a thief of goods he had stolen when the Hue and Cry were raised. The word was then "Waife." The Reeve or Baylife of the Manor where the goods were might "seize the goods so waived to their Lord's use, who may keep them as his own proper goods" until claimed by the true owner, in which case "the first owner shall have restitution of his goods so stolen and waived."

He then makes the following quotation: "A woman is called 'waive' as left out or forsaken by the law, and not an outlaw as a man is; for women are not sworn in Duties to the King nor to the law as men are, who therefore are within the law, whereas women are not, and for that cause cannot be said outlawed, in so much as they never were within it." He then makes this statement, which is the key to his work: "These are the only sorts of 'waiver' or 'waive' that the author knows of; and that is all he is able to say about them." And he adds, "All else that is usually spoken of as 'waiver' is, in the judgment of the author, referable to one or other of the well-defined and well-understood departments of the law, Election, Estoppel, Contract, Release. 'Waiver' is, in itself, not a department."

Mr. Ewart gives no definition of "Waiver." "No one has been able to assign it explanatory principles," says he. "The word is used indefinitely as a cover for vague, uncertain thought." He quotes a number of judicial definitions, only for the purpose of showing their inaccuracies. A few instances will illustrate his method: "In dealing with Election, the courts frequently say, that when you choose one alternative you 'waive' the other. The doctrine of election of remedies applies, that, one having been chosen, all others are deemed waived." (Pratt v. Freeman, 115 Wis. 660; 92 N.W. 368.) "That is inaccurate, for you to have no right to both remedies. You have a choice between them. You exercise the choice. And you 'waive,' or throw away, nothing. But the inaccuracy is very popular."

In construing what is usually termed a "forfeiture clause" in a policy of insurance which declares if a certain element in it should be violated the insured should "forfeit" his rights under the policy, the Nebraska Supreme Court said that the breach "merely afforded ground for forfeiture at the option of the insurer." On this quotation the author says: "There would be no forfeitures until the option had been exercised, and, consequently, no room for 'waiver' of the forfeiture. The insurer had a right to elect or continue or determine the contract; by continuing to recognize the policy as in force, he elected to continue it. There was no forfeiture, and no 'waiver.'"

It is pointed out that a "waiver" "cannot be the result of