller. Before Mr. Morison's work was projected, one man had given a presage of that happy combination of sagacity in the discovery, and enterprise in the employment of the diffused literary talent within his reach, which have since drawn to our city immense sums from the wealthy South, in exchange for the productions of Scottish genius. But Mr. Morison's confidence in the immediate success of his work was such, that he did not apply to any bookseller to share with him the expenditure and risk of the large work which he undertook to produce. Bold as the undertaking was, considered as a mercantile speculation, the task of editing such a voluminous book as a Dictionary of the whole decisions, was by far the most formidable part of it. Mr. Morison's courage and perseverance are entitled to the highest praise. By the publication of his Dictionary he certainly rendered an essential service to the profession, which might have in vain been looked for from another.

Apprehensions that such a large book might not be completed, contributed to delay its sale at first; but, as the work advanced, the number of subscribers increased. The first volume appeared in 1801; and the others in rapid succession, until 1807, when the alphabetical series of titles in the Dictionary was completed.

The Dictionary contains the Decisions up to July, 1808, when the Court separated into two Divisions.

The cases which were published in the Faculty Collection, during the progress of the Dictionary through the press, were printed in a separate volume, called Appendix, Part I.

Each volume was accompanied by a Synopsis, or arranged abridgments of the Decisions contained in it; and an Index of the Pursuers and Defenders, and of the Defenders and Pursuers.

In 1815 was published, under the name of Supplemental Volume, the cases in all the Collections, except those in MS. and the printed ones of Fountainhall and Spottiswoode which had been omitted in the Dictionary; with Indexes

NOTES.
of the cases in these Collections, and references to the page of the Dictionary.

The Supplemental Volume was accompanied by a thin volume, containing an Index Materiarum, or List of Subjects, with reference to the pages of the Dictionary in which cases relating to them are disposed; and a General Index of the Pursuers and Defenders of the cases in the Dictionary, Appendix I. and in Elchies' Collection.

The Collection of Decisions observed by Lord Elchies were, in 1813, printed by Mr. Morison, as Appendix II. Branch I. of his Dictionary.

Notices of Appeals are often, but not always, subjoined to the Reports in the Dictionary. But an Abstract of the Judgments in Appealed Cases, whether reported or not, from 1708 to 1773, was printed in the Supplemental Volume. Another list, extending to July, 1814, accompanied the Index Materiarum.

Appendix II. Branch II. which was intended to contain cases either omitted, or of which abridgments only were included in the Dictionary, has not been published.

A Synoptical Continuation of the Dictionary, containing Abridgments of the Cases from 1808 to 1812; and three parts of a farther continuation to 1816, appeared in succession.

These are all the parts of which Mr. Morison's large work consists. Notes relating to each are subjoined.

The Dictionary.

By the Dictionary, is here meant, the alphabetical series of titles, under which the decisions are ranked. This part of the work is now always bound in nineteen volumes, although published in thirty-eight.

The title page professes to give, "The Decisions of the Court of Session, from its Institution to the present time, digested under proper heads, in the form of a Dictionary; in which all the decisions in manuscript in the library of the Faculty of Advocates are published, for the first time, and those formerly printed are corrected; with Additions in Notes, by William Maxwell Morison, Esq. Advocate."

Such a large work could not be expected to be free from either errors of system, or of execution. Mr. Morison did much; but the promises made by the title-page were not entirely fulfilled. The extent of the deficiency, in some respects, will be exactly shown; the deficiency, in other respects, can, at present, only be made the subject of conjecture.

Omitted Cases.

In the first place, all the decisions are not included in the Dictionary. The number of cases, of a date prior to 1808, not to be found in the Dictionary may be learned from the following list. It is necessary to premise that no blame can attach to Mr. Morison for the exclusion of the Decisions of Balfour; for the want of those of Lord Elchies and Mr. Bell; nor, perhaps, for admitting only those decisions in the MS. Collections, which had been selected by Lord Kames.

There are Omitted, of Decisions Reported by

<table>
<thead>
<tr>
<th>Author</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dunie</td>
<td>197</td>
</tr>
<tr>
<td>Spotiswoode</td>
<td>300</td>
</tr>
<tr>
<td>Gilmour</td>
<td>22</td>
</tr>
<tr>
<td>Dirleton</td>
<td>46</td>
</tr>
</tbody>
</table>

Carry over, 565

Carry over 3210

The Reporters for the Faculty, 4

Other Decisions, of a Date prior to 1808, not in the Dictionary; for the omission of which Mr. Morison is not responsible.

Robertson's Reports of Appealed Cases, 137
Bell's Cases, from 1790 to 1792, 80
Bell's Cases, in 1794 and 1795, 76

Total, number of cases, before 1808, in print, but not in Morison's Dictionary, 3097

With regard to the cases that were printed by Mr. Morison from the MSS. in the Advocates' Library, having had no Indexes to make to them, I have had no opportunity of ascertaining the exact number omitted, or purposely excluded, by Lord Kames and Mr. Morison. An approximation to the true number omitted in each of the MS. Collections has been given in the relative Notes. I shall here give an abstract of the probable omissions:

Of 525 Decisions reported by Sinclair, there are supposed to be omitted, 490
Of 360 by Maitland, 240
Of 670 by Colvil, 450
Of 2720 by Haddington, 2040
Of 400 by Kerse, 200
Of 620 by Nicolson, 550
Of 700 by Auchinleck, 200
Of 520 by Newbyth, 70
Of 1000 by Gosford, 240
Of 1200 by Sir P. Home, 800

Brought forward, - 565
Stair, - 210
President Falconer, - 4
Hardcastle, - 354
Fountainhall, - 1500
Dalrymple, - 9
Forbes, - 93
Bruce, - 26
Kames, (Remarkable Decisions, vol. i.), - 0
Edgar, - 6
Kames, (Remarkable Decisions, vol. ii.), - 2
Clerk Home, - 10
Kilkerran, - 14
David Falconer, - 5
Kames, (Select Decisions,) - 2

Total number of cases, in printed and accessible Collections, omitted by Mr. Morison, 2804
Brought forward, . 5210
Of Cases by Fountainhall, * unknown.
Of Cases by Forbes, . none.

Number of MS. Cases omitted, 5210
Number of printed cases in the preceding list, . . . . 3097
To which may be added, the Cases in Balfour’s Practicks not included in the Dictionary, supposed to be about 1700

Total number of omitted cases, 10007

If the above statement be correct, and I am sure that the part of it which relates to the printed Collections is very nearly so, no fewer than 9800 of the Decisions that were in print, and perfectly accessible to Mr. Morison, are not included in the Dictionary. From the nature of the Reports in Balfour’s work, it was unnecessary, perhaps, to include any of them. See Note to the Supplemental Volume, subjoined. Lord Elchies’ decisions are not included in the second of the above lists, because they were printed in such a way as to admit of their being dispersed through the Dictionary under their proper titles; and therefore cannot be regarded as omitted. So very few copies of the Dictionary, however, are enriched by the interspersions of Elchies’ Decisions, that these valuable additions to it might almost have been included in the second list of omissions; especially as they are not included in the Synopsis. It is possible that Mr. Morison was not permitted by Mr. Bell to include his Reports; but he might have included abridgments of them.

What share of the blame due to such extensive omissions Mr. Morison was entitled to transfer to Lord Kames, every one must judge for himself. His Lordship had certainly omitted, in his Dictionary, by far the greater part, although not the whole, of the cases omitted in Mr. Morison’s. But when Mr. Morison undertook such a large and expensive work as a new edition of the whole Collections of Decisions, in the form of a Dictionary, which was entirely to supersede the old editions, he should have trusted to the accuracy of no one, however eminent, in a matter in which it was not improbable that that person might have committed at least a few mistakes, and might possibly, as has proved the case, have made a great many.

It would have been sufficient excuse for the exclusion of most of the MS. Collections, if Mr. Morison had declared it to be no part of his plan to admit them. The preface to the Dictionary enumerates the MS. Collections, intimating that they were to be printed in the Dictionary, without mention of any reserve. But Mr. Morison was not aware, having printed only the first volume of his Dictionary, that Lord Kames had only referred to a small proportion of the Decisions in the older collections; and as he meant to print at length all that his predecessor had referred to, he, in good faith, promised to include in his Dictionary the whole Decisions of the Court. He had almost completed the Dictionary before he discovered that, by following Lord Kames without any examination of the completeness of his Lordship’s work, a number of the decisions contained in the printed collections had been omitted.

Eight hundred and nineteen of the cases belonging to the printed Collections were afterwards printed in a Supplemental volume. These were, consequently, rendered accessible when referred to by the institutional writers. But the utility of Morison’s Dictionary consists in its presenting the decisions, arranged under the titles to which they particularly relate; with occasional notices of them under titles with which they are less intimately connected. Printing the cases omitted in their proper places, therefore, unless they should be arranged according to their subjects, or included in the Synopsis, could not supply their want in the Dictionary. The cases printed in the Supplemental Volume are not so arranged, nor are they noticed in the Synopsis. They are printed according to the sequence of their dates. All that a practitioner, in search of cases bearing upon a certain point, has to facilitate his progress through the volume, are, the title under which each case should have been ranged, printed on the margin; and an alphabetical list of these titles, each followed by a list of the cases belonging to it, with references to the parts of the Supplemental Volume where the practitioner may have opportunities, by reading the decisions themselves, of ascertaining whether any of the cases, all in different parts of the volume, to which the list of titles has directed him, can be enlisted in the service of his client.

Corrections.

Mr. Morison’s title page, after professing to give all the Decisions of the Court of Session, mentions, that “those formerly printed are corrected.” The Preface also observes, that “it would be improper to reprint the books containing the more ancient printed decisions, such as the Collections of the Lords Durie, Stair, Dirleton, and Fountainhall, in the state in which they have hitherto appeared; for, besides being without arrangement of subject, they are in many instances very inaccurately copied from the MS. As far as I have been able to judge, the inaccuracies in the printing of the Collections alluded to, are almost entirely confined to mere typographical errors, which throw no obscurity over the import of the Decisions. These errors, indeed, are far too frequent in several of the Collections; and as they occur principally in the printed parts, must have given considerable trouble to Lord Kames, and, in some instances, prevented his bringing together the names of all the Reporters of the same case, where their arrangements were different. Recourse may have been often had to the MSS., although I have not observed the effects of it. If Mr. Morison had regularly revised the printing of his Dictionary with the original manuscripts of the printed Collections, some omissions would have been discovered and exposed; errors in the dates and names of the cases would have been corrected; and these corrections, making a discrepancy between the Dictionary and the printed Collections, would have been observed in the comparison which I made, in every instance, of the name and dates in the Dictionary with those in the volumes of the Reporters. Discrepancies, indeed, have been found in abundance, especially in the dates; but they were, with no exception that I recollect, the consequence of errors in the Dictionary, occasioned by the inaccuracy of Mr. Morison’s transcribers or printers. The case is otherwise with the Decisions which Mr. Morison had to print from the MSS. in the Advocates’ Library. Many errors in names and dates to be found in the Folio Dictionary:

* Fountainhall’s MS. is not in the Advocates’ Library at present.
were corrected by Mr. Morison. Where the two Dictionaries disagreed, I consulted the MSS. The typographical blunders, in both, were found about equally numerous. Occasionally, in dates, both Dictionaries were wrong.

Additions.

The title page adds, that the Decisions are accompanied by "additions in notes." The additions are not so numerous as might have been expected from a person who had such a large work as the Dictionary going on, which it was very much his interest to render as complete as possible; and upon which, the addition of a moderate number of those decisions worthy of, at least, a short notice, which were, during the progress of the Dictionary, allowed by the reporters for the faculty to sink into oblivion,—would have conferred a considerable real, and a very high nominal, value. There are about four or five original notes in each volume, and perhaps as many original reports in the whole work.

Arrangement.

In the arrangement of the cases in his Dictionary, Mr. Morison has implicitly followed that of Lords Kames and Woodhouselee in their Dictionaries of Abridgments. He has given at full length what they have abridged: In every other respect, his Dictionary is just a new edition of Kames' Dictionary, with Woodhouselee's and M'Grugar's Supplements, and the Faculty Decisions up to 1808, incorporated; or rather, a new edition of those works, with the cases in each belonging to the same title or section, following each other in chronological succession; for there is no attempt at more minute classification. Several eminent lawyers of the present day have been heard to observe, that Lord Kames' arrangement is not unexceptionable. Under the note to that work (p. 513.) will be found the remarks of his successor, Lord Woodhouselee, upon it. Perhaps it was right for Mr. Morison to alter or reject nothing that Lord Kames and his successors had done; but there would have been no danger in an attempt to extend the usefulness of the Dictionary, by inserting notices of each case that bears upon various points, under each of them, where Lord Kames had omitted to do so, with references to the page where the case at full length might be found. All the abridgments and references of Lords Kames, Woodhouselee, and Mr. M'Grugar, were retained by Mr. Morison. But the daily complaints with Lord Kames' Dictionary, in which works there are many contemporary decisions*; and having the Faculty Collection after 1797, the date to which Lord Woodhouselee's Dictionary extends, to arrange; to have pursued the plan of Lord Kames, the length of this subordinate arrangement, (if arrangement it really be,) would have required very great attention to the contents of Lord Kames' cases, and of each report to be inserted among them, before the places which the additional cases should occupy could be assigned them. Whereas, by making the cases in the titles or sections follow each other in the order of their dates, all the difficulty vanished.

Marginal Abridgments.

The marginal abridgments of the more early Decisions were taken from Lord Kames' Dictionary, and the Sup-

* Lord Woodhouselee's Dictionary contains many decisions of a date prior to 1741, the date of Lord Kames' Dictionary; and Mr. M'Grugar's Supplement consists entirely of decisions belonging to the period embraced by Lord Woodhouselee's Dictionary. — See the Notes to these works.
plements of Lord Woodhouselee and Mr. Mc'Grugar, when the abridgments in these works happened to be short: the others were devised by Mr. Morison himself. It has not been observed that he copied the Indexes of subjects belonging to the different Collections, and distributed them as marginal abridgments through the Dictionary. Those made by Mr. Morison are said to be not altogether trust-worthy. He is said to have, in some instances, mistaken the principle which led to a decision; in others, to have omitted noting on the margin important points decided, in addition to what he represented as the import of the decision; and, in some instances, to have been so far mistaken as to state as decided the reverse of what was actually the judgment of the Court. I have the authority of an advocate, who examined a great number of Mr. Morison's marginal abridgments, for stating that there is very little foundation for the unfavourable opinion that is currently entertained of them. The important word not, has, it seems, been omitted by the printers, in a few instances: that, and other typographical errors, have been unjustly charged against Mr. Morison, as evincing a want of skill in abridging. The same advocate assures me, that Mr. Morison's abridgments are remarkably well executed. The name of the gentleman alluded to, if I might print it, would go far to vindicate the character of Mr. Morison's abridgments.

If there really are many errors in the marginal abridgments, they are much to be regretted. Practitioners in glancing over a Title in the Dictionary, seldom read more than the margin; and if it does not convey accurate ideas of the contents of the Decisions, important cases may be passed over. Indeed, a Dictionary of Decisions must lose nearly the whole value arising from its form, if reliance cannot be placed upon its margin.

It is to be regretted, that Mr. Morison did not, while making the abridgments for the margin of his Dictionary, think of other titles under which abridgments might be useful, besides the title chosen by Lord Kames. These additional notices of a Case could only have been included in the Dictionary if they happened to fall under a Title not already printed. But the others could have been preserved; and, after the completion of the Dictionary, printed in their proper place in a Synopsis; adding greatly to its utility.

References.

In Mr. Morison's pages, frequent references to other parts of the Dictionary occur. These are principally introduced below abridgments of Reports previously printed at full length, in the pages referred to.

When two Reports of a Case which required to be noticed under two Titles of the Dictionary, were found, Mr. Morison sometimes printed only one under the first title, which he came to; reserving the other report for the second title, and referring to it in this manner: "See Durie's Report of this Case, under Personal and Transmissible." This would have been a very proper arrangement, if the place of the second title could have been referred to; but when that title happens to be divided into many sections, much time is spent in searching through these subdivisions: and it is generally spent in vain; for we very seldom find the report inserted under the title for which it was reserved. The instances in which a report, which is said to be in a posterior part of the Dictionary is really to be found there, are so few, that it is almost needless to undergo the trouble of searching through several sections. If the title under which it is said to be included is not subdivided, the Report will be found, or ascertained to be omitted, upon looking at the place which, from its date, it ought to fill.

A number of references to Appendix, under very short Reports copied from the Folio Dictionary, which occur in Mr. Morison's work, have occasioned many ineffectual searches to practitioners not acquainted with the history of the latter. These references may be safely disregarded. The additional information reserved for the Appendix, has not been published. See Note to Appendix II. subjoined.

APPENDIX I.

Under this title, Mr. Morison published some Decisions belonging to Lord Kames' Select Collections; the Faculty Decisions from 1776 to 1777, which were not published until after the Dictionary had been finished; the Cases in the Faculty Collection, which had been omitted in the Dictionary; and the Cases reported by the Faculty Collectors during the progress of the Dictionary through the press. These are all printed under their proper titles, in such a way as that the volume may be taken down, and each Title placed at the end of the corresponding Title in the Dictionary.

The Cases in Appendix I. are not included in the Synopsis. A Table of Contents accompanies the volume: but it is of no use; being merely a list of the titles in the Appendix; each followed by the names of the same cases only as are found under the same title in the Appendix, arranged in the same order.

This Appendix is an indispensable part of the Dictionary. Some copies of the Dictionary want it; others have it bound separately; which, although the most convenient way just now, on account of the cases contained in it not being included in the Synopsis, and therefore requiring a separate consultation, will not be such a useful arrangement when the Supplement to the Dictionary is published. The Synopsis to the Supplement is to include all the Decisions not referred to in Mr. Morison's Synopsis; and among others the Cases printed in Appendix I.

That part of this Appendix, including TEINDS, and the subsequent titles, was printed after the rest, and is sometimes found wanting; especially in those copies that were early issued by Mr. Morison. Although this part contains only 44 leaves, I have known the want of it make a difference of more than £2 on the price of a copy of the Dictionary. No old copy should be purchased at a sale, without its having been found to contain this part of Appendix I.

At the end of Appendix I. there should be found a List of the Cases in the Faculty Collection up to 1808, in the order of their dates, with references to the pages of the Dictionary where the cases may be found. This list is very useful, when a practitioner's recollection of the date of a case which he wishes to find in the Dictionary, is more accurate than his recollection of the pursuer's name. It should be bound in the Supplemental Volume, immediately after the other Index to the Faculty Collection; or rather substituted for the latter, which is of no use.
The Synopsis is no more than a list of the abridgments placed on the margin of the cases that were thought long enough to make a marginal abridgment of use, with the addition of similar abridgments of the short cases which have no marginal note. They are arranged in the same order as in the Dictionary. The Synopsis is, therefore, rather a convenient than a very important part of the work; its sole advantage being, that several titles may be consulted without the trouble of taking down perhaps as many volumes. Unfortunately the cases in Appendix I, which is necessary to complete the Dictionary up to July, 1808, are not noticed in the Synopsis. To have included them, the Synopsis must have been delayed until the printing of Appendix I, instead of being partially printed with each volume of the Dictionary.

The Synopsis, if properly constructed, might have afforded Mr. Morison an opportunity of almost entirely retrieving the error he fell into when, with a natural but mistaken reliance upon the correctness of the Folio Dictionary, he began to print without any previous arrangement of his materials, farther than was effected by interspersing with the Folio Dictionary and the Decisions referred to in it, the Cases after 1797, the date to which the Folio Dictionary extends.

The Synopsis ought to have been the very last part his work. Not a sheet of it should have been printed until the Dictionary was ascertained to contain every decision up to 1806, either in its proper place or in an Appendix. The Synopsis might have contained, if this obviously proper arrangement had been followed, not only the substance of the numerous decisions omitted in their proper place, but as many additional notices of each case, under various titles, as might have occurred to the editor while reading the proofs. Abridgments of three thousand cases not contained in the Dictionary, but in print either before or at its completion, might have been entered in their proper places, if the Synopsis had been printed after the Dictionary and its Appendices were finished, instead of being distributed piecemeal with the several volumes of the Dictionary. The omission of even 3000 cases would not materially have injured the Dictionary, had the Synopsis contained abridgments of these cases in proper order. It matters little how defective soever the arrangement of the Decisions be, or whether they be arranged at all, provided we have a complete and well-arranged Synopsis. Several of the most eminent advocates at the bar have given it as their opinion that there was no occasion for Mr. Morison's doing more than reprinting the old decisions, as they stood in the volumes of their respective reporters, without any classification; reprinting, at the same time, the Folio Dictionary, and incorporating with Lord Kames's part of it the Supplements of Lord Woodhouselee and Mr. McGrigor, and abridgments of the decisions printed after the date to which the latter works extend. By means of this enlarged edition of the Folio Dictionary, the import of the cases relating to any subject might have been brought into view; and such of them as it might have been thought necessary to read at full length, could have been found without difficulty by references to the volumes of the Reporters.

Having no better opportunity, I beg leave to mention, in this place, a work which I have long wished to see in print; and which has been proposed to several of my acquaintances at the bar, whose abilities and diligence qualified them for the undertaking. The work alluded to partakes of the nature of a synopsis, but would not supersede one. It is an index of subjects, consisting of a great number of leading words or titles, subdivided as much as possible; each subdivision, expressing with the greatest brevity, not the import of the decisions ranged under it, but the subject discussed in them.

Such an index might, by the number of its leading words, be an excellent guide to the different titles of a synopsis, where not merely the names of the cases relating to the subject to be investigated might be found, as in the index itself, but abridgments of them. The defects of Lord Kames's arrangement might all be supplied by the same compilation. At present, it is well known, that a practitioner has to look for, and often finds, cases equally applicable to a particular subject, under different titles in the Dictionaries of Decisions; and that, to derive much benefit from these works, it is necessary to have a complete acquaintance with their structure, and a constant recollection of their different titles. A comprehensive index of leading words, properly subdivided, with references from one part of it to another, would lay before practitioners the names of all the decisions having any connection with a particular point, with references to the synopses where the import of each of them could be found, and to the pages of the reporter's volume, and Morison's Dictionary, where the reports could be seen at full length. The plan of the index of subjects of which a description has been attempted, was suggested to the compiler of these Notes by an advocate well acquainted with the Dictionaries of Decisions, and the construction of the indexes to the English reports. This gentleman had the kindness to draw up a specimen of the index which he recommended. Without seeing that specimen, it is doubtful whether a proper idea of the proposed work can be entertained. It is at the service of any young lawyer who is ambitious of attaining the rank in his profession, to which rose Lord Kames, and is willing to attain it by the same means.

The Synopsis has been always bound in two volumes along with the nineteen indexes belonging to the nineteen volumes of the Dictionary. But it should be bound in two volumes without these indexes; the first volume containing, at the beginning, the Index Materiarum, or list of leading words; which, being partly of the nature of the index of subjects mentioned above, affords great assistance to those not perfectly familiar with the arrangement of the synopsis, in finding the titles which may contain the decisions bearing upon a certain point. The Index Materiarum, from its being in a separate volume, not in the possession of many who have the Dictionary, has been much less generally used than could have been expected, considering its obvious utility. It can most conveniently be used, when bound along with the Synopsis.

The Indexes, which have hitherto been bound together, with part of the Synopsis, should be placed at the end of the volumes to which they belong, where they may occasionally be useful. The preceding Index may supply the place which these indexes used to occupy, if the expense of binding it separately, be thought to counterbalance the convenience of having the Synopsis and it in separate volumes.

Copies of the Synopsis are not to be procured without the Dictionary. Many country practitioners have expressed a desire to obtain the Synopsis separately, as a substitute for the Dictionary itself: not aware that the Folio Dictionary contains very nearly the whole of the Synopsis, in the same arrangement; and that the abridgments of the former are much more full, and therefore more to be depended on, than the short notices of the Synopsis. A very
NOTES.

great proportion of the abridgments of the Synopsis were the work of Mr. Morison. These cannot be supposed to possess the same authority as the more particular statement of the Folio Dictionary.

SUPPLEMENTAL VOLUME.

This volume contains,

1. Observations concerning the Institution and Acts of Sederunt of the Court of Session, taken from a MS. in the handwriting of Lord Elchies.

2. The Preface to Forbes' Collection of Decisions, which contains a History of the Court of Session.

3. Lord Kames' Prefaces to his Collections of Decisions, and the Preface to his Dictionary.

4. Alphabetical Indexes of the Cases in the Collections of
   Durie, Gilmour, Dirlton, Stair,
   Forbes, Bruce, Edgar, Kames,
   President Falconer, Kilkerran, Clerk Home,
   Dalrymple, David Falconer,

and the several volumes of the Faculty Collection, up to July, 1808;—with references to the pages of the Dictionary where the cases in these indexes may be found.

5. Those decisions belonging to the Collections above enumerated, which had been omitted in the Dictionary; with the exceptions that shall be afterwards specified.

6. Abstract taken from the Journals of the House of Lords, of the cases which have been decided upon Appeal since the Union, brought down to 1773.

The Indexes in this volume were, in the absence of a General Index, such as the preceding one, a most valuable accompaniment to the Dictionary. Without them, indeed, it was barely possible to find a case referred to by our institutional writers, by knowing something of its subject, and happening to guess successfully at the title under which it ranked in the Dictionary. But they are far inferior to a good general index; for in the latter a case is not only sure to be found at once, but, if it is reported by several collectors, under the same names, the whole reports are brought under the consulter's view. In consulting the other indexes, you must know the date of the case you seek, then consider who reported cases at that date, and consult the indexes applicable to their Collections, one after the other. Besides, there is not a complete set of these indexes. There are none to the Collections of Fountainhall and Spotiswoode. Fountainhall's Collection is the largest of the whole; and Spotiswoode's having no index at all, an index to it in the Supplemental Volume would have been doubly useful.

In the Preface to this volume, Mr. Morison explained the reason why he had printed no index or table of the cases in Fountainhall, Spotiswoode, and Balfour. "It was," says he, "because those books must themselves always find a place in the library of a lawyer; since Lord Fountainhall's work is a repository of many very curious particulars relative to Scotland, besides Decisions of the Court of Session; and the other two treatises are institutions." A more powerful reason might have been given for every lawyer's procuring Fountainhall's Collection:—that it contains a very great number of cases (seven out of twenty) which are not to be found in the Dictionary. Spotiswoode's work is indeed institutional; but it contains not merely references to decisions in support of what he lays down as law, but complete reports of decisions, which deserved an index as much as a place in the Dictionary, and which cannot be found without one. Harcarse's Decisions are arranged under titles alphabetically following each other; and yet an index was made to his Collection. Balfour's work, being purely institutional, and only citing decisions as authorities, not reporting them, did not require an index. Indeed, there appears to be no more reason for admitting into the Dictionary the very small part of Balfour's Practicks that Lord Kames selected, than including selections from Stair, Bankton, or Erskine. Each of these writers, in their Institutes, refer to cases which they had themselves observed. But as their works are searched for authorities, as regularly as the Collections of Decisions, it was unnecessary to include in the Dictionary any of these notices of cases, in either Balfour or the others, more than the other passages of their Institutes. Many of the cases in the Dictionary, marked as reported by Balfour, were decided long before his day, and were found by him in the old MS. Collection in two vols. which is mentioned in Mr. Goodall's Preface to the Practicks.

The decisions printed in the Supplemental Volume, not being arranged according to their subjects, cannot be consulted with much prospect of advantage. See page 517.

Mr. Morison's method of making up his lists of omitted cases is said to have been the following. When a case was printed from any of the volumes of Decisions, he drew his pen twice through the report. Upon arriving at the end of the Folio Dictionary, the arrangement of which he followed; many cases were found in the volumes which had been printed from, not scored through, as having been included in the Dictionary. These were printed in the Supplemental Volume, in the same order in which they occurred in the volumes of their reporters. Then indexes, or tables, as they are called, were constructed, containing the cases belonging to each collection, in alphabetical order; with references to the page of the Dictionary attached to the cases which had been included in it; and references to the page of that part of the Supplemental Volume allotted to each reporter, attached to those which had been omitted in the Dictionary, and printed in that volume.

In making up the lists of omitted cases, a few mistakes were made. 1st, Several reports had been printed in the Dictionary, without having been scored in their original volumes. These were, of course, printed a second time, in the Supplemental Volume. There are thirty-one reports printed in the Supplemental Volume, on account of their having been supposed to be omitted, but which had really been included in the Dictionary. 2dly, A considerable number of reports, which had been omitted in the Dictionary, were
either erroneously scored out in their respective volumes, as if they had been printed, or the circumstance of their wanting the scores was not adverted to in printing the lists of omitted cases. When the indexes, or tables, containing the references to the pages of the Dictionary, and of the Supplemental Volume, came to be printed; it could not fail to be discovered that several unfortunate cases had been a second time excluded. How to dispose of these, was rather a puzzling question. Mr. Morison took the best method that could have been devised. He postponed printing them; announcing opposite each, in the tables, that it would be included under a certain title of Appendix II. Reserving these twice omitted cases for another Appendix or Supplement, which was, independently of these recruits, to have been embodied, (See Note to Appendix II.) was certainly preferable to adopting the mortifying expedient of printing a number of omissions from a collection of omissions.

The following list will show the number of cases belonging to each reporter, printed in the Supplemental Volume: the number printed in both the Supplemental Volume and the Dictionary; and the number omitted in both the Dictionary and Supplemental Volume.

<table>
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<th>REPORTER.</th>
<th>Number printed in the Supplemental Volume</th>
<th>Number in both Supplemental Volume and Dictionary</th>
<th>Number omitted in both Supplemental Volume and Dictionary</th>
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<td>Durie</td>
<td>186</td>
<td>3</td>
<td>14</td>
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<tr>
<td>Spotiswoode</td>
<td>about</td>
<td>—</td>
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<td>Gilmour</td>
<td>19</td>
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<td>Dirleton</td>
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<td>President Falconer,</td>
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<td>Harcarse</td>
<td>237</td>
<td>12</td>
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<td>about</td>
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<tr>
<td>David Falconer,</td>
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<td>2</td>
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<tr>
<td>Total</td>
<td>850</td>
<td>31</td>
<td>1985</td>
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The Abstract of the Judgments of the House of Lords in Appeals, published in the Supplemental Volume, shall be noticed in a note devoted to Appealed Cases.

The Indexes in the Supplemental Volume can be of little use to those who have the preceding General Index; and the decisions will all included in the Supplement presently in preparation, properly arranged; so that the only parts of the volume that will retain any value are the Prefaces of Kames, &c. and the Abstract of the Judgments in Appeals. This last part is never sold with the volume at present, being either lost sight of or out of print.

The Supplemental Volume was published at £4.14s. 6d.; a price which, although it seems very high, is moderate in comparison with the price of Elchies' Decisions, and some later law publications, if regard is to be had to the labour of the editor, and the expense of printing, where there are figures; and not merely to the bulk of the volume.

Constructing an Index to Harcarse's Collection, and filling in the references to the page of his Dictionary opposite the Cases in that index, and the indexes to the other Collections, must have cost Mr. Morison very considerable labour.

It is surprising that, notwithstanding the almost absolute indispensability of these Indexes to enable practitioners to find in the Dictionary cases taken from the older collections of decisions, very few of the possessors of the Dictionary cared to have the Supplemental Volume. Some of them do not know that such a volume is to be had; and others who know that there is a volume bearing that name, know nothing of its contents. It sells very slowly, at £2. 2s. instead of £4. 14s. 6d.; and cannot now be expected to rise in price.

INDEX MATERIARUM.

"The Index Materiaurwm," according to Mr. Morison, "contains a great number of leading words, and brings under one view all the subdivisions of the titles in the Dictionary." Although it is calculated to give great assistance to conjectures as to the title of the Dictionary where cases relating to any particular point of law may be found, it has been very little used. It should be in the hands of all the possessors of the Dictionary, and bound at the beginning of the Synopsis.—See Note to the Synopsis, p. 520.

GENERAL INDEX.

The General Index of Names which accompanies the Index Materiaurum, is absolutely useless. It was constructed in the following simple and expeditious way. Each of the nineteen volumes of the Dictionary has an alphabetical index of the cases contained in it. The cases under letter A, in the index to the first volume, were cut out in a body; the cases under A, in the index to the second volume, were cut out in like manner, and placed below the others; these were followed by the cases under A, from the other volumes in their order; and the whole, without any subordinate alphabetical arrangement, sent to press. The general index to the nineteen volumes of the Dictionary could have been made in this way, in a few minutes. Unfortunately, this easy method for the compiler is attended with inconvenience to the consultant: who must look over nineteen different divisions of one letter before he is sure of finding a case which is actually in the nineteen volumes; and, according to circumstances, may have the Indexes to Elchies, Appendix I. or the Supplemental Volume, to consult likewise. In the course of this search, if the case sought be not one of those omitted, and if it be not omitted in the Index, and if the right page of the Dictionary happen to have escaped from the inaccuracy of the printer and editor, the case will certainly be found; and if there be no other case in the index, of which the names of the parties are the same, the search will not take up many minutes. But should there be other cases in the index under the same names, each of these, for want of the dates to distinguish the one from the others, must be turned up in the Dictionary; and the practitioner may possibly find it necessary to inspect nearly 100 Campbells against Campbells, or 70
Gordons against Gordons. The want of the reporter's name may also occasionally be felt. Knowledge of the reporter sometimes makes a case easily distinguished from others, when the reference is different in the date, or in the name of the defender.

Mr. Morison's General Index was used in checking the accuracy of the preceding compilation. While engaged in that operation, I was greatly annoyed by the unparallelled inaccuracy of the General Index. It gives only the pursuer, defendant, and page of the Dictionary. Several instances occurred where there was an error in each of these three particulars relating to the same case. The comparison of the two indexes was not less than four times more laborious than it would have been had Mr. Morison's Index been alphabetical, and possessed a moderate degree of correctness.

The General Index being of no use whatever, even to those who do not chuse to purchase the present compilation, need scarcely be preserved, when the thin volume which contains it, the Index Materiarum, and Mr. Morison's three Lists of Appended Cases, is taken down, for the purpose of binding the useful parts with the parts of the Dictionary to which they properly belong.

**APPENDIX II.**

Mr. Morison intended to report, from Session Papers in the Advocates' Library, &c. a number of what he regarded as important cases, of which abridgments were given in the Folio Dictionary.

These reports should have been made and inserted in their proper places, as the Dictionary proceeded through the press, instead of being reserved for a future publication.

While printing the Dictionary, Mr. Morison supposed that one volume, under the title of Appendix, would contain all these cases which he meant to report at greater length than his predecessors had done, and the cases belonging to the Faculty Collection published during the progress of his work which required to be included under titles previously printed. The references to the first of these classes of cases are, accordingly, "See Appendix;" not Appendix I. or Appendix II.* No less than four Appendixes, however, were afterwards found necessary. Upon the completion of the Dictionary, the Reports published by the Faculty while the Dictionary was in progress; that part of volume VII. of the Faculty Collection, which was not published until 1810; the cases in the several volumes of the Faculty Collection, which had been omitted in the Dictionary; and some of Lord Kames's Select Decisions, which had been also omitted; were found sufficiently numerous to fill one very thick volume by themselves. They were published without waiting for the cases meant to be reported. The volume containing them was called Appendix, Part I. The decisions of Lord Etchies were printed as Appendix II. Branch I. The Supplemental Volume may be regarded as another Appendix. The cases which Mr. Morison intended to report himself, were said to be reserved for a future volume to be entitled, Appendix II. Branch II. More materials for that volume were soon found. While printing the Supplemental Volume, or List of Cases in the older Collections omitted in the Dictionary, a number of cases were again omitted, as has been shown, (p. 522.) These were marked in the tables belonging to that volume, as reserved for particular titles of Appendix II. That Appendix has not been printed. The materials which were to compose it are said to have been left by Mr. Morison in a state of tolerable preparation for the press. Perhaps there is no great occasion to regret their non-appearance. Reports made up from session papers, long after the time when the cases were in court, by one who, having no acquaintance with them, farther than was derived from the partial statements of the session papers, could in many instances only guess at the ratio decidendi, can hardly be supposed entitled to much authority. Clerk Home's Reports, which were made up in that way, are not much esteemed.

It is not surprising that Appendix II. was so long delayed. To have included in it all that was promised would have been a work of more labour than the whole other parts of the Dictionary, prodigious in bulk as they are. Appendix II. was not, like the others, to have been a sort of manufacture,—a cutting out and pasting up, under the direction of the Folio Dictionary. There were to have been contained in it, as announced in the preface to the Supplemental Volume,

1. Abridgments made by Mr. Morison himself, of the cases printed in the Supplemental Volume, in number eight hundred and fifty.

2. Similar abridgments of the cases in the collections of Fountainhall, Spotiswoode, and even Balfour, which had not been printed in the Dictionary, in number as follows:

   Fountainhall,   .   .   .   .   .   . 1500
   Spotiswoode,   .   .   .   .   .   .  300
   Balfour, about .   .   .   .   .   .  1700

3. The cases which had been omitted a second time, in printing the Supplemental Volume, arranged by Mr. Morison himself, in number one hundred and eighty-five.

4. The abridgment and arrangement of all these cases would have been no small labour, and have filled at least three large volumes 4to.; yet, this notwithstanding, the same Appendix was to have consisted "chiefly of cases of importance referred to in the Faculty Collection, or in practice, but not reported."

Mr. Morison, when he undertook to include in Appendix II. Branch II. the whole of these particulars, certainly did not know the extent of the work that awaited him, although he had then "attained the penult step of his extensive undertaking," and been fourteen years engaged in printing Decisions.

**SYNOPSIS OF THE DECISIONS, FROM 1808 TO 1816.**

A Synoptical Continuation of his Dictionary, containing the Decisions from November, 1808, to July, 1812, after the manner of his Dictionary, was published by Mr. Morison in 1814.

* These vague references have occasioned much ineffectual rummaging of the Appendixes which are in print, by practitioners who were ignorant that it was to an Appendix projected, but not printed, that reference was made.

3 x 2
While I have arranged, and much abridged the cases, (says Mr. Morison, in a note prefixed to the volume,) I have endeavoured, to the best of my judgment, to retain every fact which was essential to a distinct apprehension of the point of law, and to omit no argument, either proceeding from the bar or delivered on the bench, which, when considered with strictness and precision, in reference to the question at issue, was, in my apprehension, of such value as to demand admission into my short statements. The arrangement of the different parts of these abridgments is remarkably distinct. After the date and names of the parties, the questions discussed in each case are particularised; then the facts, argument, answer, and decision, follow in succession, concisely stated; but at the same time, as fully as the Reports of Stair, Fountainhall, Kilkeran, and the other Reporters whose works are most esteemed.

Mr. Morison’s Reports are, with a few exceptions, abridged from the Faculty Collection, to which reference is made at the bottom of the reports. The original reports in the volume are not so numerous as to add much to its value. They are all referred to in the preceding Index. Where there is any difference between the names of the parties, as given by Mr. Morison, and those given by the Faculty Reporters, the case is inserted in the index both ways. All the references to the cases which were taken from the Faculty Collection, with no variations of the names, were struck out of the index as unnecessary, after they had been written out and arranged.

It seems to have been Mr. Morison’s intention to represent the Faculty Reports in such a way as to render it unnecessary for the purchasers of his Continuation of the Dictionary to have the volumes of the Faculty Collection, from which his abridgments were taken. He claims the merit of “compressing into one quarto volume, of which the present price is £2. 1s. 6d. all the cases contained in two folio volumes of the Faculty Collection, of which the price was six guineas.” “The Cases are not, however, so very shortly abridged as in Lord Woodhouselee’s Dictionary, which is merely a work of reference. My object (observes Mr. Morison,) has been, to state the cases, although short, yet without omitting any material fact, argument, reference, or opinion, so that it will not be necessary to have recourse to any other source of information, unless perhaps, at the bar, when it may be requisite to quote the exact per verba of some document or interlocutor, of which I have given only the import and substance.”—Circular Letter at the end of the volume.

It was not to be expected that Mr. Morison’s abridgment, however superior in distinctness and arrangement, would be received as substitutes for the original reports. In all probability, the sale of not one copy of the two volumes of the Faculty Collection, abridged by Mr. Morison, has been prevented by the existence of this synopsis. At the end of the volume there is a list of the titles under which the cases are ranked, with the questions agitated in each case; and an alphabetical index of names, with references to the pages of the volume.

As the arrangement of this synopsis is different from, and probably superior to, the arrangement of Mr. Halkerston’s Compendium *; and as several original Reports are included in it; this volume is well worth the moderate price at which it can be procured at present, (about £1. 5s.) It should be dispersed through the dictionary, having been printed in such a way as to admit of interspersion with it. The list of contents may be bound at the end of the Synopsis to the Dictionary. The leaf containing judgments in cases appealed, may follow the second list of appeals, when the Supplemental Volume is bound; and the index of names may be placed immediately after the chronological index to the Faculty Collection, which should be bound in the Supplemental Volume likewise.

A similar Synoptical Continuation of the Dictionary, containing the Decisions from 1812 to 1816, had advanced as far as three parts, and the Title Sale. These parts are worth about eighteen shillings, and may be useful, as well as the prior continuation. Like it, they should be distributed through the Dictionary.

Morison’s Dictionary has for some time back been sold pretty regularly at £50, bound in law-calf. What is generally understood by his dictionary, are the thirty-eight volumes, comprising the dictionary as originally published; now bound in nineteen; Appendix I. interspersed through these nineteen volumes; the Synopsis, and the separate indexes to the nineteen volumes, bound in two volumes, forming twenty-one volumes in all. Elchies’ Decisions and Notes, in two volumes, forming Appendix II. Branch I. are sold at about £2. 2s. in boards, although published at £2. 14s. 6d. The supplemental volume sells at about £3. 2s. in boards, without the list of appeals which it ought to contain. That list of appeals can seldom be procured at present, and sells at about ten or twelve shillings, when it can be got. There must surely be a stock of it somewhere; for there must have been many copies printed, and it has had but a very small sale. The Index Materiarum; General Index of Names; Abstract of the Judgments of the House of Lords in Cases Appealed, from the date of Mr. Swinton’s List to 1814; with an alphabetical List of the appellants and respondents in Mr. Swinton’s list, and another alphabetical list of the parties to the appeals in Mr. Morison’s own list; sell together at about ten shillings.

A complete copy of the Dictionary, with all these appendages, sells, at present, for about £56. 19s.

There are two different sets of the Collections of Decisions in common use. The first, and most generally approved set, consists of Morison’s Dictionary and a few of the separate collections, not entirely, or at all, contained in it; the second, of the Faculty Collection, with several older collections, and the Folio Dictionary, as a synopsis, or index to them. A parallel between these two sets may be found in a subsequent note.

The paging of Morison’s Dictionary is erroneous in some places for a number of pages in succession. The references in the Index are all to the right pages. When any of the erroneous series of pages happens to be turned up first, the reference will be thought wrong, and the search probably abandoned. To prevent difficulty in finding a case, the Dictionary should be looked over; and all the wrong pages, where there are several in succession wrong, corrected. If that be thought too troublesome, the paging at the following places, at least, should be rectified: 3546; 3550; 8679 to 8686, of which pages there are two series;

* The cases in Mr. Halkerston’s Compendium are all ranged under the titles to which they were allotted in the index of the several volumes of the Faculty Collection. It cannot be supposed that the arrangement of four young reporters should adhere to the arrangement of the Dictionary of Decisions, or to any definite mode, so uniformly as that of the editor of the Dictionary, a man who had been thirteen years engaged with that work, and accustomed to its arrangement.
A long list of erroneous dates could be furnished from my copy of the Dictionary; but mistakes in the dates are not productive of the same vexations searches as inaccurate paging, or false references. At the beginning of my labours, I intended to keep a list of the errors in detail, which might be observed in the course of the comparison between the names and date of every case in the Dictionary, and the same particulars, relative to the same cases, in the original collections, which was made in every instance; but that was soon found to be out of the question. It is much to be regretted, that greater attention was not paid to accuracy in the printing. Typographical errors are far too abundant in the Dictionary.

The obligation which Mr. Morison conferred upon the profession by the publication of his Dictionary, has not perhaps been properly appreciated. The Dictionary, no doubt, is defective in many respects; but it has, notwithstanding, been found a work of very great utility. The Synopsis contains the Dictionaries of Lords Kames and Woodhouselee, Mr. MacGregor’s Supplement, and the Decisions from 1797 to 1808, condensed and incorporated; saving the practitioner the trouble of consulting these works in succession. The Decisions, at full length, were reprinted by Mr. Morison, in a uniform manner, at a time when the old editions could scarcely be procured, and sold at very high prices. Few properly qualified persons could have been induced to undertake even a small part of the trouble which editing the Dictionary cost Mr. Morison. He certainly did not take the most laborious method of compiling a Dictionary of Decisions; but the materials which he adopted from Lord Kames and his successors were in high repute; and it is doubtful how any attempt to repudiate what these distinguished men had done, would have been received. The task of making an entirely new Dictionary is perhaps more than one man could accomplish; certainly more than any professional man would undertake. It is very easy, now that we have before us the produce of Mr. Morison’s industrious exertions for many years, to see the deficiencies of his work, and to point out methods which might have been taken to prevent them. But who, among the many who blame Mr. Morison for not carefully studying and arranging of new the contents of above twenty very thick volumes in quarto, will attempt to do what he says Mr. Morison should have done? There was no more obligation upon Mr. Morison than upon themselves to do any thing for the profession. His work met with very little encouragement, and was undertaken at his own proper risk. A man who has done so much, should rather receive thanks for what he has done, than be blamed for not having done more, by those who have done, and will do, nothing.

The faults imputed most generally to Mr. Morison’s Dictionary, are improper arrangement and erroneous marginal abridgments. The arrangement condemned is that of Lord Kames; and the marginal abridgments are probably by no means so faulty as they are supposed. See p. 519—I have heard them praised by very high authority. The continuation of the Dictionary is said to display a very considerable degree of skill in the art of condensing and exhibiting a distinct view of the important parts of a long or perplexed Report.

Although the Editor of the Dictionary has not escaped censure, and met with little praise: practitioners have been so well satisfied of the utility of his work, that it has found a place in the libraries of all of them who could afford to purchase such an expensive book. Nearly seven hundred and fifty copies have been sold, many of them at a very high price.

### Directions for Binding Morison’s Dictionary.

#### The Thirty-eight Volumes

In which the Dictionary was originally published, should be bound in nineteen; with Elchies’ Dictionary, Appendix, Part I. and the Synopsis of the Decisions from 1808 to 1816 interspersed with them.

#### Appendix, Part I.

Should be distributed through these volumes.

Elchies’ Dictionary should be disposed of in the same manner. The Table of Contents should be destroyed. The Preface may be inserted in the Supplemental Volume, after the other prefaces, or after the tract by Lord Elchies.

#### The Continuation of the Dictionary

Or, Synopsis of both Divisions, as it is called in the Index, containing the decisions from 1808 to 1816, should be distributed through the Dictionary. The Contents may be placed at the end of the Synopsis of the Dictionary; the Index, in the Supplemental volume, after the Chronological Index to the Faculty Collection; and the leaf of appeals, at the end of the second list of appeals.

#### The Synopsis

Should be collected from the nineteen volumes of the Dictionary, and bound in two volumes; the first containing, at the beginning, the Index Materiarum; and the second, at the end, the Contents of the Synopsis of the Decisions from 1808 to 1812. Or the

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* The Synopsis of the Supplement to Morison’s Dictionary will contain abridgments of the Decisions in Lord Elchies’ Dictionary; so that the latter may be consulted without inconvenience although dispersed through Morison’s volumes. There is considerable difficulty experienced in getting Elchies’ Decisions properly interspersed through Morison’s Dictionary, owing to two titles having been printed, in some instances, on the same page of Elchies. If there is no printing on the other page of the same leaf, the leaf should be cut in two, and each title put into its proper place. If there is printing on both sides, the leaf should be placed between the two titles of the Dictionary, corresponding to the two titles printed upon itself. The interspersion of the Dictionary should be committed to none but a careful binder, accustomed to the operation. Mr. Abraham Thomson, Old Fish-Market Close, is well acquainted with the proper way of binding all the parts of the Dictionary.

† See Note to Elchies’ Dictionary, p. 506.

‡ See Note to the Synopsis of both Divisions, p. 324.

§ See Note to the Synopsis, p. 520.
whole may be strongly bound in one thick volume, which
would be a more convenient method, if neatness is not much
regarded.

Each of the Nineteen Indexes to the correspond-
ing volumes of the Dictionary, should be bound at the end
of its own volume. The

Chronological Index to the Faculty Col-
lection should be bound in the Supplemental Volume,
immediately after the non-descript Index to the same Col-
lection, which belongs to the volume.

The General Index of Names should be de-
sroyed.

The Index Materiarum should be bound at the be-
inning of the first volume of the Synopsis.

The Abstract of the Judgments in Appeals,
from 1708 to 1773, should be bound in the Supplemental
Volume, immediately after the Index to the Synopsis
of the Decisions of both Divisions, from 1608 to 1812, if it
is to be placed in the volume; if not, after the chronologi-
cal Index to the Faculty Collection.

The Abstracts of the Judgments in Appeals,
from 1773 to 1814, with the two alphabetical lists of ap-
pellants and respondents, found in the volume contain-
ing the Index Materiarum, &c. should be bound in the Sup-
plemental Volume, immediately after the other list of ap-
peals; in the manner mentioned below, (p. 326.)

Elchies' Notes should be bound in the same volume
with Elchies' Dictionary of Decisions, if the latter is not
taken down and dispersed through Morison's Dictionary.
The Notes cannot be taken down and distributed like the
Dictionary.

The Supplemental Volume should be bound in this
way: The Prefaces should be bound in their present or-
der, placing at the end of them the preface to Lord Elchies'
Dictionary; or the latter may be placed immediately after
the tract on the Institution of the Court of Session,
which was written by Lord Elchies. The Tables or In-
dxes, and the Decisions, should be preserved in the same
order in which they are usually found, as far as the
Index to the Faculty Collection inclusive.—Or the Index-
es may be placed together in the same order in which
they were printed, followed by the Chronological Index
to the Faculty Collection, and the Index to the Synop-
sis of both Divisions, from 1608 to 1812; and after these
Indexes may be placed the Decisions, in the same order
as the Indexes. After the Index to the Faculty Collection
which belongs to the volume, should be placed

the Chronological Index to the same Collection, taken
from the end of Appendix, Part I., which is not complete
unless it contain titles the length of Wrongous Impris-
onment, and have that Index subjoined. After the
Chronological Index to the Faculty Collection should be
placed the Index to the Synopsis of the Decisions, from
1608 to 1812. After the last mentioned Index, should be
placed the Abstract of the Judgments in Appeals, from
1708 to 1773. That list of Appeals should be followed by
the alphabetical list of its Appellants and Respondents;
the abstract of the Judgments in Appeals, from 1774
to 1814, with its alphabetical list of Appellants and Re-
pondents. These are all to be found in the thin vo-
lumes containing the Index Materiarum, &c. A leaf of
Appeals belonging to the Synopsis of the Decisions from
1608 to 1812, may follow these lists. After the lists of
Appeals should be placed the Index of Names of the cases
in the Supplemental Volume, and the list of the subjects
of the same cases.

Halkerton's Compendium.

Several references have been made in the preceding
notes to a note regarding Mr. Halkerston's Compendium
of the Faculty Decisions, which was intended to be insert-
red in this place. I find, however, that I have nothing
worthy of a place here, to communicate, in addition to
what has already been said of that book.

The price of the Compendium is £3. 3s. in boards, from
which the usual discount on law-books for prompt pay-
ment may be expected.

List of Volumes, Forming a Complete
Set of the Collections of Deci-
sions Which are in Print.

There are two Sets of the Collections of Decisions
in common use. The following lists of their component
parts, with the usual prices of each, may be useful in
directing the purchases of students of law and country
agents.

First Set, consisting of the Faculty Collection, the Old
Collections, the Folio Dictionary, &c.

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<td>Durie</td>
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<td>Gilmour</td>
<td>President Falconer</td>
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<td>Diketon's Decisions and Doubts</td>
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Carry forward | £1 16 0 |

** Where alone they can be useful, when there is a General Index.
† The two Indexes of the Faculty Collection should certainly be in the same volume.
‡ See Note to the General Index, p. 522.
§ See Note to the Index Materiarum.
|| It is proper to have all the lists of Appeals in one place.
¶† Elchies' Decisions are supposed to be taken down and dispersed through Mr. Morison's Dictionary.
** The order marked in the Contents of the volume.
†† The advantage of this arrangement is, that the Indexes are found without much turning over of leaves. They are almost hid by
the Decisions when allowed to remain among them.
†‡ It is most convenient to have the two Indexes to the Faculty Collection in the same volume.
§§ See Note to Appendix, Part I, p. 519.
||| The Indexes should be all in one volume, and in the order of the dates of their Decisions.
* It is proper to have all the lists of Appeals in one place.
*** They are more readily found at the end of the volume than elsewhere.
The first of these Sets is the more complete, as well as the cheapest. It contains all the Decisions in the Second, and One hundred and Eighty-five Cases belonging to the Collections of Durie, Harcarse, &c. which are neither to be found in Morison’s Dictionary, nor any of its adjuncts. See page 522 of these Notes. But the cases taken from the MSS. in the Advocates’ Library are given in an abridged form, in the Folio Dictionary, only; whereas, in Morison’s Dictionary, they are printed at full length.

The general plan of the arrangement of the Decisions in both Sets is the same; but the arrangement of each Set is attended with disadvantages in detail, peculiar to itself. To find the Cases relating to one subject, in the First Set, three Dictionaries in succession must be consulted, viz. Lord Kames’ Dictionary, Lord Woodhouselee’s Dictionary, and Mr. McGrugar’s Supplement. Mr. Morison’s Synopsis contains the whole of the contents of these three volumes, in one alphabetical series.

The Abridgments of Lord Kames’ part of the Folio Dictionary are often much longer than the notices of the Synopsis; and Lord Woodhouselee’s and Mr. McGrugar’s abridgments are very much longer than those of Lord Kames. No marginal abridgments of the Cases are found in the Folio Dictionary, to save the trouble of reading the longer abridgments. The marginal notes in this work apply to several cases, and constitute what, in Mr. Morison’s Synopsis, are the rubrics or designations of the Sections.

The Synopsis is, therefore, much more readily consulted than the three books which, in the first Set of Decisions, supply its place. But, on the other hand, it cannot be so safely trusted as the abridgments of the Folio Dictionary; unless the general opinion entertained of the inaccuracy of the abridgments in the Synopsis, be without foundation; which there is reason to believe is in a great measure the case. On very important occasions, the Folio Dictionary will probably be preferred; notwithstanding its three alphabets, and want of marginal abridgments of individual cases.

Mr. Halkerston’s Compendium may advantageously be consulted in addition to the Folio Dictionary or Morison’s Synopsis, even for the Cases before 1808; because none of the Cases in Appendix I. are noticed in the Synopsis, although they are all prior to November, 1808. The arrangement of the Compendium, too, being different from that of the others, may occasionally lead to Cases upon a certain point, which had not been met with, upon a consultation of the other books.

The Supplement to Morison’s Dictionary, preparing for publication, will not materially affect the relative value of these two sets of Decisions. It will be necessary to complete each of them. The only advantage that it will give to the set containing Morison’s Dictionary will be its supplying the place of Fountainhall, Spotiswoode, and Halkerston’s Compendium; which are necessary at present; striking about £9.12s. off the expense of that set.

The advantages and disadvantages of the two sets of Decisions, seem, upon the whole, pretty nearly balanced.

The second set, if the Folio Dictionary be added to it, is rather the preferable one; but is so much more expensive
than the other, that its advantages are far more than counterbalanced by the difference of price. When the supplement is added to each set, the difference in expense will, from the circumstance mentioned above, be less than it is at present; and the second set will acquire the superiority in completeness, uniformity of appearance, and convenience for consultation.

**APPEALED CASES.**

The Protestations to the Scottish Parliament, for remedy of law, often mentioned in Fountainhall's Journal, are not referred to in the Index; no procedure upon these protestations having been preserved.

The Reports of the Cases in the Collections of Decisions, prior to the Faculty Collection, (1705,) which were appealed, seldom conclude with an account of the procedure in the Appeals, or even an intimation that the cases were taken to the House of Lords. Most of the Collections of Decisions were merely journals of the proceedings of the Court of Session, carried regularly forward. When the Decision of the Court was recorded, the Reporter thought he had done his duty, and abandoned all charge of the Case. If it did not happen to be remitted back to the House of Session, the circumstance of its having been carried to the House of Lords by appeal, had little chance to be noticed by the person who reported the proceedings in the Court of Session. Even the intelligent and careful compiler of the Folio Dictionary, was not attentive to this important part of the duty of a Reporter.

Mr. Robertson truly remarks, that "in sundry (he might have said many) instances where the judgments of the Court of Session have been reversed in Parliament, the original Decisions still remain as precedents, (and these in some questions of much moment,) in the Collections of Decided Cases, in the Dictionary of Decisions, and in the works of the law writers of authority. The instances where such reversals are properly stated in this period, (from 1709 to 1727, and the same may be said of many subsequent years,) are so few, as only to form exceptions to the general practice."—*Reports of Cases on Appeal, Preface,* p. 16. From the commencement of the Faculty Collection, the almost total neglect which the proceedings in appeals experienced from the Reporters of Decisions, has been succeeded by a regular, although inadequate, degree of attention, to the issue of the appeals of such cases as had been reported in the Collection.

No remark is necessary on the essential importance of preserving a complete and perspicuous record of the judgments of the House of Lords on general points of law; especially in the cases, reports of which are standing in the Collections of Decisions. Where the judgments in these cases is not published, we either want the strongest confirmation of the determination of the Court of Session, —a confirmation which might be regarded as setting the previously disputed point completely at rest; or, what is attended with far worse consequences, we have a decision in print, supposed to be known to, and respected by, all the legal profession, apparently establishing the very reverse, perhaps, of what the higher Court has declared to be agreeable to law.

If the judgment of the House of Lords conveyed in precise terms, full information of the matter decided, without the necessity of reference to the proceedings in the Court of Session, to make the import of the judgment intelligible; it would be sufficient to publish the words of the interlocutor. But as reference is always made to the previous procedure in a case, it seems essential to a proper record of appeals, that either the report of the proceedings in the Court of Session be perfectly complete, or contain at least all that branch of the case embraced by the appeal; giving the words and date of every interlocutor of the Court alluded to in the judgment of the House of Lords; or that any deficiency in the report of the proceedings before the Court of Session, be supplied by a statement prefixed to the interlocutor of the Peers, by which it may be distinctly seen what was the subject of appeal. Without such knowledge, the judgment of the House of Lords may be very obscure, if not totally unintelligible; or may be subject to gross misconceptions of its import.

Our records of the determinations of the House of Lords are in general far from being complete. The only perfect part of them is contained in Mr. D. Robertson's excellent Collection of Reports, mentioned in a preceding note. "In the questions there collected," (as Mr. Robertson proclaims,) "there is a certainty that the whole of the matter at issue is before the reader," which is far from being universally the case in the other Notices of Appeals. The other Reports of the procedure on appeals, are contained in the Abstract of the Judgments of the House of Lords in Appealed Cases, from 1708 to 1773, extracted from the Journals of the House, by Archibald Swinton, Esq. W. S. and published by Mr. Morison in his Supplemental Volume.—*A Continuation of that Abstract to 1814,* by Mr. Morison;—The Judgments of the House of Lords in Cases which had been reported in the Faculty Collection, subjoined to the several volumes in which the Reports are contained,—and the notices of appeals, and their results, which we meet with, subjoined to the Reports in the Collections of Decisions, from 1708 downwards, exclusive of the Faculty Collection.

These last Reports require no remark, except that they are remarkably few in number. The others shall be noticed in their order.

**ROBERTSON'S APPEALED CASES.**

Mr. Robertson's Reports may be regarded as quite complete. They give us to understand exactly what part of the procedure in the Court of Session was before the Court of Appeal; and the precise import of the judgment of the House of Lords is, in consequence, perfectly understood. His method, as he tells us, in the Preface to his work, was, to give "a statement of the circumstances involving each case, and of the proceedings leading to the interlocutors appealed from; these interlocutors, with their dates; and to ascertain what interlocutors were appealed from, with their dates. If the case depends upon matter of argument in law or of construction, to give the heads of such argument. The judgment is then given as stated in the Journals."—*See the Note to Robertson.*

**ABSTRACT OF THE JUDGMENTS IN APPEALS, FROM 1708 TO 1773.**

When the compiler of this abstract took the trouble of extracting from the Journals of the House of Lords, the judgments of the House in Scotch Appeals,—
undoubtedly conferred a great benefit on the members of the Court of Session. The thanks of the profession are well merited by what he has done for it; and there is not the least reason to blame a gentleman who has generously stepped out of his way to do so much for his brethren, for not doing all that could be done towards exhibiting perfect reports of the procedure in the appeals of which he had the kind permission to extract, for Mr. Morison’s publication, the final judgments. It was not his intention to give such reports. With the cold reception which Mr. Robertson’s meritorious work had recently received, before his eyes, it would have been strange, if another gentleman of ability, whose hands were full of employment, had undertaken the continuation of a laborious, unprofitable, and too much neglected work.

With this explanation, it may be permitted me to observe, that the contents of the abstract under consideration, when taken along with the Decisions of the Court of Session, to which they relate, by no means constitute perquisite and complete reports of the procedure in the appeals mentioned in the work. The plan of the Abstract is excellent, as far as it goes, but falls short of a full and precise report.

A large proportion of the judgments extracted belong to cases which have not been reported. These may be passed over with this remark, that it was perfectly right to extract the judgments in all Scottish cases; it not being always very easy to ascertain, even at leisure, what cases are reported and what not, by reason of variations in the names of the parties to the processes and appeals.

The particulars given in the Abstract are, 1st, The names of the parties to the Appeals; 2dly, The interlocutors appealed from; 3d, The date of the judgment of the House of Lords; and, 4th, The judgment.

These being all given, we have all that is required to furnish a complete report of the procedure in an appeal, if we have previously obtained, from some Collector of Decisions, a full report of the proceedings in the Court of Session; and, if the Abstract of the Judgment of the House of Lords and the Report of the Decision of the Court of Session are brought together, or can readily be perceived to belong to the same case. But, on account of the names of the parties to the Process and Appeal, being differently described in the Report and Abstract, and no reference being made from the one to the other; the Abstract may be searched for a judgment in a case that is actually in the list, and the judgment be, nevertheless, overlooked. This is particularly apt to be the case where the parties to the cases are numerous, and liable to be distinguished by some generic appellation. Thus, Baird and others, is perhaps looked for, but only Primrose’s Creditors is to be found in the Abstract of the Appeal. Home and others may be found, instead of Ramsay and others, or The Heritors of such a place, &c.

It is not enough, that the connexion between the Report and the Decision of the Appeal, or have such indexes, that it is impossible not to observe the connexion, even upon a hasty consultation of them.

Supposing the Report of the Decision of the Court of Session, and the Abstract of the Judgment of the House of Lords, to be brought together, and perceived to belong to the same case; the next object is, to discover by the interlocutors of the Session given in the Abstract as appealed against, what was really made the subject of appeal. And here the great deficiency of a complete report of the procedure on appeals, such as Mr. Robertson gives, becomes immediately apparent. The interlocutors referred to by their dates in the judgment of the House of Lords; and affirmed, reversed, or varied; are often not to be found in the Report of the Decision of the Court of Session, or, wanting their dates, not to be distinguished from others. The import of the judgment of the House of Lords in such cases is left in uncertainty, and very liable to be misunderstood. Reporting a mere interlocutory judgment of the Session was a common practice. A judgment of the Peers may possibly be sometimes supposed to relate to one of these interlocutory Decisions of the Session, although it in fact belong to a perfectly different branch of the case, which has not been reported.

Even supposing the judgment of the Peers and the interlocutor of the Session to belong to the same branch of the cause, a mistake of the import of the judgment of the Peers is not impossible. Let us hear Mr. Robertson—

"Some cases have occurred, where it appears from the Dictionary and the books of authority, that the judgments of the Court below had been given in a certain way; whereas, in fact, such judgments were merely interlocutory; and were afterwards altered by the Court, and the latter judgment affirmed upon appeal." So that by joining the interlocutor of the House of Lords, to what appears to have been the Decision of the Court of Session, we, in these instances, arrive at exactly the reverse of the real issue of the case.

It appears, therefore, that particularising the interlocutors appealed against, recting the Judgment of the House of Lords, and connecting it with the Report of the Decision of the Court of Session, does not constitute a full report in all instances of the procedure on appeals. It can only do so when the report of the proceedings before the Session is perfectly complete, or contains at least every interlocutor mentioned in the Abstract of the Judgment of the House of Lords.”

The judgments given in this Abstract, commence with March 10, 1708, and end with May 27, 1773.

This Abstract originally formed part of the Supplemental Volume, but is never sold with it at present, and indeed is rarely to be procured. It is very valuable; many Decisions of the Court of Session having been discovered to be reversed by its means, which had been standing as precedents in the Collections from 1708 to 1762, and even some later ones.

References to the Abstract have been inserted in the preceding Index to the Decisions, below every case which appeared to be the same with one of the appealed cases mentioned in the Abstract. The references are printed in the column devoted to Morison’s Dictionary, in this manner: Appeals, 64; meaning the Abstract of the Judgments in Appeals, p. 64.

A few of the dates and names in the Abstract, appear, from a comparison with those in Mr. Robertson’s Reports and the notices at the end of the volumes of the Faculty Collection, to be erroneously printed. One variation of the dates is of frequent occurrence. In cases decided about the beginning of the year, the date of the judgment is printed by Mr. Robertson in this way, 1718-19; meaning, evidently, from the succession of dates, the latter year; whereas, the same judgments are printed by Mr. Morison as belonging to the first of these two years. The judgments of the House of Lords are not always given verbatin; but there are few instances of important variations: the Abstract wanting perhaps a few words of style merely; such as, and the same are hereby, between the words be and reversed. These little omissions, perhaps no more than the errors of the press, are to be imputed to the Compiler of the Abstract. There is every reason to
suppose that the press was corrected by Mr. Morison himself.

It is not a little remarkable, that Mr. Robertson's work, which promises only Select Reports, contains several cases not to be found in the Abstract under consideration, which promises to give the whole. A few cases, also, noted in the Faculty Collection, as appealed, have not been discovered in the Abstract.

NOTICES OF APPEALS IN THE FACULTY COLLECTION.

At the end of each of the volumes of the Faculty Collection, there are notices of those cases reported in the volume, which have been appealed, and decided in the House of Lords before its publication.

The particulars given in these notices are, 1st, The names of the parties to the Appeal;—2d, A reference to the part of the volume containing the Decision of the Court of Session; sometimes by the number of the Decision, sometimes by the date, and in other instances by the page of the volume;—3d, The judgment of the House of Lords, generally, but not always, verbatim.

The Reporters for the Faculty, in their notices of appeals, have not observed a uniform way of printing the names of the parties to the appeals. Some have preserved the same names which are prefixed to their report of the Decisions, in the same order: others have taken them as they stand in the printed Appeal Cases; where, of course, the first name becomes the last, if the pursuer happens to have been the respondent. The first way seems to be the best, if the words Appellant and Respondent are added to the names; otherwise, the name first in order may be erroneously taken for that of the appellant. When the names are taken from the Appeal Cases, an imitation of an appeal may escape observation, owing to the order of the names being reversed, or to another name being substituted for one of them, as not unfrequently happens. Thus, we have Jackson against the Procurator-Fiscal of the Admiralty, instead of Monro against Jackson and Others, &c.

A complete Report of the procedure on Appeals is much oftener to be obtained by means of the notices in the Faculty Collection, than from those in the Abstract, although the former are deficient in an important particular, always attended to in the latter, viz. specification of the interlocutors of the Court of Session, which were appealed from. The superiority of the Reports of Appealed Cases in the Faculty Collection, arises, 1st, From the assurance we have that the Faculty Report is not a mere inquisition of an appeal may escape observation, owing to the order of the names being reversed, or to another name being substituted for one of them, as not unfrequently happens. Thus, we have Jackson against the Procurator-Fiscal of the Admiralty, instead of Monro against Jackson and Others, &c.

The following instances may serve as specimens of the variations in names.

Faculty Collection.

William, Lord Halkerton and Others, contra

James Scott of Brotherton, Defender.

Baird and Other Creditors of Primrose, against

Neil, Earl of Roseberry.

Abstract of Appeals.

Scott of Brotherton, against

Lord Falconer, et al. et contra.

Earl of Rosebery, against

Creditors of the late Viscount Primrose.
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Creditors of James Hepburn of Humby, against His Children.</td>
</tr>
<tr>
<td>William, Earl of Home, against The Officers of State.</td>
</tr>
<tr>
<td>William Baillie, Advocate, against Mrs. Agnes Tenant.</td>
</tr>
</tbody>
</table>

There seems little difficulty in distinguishing these different denominations of the same case as belonging to each other, when exhibited in opposite columns as above. But when a practitioner, in the hurry of business, has three or four pages of the abstract filled with names to look over, he may chance to overlook their connection; especially if he does not carry the designations of the parties in his memory. The resemblance between the two denominations of the case then becomes much more faint: as may be seen from the following list.

```
| Halkerton, &c. against Scott. |
| Baird and Others, against Roseberry. |
| Home, Earl of against Officers of State. |
| Baillie against Tennant. |
| Ramsay against Gowdie. |
| Home of Kaimies, against John Gowdie, Professor of Divinity in the University of Edinburgh. |
| John, &c. Hepburn, Children of Hepburn of Humbie, &c. |
| His Majesty's Advocate, against Earl of Home. |
| John Chatto, against William Baillie. |
| Scott against Falconer, &c. |
| Roseberry, against Primrose's Creditors. |
| Advocate, King's, against Home, Earl of. |
| Chatto, against Baillie. |
| Home, &c. against Gowdie. |
```

* The names of the parties are given precisely in the same manner as in the Faculty Collection, which is far from being the case in the former List. The Interlocutors appealed against might have been ascertained, if recourse had really been had to the Appealed Cases preserved in the Advocates' Library, and printed as in Mr. Swinton's List. In short, the plan of Mr. Swinton's Abstract, of which Mr. Morison's was a continuation, was abandoned, and the method of the Faculty Reporters adopted.

Mr. Morison's Abstract, and the notices at the end of the Faculty Collection, are different only in the following particulars:—Volume VII. (1775 to 1777.) was not published until 1810, when Mr. Morison collected or compiled the contents of it, and sent it abroad without the customary notices of Appeals. Several of these notices are printed in the Abstract. The case Monro a. Jackson, &c. decided in the House of Lords on March 10, 1779, is said in the Faculty Collection (Vol. VIII. No. 48, p. 147. second series of pages,) to have been affirmed; but in Mr. Morison's Abstract (p. 11. No. 10.) to have been reversed. The Faculty Collection contains Notes to a few of the Judgments, which are omitted in the Abstract. Notice of the appeal, Mitchell a. Heritors of Tingwall, is given in the Abstract, but not in the Faculty Collection, the volume containing the report of that case having been published before the Judgment of the House of Lords was pronounced. It is to be feared, that this is not the only instance in which no intimation of the result of an appeal was given in the Faculty Collection, especially in the more early volumes, owing to the same cause.

\[3y2\]
numerous instances where the name or title of the Appellant is different from what it was represented to be in the Report of the Decision of the Court of Session. Thus, if it should be required to ascertain from the Index to the Appeals, whether the case Baillie against Tenant has been appealed; Baillie against Tenant would first be sought for in vain; then, reversing the names, Tennant against Baillie would be looked for, also in vain; and it is possible that a young practitioner, not acquainted with the very imperfect structure of the two Indexes of Appeals, might suppose that the case had not been sent to the House of Lords. The case Baillie against Tenant is included in the Index to the first Abstract of Appeals, under Chatto against Baillie. None of the cases noted above, (p. 530 and 531,) could be found by means of these Indexes. They are therefore useless on the very occasions when their assistance is most required.

The Index to the first Abstract possesses a uniformity in one respect, which the other wants. It is entirely composed, apparently, of Appellants and Respondents, without mixture of Respondents and Appellants. Mr. Morison's Abstract, being assuredly extracted not from the printed Appeal Cases, but from the Faculty Collection, contains a jumble of Appellants and Respondents, and Respondents and Appellants. The Faculty Reporters, as we have seen, followed no uniform method of describing the cases appealed, in their notices at the end of the Volumes of their Collection; some of them retaining the description or name of the case prefixed to their report; and others taking the names of the parties, and their order as pursuer or defender, from the appeal.

I intended to have subjoined to this Index, an Index of Appealed Cases; exhibiting, in one alphabetical series, the Appellant and Respondent, the Respondent and Appellant; the date of the Judgment, a brief notice of its import, and a reference to Robertson's Appealed Cases, the Faculty Collection, and the two Abstracts of Appeals published by Mr. Morison. But finding all these sources of information as to Appeals incomplete, and sometimes contradictory, I have been induced to postpone that Index; in the hope of seeing it undertaken by some person who has access to the Journals of the House of Lords. Any person who will,—instead of making a mere Index of the Scottish Appealed Cases to be found in these Journals, correcting the inaccuracy of the present, and supplying the deficiencies of the present Abstracts,—take the trouble of making short reports of the procedure in the Appeals, will confer an important obligation on the Scottish practitioners.

If no Index compiled from the Journals of the House of Lords, shall be announced, I shall make the best Index I can, from the imperfect sources of information within my reach. Even such an Index as it will be in my power to construct will be useful. The Faculty Collection is seldom retained by the purchasers of Morison's Dictionary; and neither Robertson's Appealed Cases, nor the two Abstracts of the Judgments in Appeals published by Mr. Morison, are in the hands of many professional men.

My Index to the Appealed Cases will exhibit, in one alphabetical series, the whole appeals to be found in the lists which have been mentioned; each appeal being inserted under every name and title belonging to either the respondents or the appellants. Thus, Anderson and Gray against Miller and Others, Heritors of Cambuslang, shall be inserted in all these ways:

<table>
<thead>
<tr>
<th>Anderson and Gray</th>
<th>Miller, &amp;c. Heritors of Cambuslang</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cambridge, Miller, &amp;c. He-</td>
<td>Gray, Anderson and</td>
</tr>
<tr>
<td>ritors of</td>
<td>Miller, &amp;c. Heritors of Cam-</td>
</tr>
<tr>
<td>Cambuslang, Miller, &amp;c. He-</td>
<td>buslang</td>
</tr>
<tr>
<td>ritors of</td>
<td>Anderson and Gray</td>
</tr>
<tr>
<td>Cambuslang ; Miller, &amp;c.</td>
<td>Gray, Anderson and</td>
</tr>
<tr>
<td>Heritors of</td>
<td>Miller, &amp;c. Heritors of</td>
</tr>
<tr>
<td>Cambuslang ; Miller, &amp;c.</td>
<td>Anderson and Gray</td>
</tr>
<tr>
<td>Heritors of</td>
<td></td>
</tr>
</tbody>
</table>

The names will be taken from the Decision of the Court of Session, always; and from the appeal, as often as any variation can be found between the description of the parties to it and the description in the Report of the Decision. In addition to the names of the parties, the following particulars will be given:

- The date of at least one interlocutor appealed from;
- The date of the judgment;
- The import of the judgment; and
- References to the books where the judgment may be seen at length.

Besides the Alphabetical Index of Names, there will be given a complete list of the Judgments in Appeals, in the order of their dates, exhibiting each of the above particulars.

It has been mentioned, that the Abstract of Appeals, from 1703 to 1773, is not now sold with the Supplemental Volume, is scarce, and very little known. My copy of Morison's Dictionary, happened to want both it and Mr. Morison's Continuation. Nearly two letters of the Index were printed before I was aware of the existence of the first Abstract, and much more before the other fell in my way. I had long before inquired at an advocate, where information regarding appealed cases was to be procured; and had been answered, "only in Mr. Robertson's work, and at the end of the volumes of the Faculty Collection." In consequence of my not having adverted to the two Abstracts in proper time, a few notices of appeals were omitted in the Index, and a considerable number of references to the pages of the Abstract. The latter omissions are of no consequence; for the date of the judgment which is always given in the Index, will lead to the part of the Abstract where the judgment may be seen. Care has been taken to supply, in the most complete manner, the other, and more important omission, by printing the omitted notices of Appeals on page 198; and stamping on the margin, opposite the Case, in the part of the Index where it occurs, a reference to p. 498.

The references to the Appealed Cases in the preceding Index should be considered as mere intimations of the existence of appeals supposed to be connected with the Decisions of the Court of Session next or near to them, and guides to the volumes where the judgment of the House of Lords may be seen. In the narrow columns of the Index there was no room for more than the words Affirmed, Reversed, Remitted. The last word has been generally used where the other two were inapplicable; that is to say, where the Decision of the lower Court was affirmed or reversed only in part; or where the affirmation or reversal was accompanied by a seemingly important addition or explanation. No practitioner, it is hoped, to save himself the trouble of recourse to the books containing the judgments, will bestow that degree of credit upon the single words for which alone there was room in the Index, which should not but with great caution be accorded to these authorities themselves.
INDEX TO THE DECISIONS.

In the preface, the trouble of making this Index was represented as greatly increased by the combining of the Indexes made to the different Collections of Decisions, with the Index made to Morison's Dictionary.

It is not the trouble of cutting down and putting into alphabetical order the additional number of slips of paper containing the names, &c. of each case, that is alluded to. If there had not been so many ill-constructed Indexes before me, I could hardly have conceived that there could have been more than one way of performing these very simple operations. The additional labour was principally owing to the cases in the original Collections, having, in innumerable instances, different names or titles ascribed to the parties, from those under which they appear in the Dictionary. In some instances the dates are different; in some, the names are reversed; in some, one of the names is different; in some, both are different; in others, one or both of the names are omitted by one Reporter, although given by another. Many cases, as may be seen in the Notes, are not in the Dictionary at all: the omission of these it was necessary positively to ascertain. My wish to include the Reports of all the different interlocutory judgments, so frequently found dispersed through the same Collection, or through several Collections, under different dates, and reversed or different names; often made a few lines of the Index the work of an hour. To bring together the partial and progressive reports of the same case, found in each of several Collections of Decisions, in which the names and dates only correspond so far as to allow the case to be traced; and traced with certainty, only by reading parts of the Reports; was sometimes a very troublesome task. The number of references from one part of the Index to another, will enable any one to form some sort of judgment of the attention which has been bestowed on this part of my duty. These references were all occasioned by the different titles given to reports of the same case.

I am perfectly aware that much more could be done towards making the Index absolutely complete in this respect. But the importance of the additional instances in which Reports of the same case, under varied names, could be brought together, would bear no proper proportion to the expense of time and labour which would be incurred by the necessary comparison of the contemporary Collections of Decisions. When a practitioner is very anxious to ascertain that there are no other reports of any Case than those he finds in one part of the Index, he can accomplish his object with tolerable certainty, by reversing the names of the parties, and examining the part of the Index containing the defender's name: For example, he may look under Johnston against Smith, for additional reports of Smith against Johnston. If the practitioner should wish to take another long step towards perfect certainty that there is no other report of the Case which has engaged his attention, than those in view, he may examine (in the Advocates' or Signet Library, if he has not a set of Reports himself,) the whole Collections of Decisions, containing Cases contemporary with the one sought. As the Decisions in the different Collections are, with few exceptions, chronologically arranged, this examination would not be tedious. Only that part of the Collections, of the same, or nearly the same, date, as the report which is known, would require to be searched.

The intimations of appeals inserted in the Index, added considerably to my labour: and yet they constitute the part of this compilation, in the accuracy and completeness of which I have least confidence. I am not certain that I have in every instance availed myself of the information that might possibly be culled from the imperfect sources which were accessible. But I know not of one mistake or omission that is not supplied by references at the proper places to the List of Addenda et Corrigenda. I request, that it may be understood, that in most instances where appeals are noticed in the Index, no more is meant than to intimate their existence. It is not intended that any person should take it for granted that the appealed case and the one above it are always the same; or that the judgment was nothing more than a simple affirmation or reversal of any one interlocutor, much less of the whole points decided by the Court of Session. Upon these important heads, it was impossible for me to give information. The practitioner must seek it himself; and truly he will often experience some difficulty in finding it. See the quotation from Mr. Hannay's pamphlet, p. 509 of these Notes. See also the preceding Note.

I have been told by some of my friends at the bar, that a List of Defenders and Pursuers, would be a desirable addition to the Index. But I am decidedly of opinion that it would not. In all instances where a correct reference is made to a Decision, this Index will suffice. Where, in the reference, the order of the names of the parties is reversed, as not unfrequently happens, this Index will still suffice; the consulter only taking the trouble to look for the case under the second name, after having in vain sought it under the first. It would be impossible to make Indexes accommodated to the defects of every careless reference or imperfect recollection. To make a List of Defenders would cost much less expense in printing than the Index of Pursuers has occasioned, and not the fifth part of the trouble in compiling; but I have no wish in fandam renovare laborem, for the purpose of making what could be so very seldom useful, as a List of Defenders and Pursuers.