

the less deferred to, either because its divisions are unequal, or because its origin is unknown. And, even when history tells us that it is founded on some deed of iniquitous usurpation, there is a charm in the continued occupation, that prevails and has the mastery over our most indignant remembrance of the villany of other days. It says much for the strength of the possessory feeling, that, even in less than half a century, it will, if legal claims are meanwhile forborne, cast into obliteration, all the deeds, and even all the delinquencies, which attach to the commencement of a property. At length the prescriptive right bears every thing before it, as by the consuetude of English, by the use and wont of Scottish law. And therefore, once more, instead of saying with Dr. Paley that it is the law of the land which constitutes the basis of property—the law exhibits her best wisdom, when she founds on the materials of that basis, which nature and the common sense of mankind have laid before her.

26. Dr. Thomas Brown, we hold to have been partly right and partly wrong upon this subject. He evinces a true discernment of what may be termed the pedigree of our feelings in regard to property, when he says and says admirably well—that,* “Justice is not what constitutes property; it is a virtue which presupposes property and respects it however constituted.” And further, that—“justice as a moral virtue is not the creation of property, but the conformity of our actions to

* Lecture lxxxiii.