## Index

abbots, 65
absence
how absence is excused, 853
of assizers or jurymen, 790, 853
of parties in criminal courts, 851, 852, 796
of witnesses, 853, 860
absolution or acquittal from crimes, 539
accession, 126
accessories, 229 ff
accessories or accomplices, 573, 581, 813, 841
see also art and part, socii criminis
accounts, merchant, 316
acolytes, 66
acts in process, $443,444,478,481,485$, 502
Acts of Sederunt, 33
actions, $385 \mathrm{ff}, 400 \mathrm{ff}, 409,410,411 \mathrm{ff}$
adherence, 87
Adjournal (Books of), 746
adjudication, 285
and sale of a bankrupt's estate, 299 ff
in implement, 298
in place of apprisings, 288 ff
on a cognitionis causa, 297
administrator in law, 39
admiral, 26, 272, 420
admiral and admiralty, 742, 758
adoption, 88
adultery, 87, 575, 641 ff
advocates, 420, 422
in the Justice court (see also
Procurator-fiscal), 746, 749
King's Advocate, 422, 756, 828, 839, 857, 889
advocation, 421, 446, 447, 448, 486 ff
of criminal causes, $568,742,763$, 848
affinity, 78, 79
affrays
see frays
age distinguished, 37
agnats, 78
aliens, 64
aliment, 472
to a relict, 85,359
to heirs, 335
to parents and to children, 90
allodials, 114
allegiance to the King, 526, 696
alternative libels, 843
see also libels criminal
amand, 465, 475
amendment
of bills of indictment, 798
of criminal libels, 854
Ann, 72
annats, 101
annexation of benefices to the Crown, 102
Anni utiles, 58
annualrent of money, 143, 229, 230
annualrent by infeftment, 166, 167, 168, 178
annuals, ground and top, 169
annuity, 713
annus deliberandi, 334
apostacy, 551, 590
apothecaries, 622
see also physicians, chirurgeons
appeals, 498, 499, 585, 744, 771
apprentices, 93, 606
apprisings, 284, 286, 287, 292 ff
approbation of a crime committed, 524, 625
arbiters and arbitriment see submissions
archdeacon, 68
Argyle (Duke of), 743
arles
see earnest
arms
see weapons
arms, coats of, $75,438,683$
arraignment
of a commoner, 804
of a peer, 782
array, 806
see also challenges
arrest of judgment, 784
arrest of execution of a capital
judgment, 820, 877
arrest (false), 700
arrestment, 274 ff
breach of arrestment, 216, 725
art and part, 523, 524, 525, 625, 625, 674, 676
see also accessories, socii criminis, reset
assassination, 620
assembly (unlawful)
see convocation of the lieges
assignations, 263
assizes, 315
a list of them annexed to the copy of indictment or criminal letters, 843, 844
effect of their disclosing before their verdict is finished, 874
how it is returned and read in court, 876
Grand Assize of, 565
how cited, 843
how named, 838, 839
harangued by the lawiers, 872
inclosed, 872
what they do after inclosing, 873
in the Court of Justiciary, 520 (see also jury, verdicts)
objections that ly against them, 864
ordinary assize of, 535
how named, 863
perjury of assizers, 865
Roll of Assizers to pass upon trials in the circuits made up and executed, 884
they hear the pleading, 860
and are present at the proof, 866
who exempted from serving upon assizes, 838
assizes (cont)
who may pass upon a Baron's assize, 865
assithment, 545, 630
assuming what belongs to another, 682
see also offices
atheism, 549
see also blasphemy
attachments of the body
see captions
attainders, 803
see also sentences criminal
attesters, 451, 496
attempting to commit a crime, 525, 563, 673
see also tendency to a crime
authority (royal) impugned, 575, 585
average, 213
Avizandum, 406, 429, 453, 454, 475, 483, 485, 486, 502
backbonds, 308
back-tacks, 31, 172
Bagimont's Roll, 178
bail, 580, 773, 830, 860
bairn's part see legitim
bankrupts and bankruptcy, 24, 222 ff fraudulent, 686
barratry, 585, 710
barones minors, 74, 75
barons
and Baron courts, 625
and baronies, 136
bastards and bastardy, 88, 305, 403
battery, 701, 723, 828
see also hamesucken
bawdry, 645, 766
bees, 769
beggars and vagabonds, 597, 701, 762, 766, 828
see also vagrancy
behaviour
see surety
behaviour as heir see gestio pro herede
beheading, 534
benefices, $69,101 \mathrm{ff}$
beneficium discussionis et divisionis, 461
bestiality
see sodomy

Bill Chamber, 425
bills of exchange, 186, 195, 196, 207 ff
Bills of Indictment
against commoners, 795
against peers, 778
bills or petitions, $445,465,447,450,502$
offered to the Lords of Justiciary, 745
bishops, 67, 68, 69
vote not in the trial of peers, 785
black mail, 675, 710
blank writs, 196
blasphemy, 550
blench
see holding
bloodwits, 760, 761, 776, 828
bonorums, 273, 429, 472
border law, 272
bribery, 719
brieves, 432
see also precepts
brokage, 715
broom, 670
brothers and sisters, 89
buggery
see sodomy
building, 127
burdens affecting property, 154
private, 154, 675, 710
public, 177, 178
burdenseck, 668
burgage see holdings
burgelles, 74, 75
burghs, 680, 771
burying, 770, 881
by-laws, 34
caduciary goods
see escheat, confiscation
calumnious pursuits, 879
calumny, oath of, 395, 476
canons, 68
capias against indicted persons, 796
caption, 270, 271
caption (executing), 726
caption of an indictment, 798
carcases of executed criminals allowed to anatomical uses, 881
causes onerous and lucrative, 130, 247
concluded, 416, 459, 467, 485, 502
privileged, 472
caution
by the party cited upon such letters, $840,845,851,852$
by those who repledge criminals, 743
in advocation of criminal causes, 848, 849
juratory, 839
to appear in circuit courts, 888
to report criminal letters, 839, 851, 852
caution and cautioners, 232, 233, 234, 451, 452, 496
censures (church), 770, 828
certiorari
directed to justices in Scotland, 841
to remove before the Lord High Steward an indictment against a peer, 779
certifications, 386, 405, 406, 408, 497
cess, 178
chairman
of a Commission of Oyer and Terminer, 788
of the Court of Justiciary, 851, 855
challenge
of jurors, 807
to the array, 807
to the polls, 808
challenge to fight, 636
champerty, 722
Chancellor of an assize, 873
see also foreman
chance-medley, 629
Chancery, 431, 432
changing infants, 682
chanter, 68
chapter of a bishop, 68
charge to enter heir
in general, $325,344,345$
in special, 344,345
charms, 552, 555
charters explained, 129
charter and seisin under the great Seal how obtained, 251, 252
charters may be registered, 132
several kinds of them, 129, 130, 137
chaud melle, 622
children, $88,89,90$
child in the womb when considered as born, 619
education of children taken from their popish parents, 591
not justified in the commission of crimes by the paternal authority, 530
under pupillarity, 527, 566, 637, 651
when understood to be quick, 620
chiromancy, 555
chirurgeons, 629
church, 535, 566
churches, $66,67,68,102,103,104,500$, 505, 506
church-yards, 104
circuit courts, 753
how the judges are accompanied in going to and coming from the circuits, 757, 760
porteous roll and traistis roll, 883 precepts of exculpation, 888
roll of assizers how made up and cited, 884
circumduction of the term, 481,482 , 483
citation, 386
before the Court of Justiciary upon indictments and criminal letters, 843, 844, 845
citation apud acta, 853
edictal citation, 844
of witnesses and assizers, 843 ff
to appear in a circuit court, 886
upon letters of exculpation, 847
upon letters of recrimination, 848
clauses
irritant, 121153
not to alienate, or contract debt, 120
resolutive, 260, 403
Clementines, 28
clergy, 64
popish, 65, 66, 67
protestant, 68 ff
Clerk
in circuit courts, 756
of arraignments, 788
of the Court of Justiciary, 749
of the Crown, 780

## Clerks

of Session, 423, 424, 465, 466
of the Bills, 425, 496
coalhewers, 669, 701, 827
coaliers and salters, 91
coal pits, 777
codicils, 350, 356, 357
cognats, 78
coin (false), 577, 582
collation of goods, 360
collation and institution, 69
collation pleno jure, 70
College of Justice, 417
privileges thereof, 420
command to commit a crime, 524,624
how far command of a superior justifies a crime committed by his inferior and dependent, 530, 624
commissaries, 68, 86, 87, 420
commission
see mandate
commission for churches and tithes, Gc., 416, 500 ff
commission to examine witnesses or parties, 458, 477, 478, 483
Commission of Oyer and Terminer, 740, 787
commons, 74, 75
commonty, 100
community of goods, 213
comparing hand-writs, 812, 868
compassing the King's death, 571, 574
compearance incidenter, 474
compensation, 142, 143
competition of creditors, $145,146,147$, 277, 294, 373, 460 ff
conatus
see attempt to commit
concealing
a woman's being with child, 628
high treason, 583
concourse of crimes, 705
concussion
see oppression, extortion
condictio
causa data non secuta, 211
indebiti
see indebite solutum
ob turpem causam, 212
conditions, 180
confession, $396,537,560,802,866$
see also holding as confest and proof by confession
confirmation of rights, 249, 252, 253
confirmation of testaments, 361 ff
confinement
see imprisonment private
confiscation, 303 ff
confiscation of moveables, 534
confusion of rights, 145
conge d'estive, 69
conquest of a marriage, 337
consanguinity, 78
consignation, 260
constables, 766
contempt of authority, 772
contracts, 183 ff
contribution ex lege Rhodia, 212
contumacy
by not appearing before a Commission of Oyer and Terminer, 796
by not appearing in circuit courts, 890
how purged, 890
by not appearing in the Court of Justiciary, 851, 852
how purged, 853
by not pleading or answering to the question of guilty or not guilty, 802
convention of estates, 31,32
convention of borrows, 34
convocation of the lieges (unlawful), 608
corns (growing), 670
corporations
see incorporations
corpus delicti, 694
correction used by parents, schoolmasters, $\& c, 606,653$
correction-house, 534, 645
corroboration, 235
council when allowed to persons indicted of high treason, 782, 798
count and reckoning, 460, 461, 462, 472
counterfeiting, 577, 683
see also falshood, forgery, imposters, personating others
courtesy, 86, 163, 165
courts (criminal), 738
circuit (see circuit courts)
Commission of Oyer and Terminer (see Commission)
Court of Justiciary (see Justiciary)
inferior courts
where peers are tried, 739
craftsmen, 703
credit (letters of), 235
creditors defrauded, 222 ff
crimes and offences
against his estate or good by fraud and deceit, 667
against more private persons whereby the life is taken away, 617
or put in imminent danger, 634
against one's fame or honour, 650
against whom these may be committed, 630, 651, 667, 670
by force, 690
by whom pursued, $626,664,686$, 694, 763, 828
concourse of crimes, 537
execution of law and justice, 724
fund for defraying the charges of apprehending, subsisting and prosecuting, 676
how criminals may be apprehended and committed to prison, 826
how extinguished, 538 ff
in general (see also trials), 522
law suits, 722
reacted (see relapsing into crimes)
relating to offices, 718
several kinds of them, 547
that more directly concern the publick, 570
those levelled more immediately against God, 548
transporting them from one prison to another, 835
whereby the body is abused by unlawful venery, 636
or maim'd or mangled, 647
who may commit, $526,566,637,651$, 663, 679
Crown (succession to the), 576,585 , 589
croy, 630
culpa
see diligence
culprit, 803
culreach, 743,857
cunningairs, 672, 769
curator bonis
see factors
curators, $41 \mathrm{ff}, 48,50 \mathrm{ff}$
see also tutors and minors
cursing and swearing, 565, 701
customs ancient, 33
customs (the King's), 731, 770
custos rotulorum, 766
damage, 215
date of writs, 196
deacons, 70, 73
dead corps, 531, 670
dead warrant, 880
dead's part, 353, 355, 359, 360
dean, 68
dearth, 706, 707
death-bed, 332, 333
death ex malo regimine, 626,629
death of a criminal before his trial, 538
debts privileged, 374
decisions, 33
declarators, 401 ff
declinators
see defences
decreets, 398, 399, 479, 495, 497, 502
decretals, 27, 28
decretum, 27
defamation
see libels infamous, scandalum magnatum, injuries
defences
common in a criminal suit (see also pleas in a trial of high treason, exculpation), 858
contrary to the libel, 627, 858
declinatory, 388, 389
dilatory, 388, 389, 473
peremptory, 389, 474
defence (self), 627, 630, 635
deforcement, 216
deforcement of officers of justice
defences against it, 728
libel of deforcement, 727
proof of it, 729
punishment of it, 726
deforcement of officers of justice (cont)
when incurred, 725
where pursued, 727
delay, 181
delegation, 144
deliverance by proclamation, 825
see also liberation from prison
delivery
of goods, 97
of writs, 196
dempster, 752
see also doom
demurring in law, 803
denization, 64
denunciation (letters of), 745, 751
denunciation to the horn, 269, 270
depositum, 188
deputations and deputies, 756
desertion, wilful, 87
design (evil), 523
designation or addition, 798
designation in writs, 194
diets of appearance
continued, 851, 854
diets deserted (see also passing from a suit), 850, 851, 854, 863
in the circuit courts with continuation of days, 890
in the Court of Justiciary are peremptory, 745
dignities ecclesiastical, 66, 67
dilators
see defences
diligence
discharges, 141, 142, 210
legal, 267
disclamation, 139
disinheriting parricides, 621
dismembration, 647, 648, 649
see also mutilation
dispositions, 248 ff
dispositive clause, 130
dissenters (protestant)
see nonconformity
dittay (points of)
how such dittay was formerly taken up, 881
how now, 762
to be tried in circuit courts, 882
divination, 552, 555
division of things common, 213
brieves of division, 204, 213
divorce, 86, 87640
dogs, 672
doom, 561, 753
see also sentences criminal, attainders
double rights, 227
doves and dove-cotes, 672, 769
drunkenness, 529, 566, 701, 770, 828
duelling, 531, 633, 634
dumb persons, 556
dyvour habit, 273
earnest, 200
edicts in testaments, 364
Egyptians, 597, 762, 766, 769
ejection, 219, 411
elders, 70, 73
embassadors, 24,527
enchantment, 552
enemies of the King, 573
error, 212
escheat, $135,142,403,534,745$
see also confiscation
liferent, 143 ff
single, 143, 145, 146
espousals, 76
estates, $94,245 \mathrm{ff}$
eviction, 131
excambion, 191, 249, 253
exceptions, 388, 390, 391
see also defences
exchange
see bills of exchange
Exchequer, 420
excise, 731, 764, 770
excommunication, 566, 569
exculpation, 846
see also recrimination
letters of exculpation, 846
precepts of exculpation, 888
proof of it, 871
excuses, 853
see also absence, contumacy
execution
advocation, recrimination, 848
execution of a woman with quick child stay'd, 820,877
execution of criminal sentences, 625 , 760, 880
execution (cont)
faith given to executions, 858
of criminal letters and indictments, 843, 844
of letters of exculpation, 847
executions
of horning, 269
of summons, 387
executors
active interest, 370,371
creditors of the deceased, 365,366
creditors of the nearest of kin, 367
dative, 363, 364
defences competent when pursued, 374, 375
nominate, 352 , $355,362,370$
quoad non executa, 372
quoad omissa et male appretiata, 368
passive interest, 372, 373
exercitors, 214
exhibition and delivery, 212, 411, 414
exhibition ad deliberandum, 335, 414
exhibition for proof, 414
expences, $395,456,466,468,490,495$, 496
exposing infants, 619
extent, or valuation, 178, 326
extortion, 700, 721, 759
see also oppression
Extravagantes, 28
factors, 190, 214
faculty reserved, 257
fairs and markets, 705, 706
falshood, 681,
see also forgery, personating others
by facts not relative to writ, 561, 682
by words, 561, 682
by writing, 561, 682
trial of falshood, 685
fascination, 552
fathers, $38,39,60,89,90$
fees
conjunct fees, 124
of money, 124, 125
of moveables, 126
of officers of the law, 703, 767
fees of lands \&c., 29, 115 ff
felo de se, 617
feu-holding
see holding
fictio brevis manus, 97
fines, 634, 638, 745, 760, 767, 853, 860
fire-raising
accidental, 678
burning houses to slay thieves, 175
pulling down houses to hinder fire from spreading, 680
wilful, 677
fishing, 614, 769
force, 221, 222
forestalling, \&c., 705, 762
foreman
see also Chancellor of an Assize
of a grand jury, 791
of a petty jury, 817
forests, 687
forewoman of a jury of matrons, 821
forfeiture, 303
forgery, 577, 682
see also falshood
forisfamilation, 90, 355
form of process
see also order of judicial proceedings, trials
before the Session, 416, 439 ff
in advocations, 486 ff
in ordinary actions, 470 ff
in suspensions, 492 ff
in the commission for churches and tithes, 501 ff
fornication, 644, 701, 770
forthcoming (action of), 277
fortune-tellers, 555, 599
fraud, 222 ff
frays, 566, 610, 766
freight, 703
fuelling, 158
fugitives, 533, 566, 613, 851
see also denunciation, outlawry
furiosity, 59, 60, 432, 528, 651
game
see hawking, hunting, fishing
gaming (unlawful), 762, 770
gentlemen, 74, 75
gestio pro herede, 343, 346, 347, 348
gifts, 80, 81, 182, 183
girths
see sanctuaries
glebes, 105, 106
grace (act of), 274
grassum, 176
gratis warrant, 746
graves
see sepulchres, dead corps
green wood (cutters of), 670
see also planting and policy
guile
see design evil
hamesucken, 659
hanging, 534
one falling from the gallows before he is dead, 539
hasp and staple, 326
hawking, 672, 769
hearsay, 812
heirs, 321
active interest, 337
apparent heirs, 332 ff
how extinguished, 329
how their active titles are made up, 325 ff
institute, 321
male, 322,337
of conquest, $323,338,339,342$
of line, 322, 323, 338, 339, 342
of provision, 322, 331, 337, 342
of tailzie, 322, 337, 342
order of discussing them, 342
passive interest, 340
portioners, 323, 324, 338341
substitute in bonds, 322, 331, 342
heirship moveables, 338, 339 360, 361
heralds and pursevants
see Lyon-office
herding, 687
hereditas jacens, 297, 298
heresy, 520
heritable and moveable rights, 111 ff , 127, 260, 261
hermaphrodite, 36
Highlands and Highlanders, 601, 828, 831
highways
see ways
hirelings, 92
holding as confest, 396, 477
holding up the hand in trials, 782, 797, 801, 804, 810, 817
holdings, 187
base, 118, 249
blench, 116
burgage, 117 139, 165
feu, 116, 153
mortification, 117, 139
publick, 117, 249
ward, 115, 148, 149
holograph writs, 195, 334
homicide
casual, 627, 629
in relation to publick justice, 632, 665, 675
necessary with respect to private persons, 630, 673, 693
voluntary, 917
homologation, 183, 184
horning, 40, 41
hospitals, 683
hostlers, 213
houghers of oxen, 670, 717
houses, 659, 680
house-breaking, 673
house-mails, 88
hue and cry, 675, 693, 766, 827
hunting and fowling, 614, 769
husbands, 76, 80, 81, 82, 86, 303, $530,531,534,535,606,829$, 845
hypothecks, 173, 232, 380, 729
see also pledges
idiotry, 59, 432
ignoramus, 795
ignorance, 537, 638
see also mistake
imposters
see falshood, personating others
impotency, 640
imprisonment, 273
false or wrongous, 700,827
legal, 763
private, 716
improbation
see reduction and improbation
imps of witches, 553
incest, 638
incorporations, 34, 530
indemnity (general), 543
see also pardon
indebite solutum, 212
indictments
see also letters criminal, bills of indictment
before the Court of Justiciary, 837 execution thereof, 843
of crimes tried in the circuit courts, 885
execution thereof, 886
of high treason, 810
caption of such indictment, 798
infanticide
by exposing infants to die, 619
by killing them in the belly, 619
in what cases the murder of a child is presumed, 628
infeftment, 133, 134
competition of infeftments upon resignation, 250
infeftments confirm'd, 252
infeftments publick and base, 249, 262
of relief, 170
informations after pleading in the Court of Justiciary, 860
but not in circuit courts, 890
informers in criminal courts, 827,858
ingrossing, 705
inhibition, 120, 281 ff
injuries
by whom committed, 527, 651
dissimulation of injuries, 531, 651
extraordinary injuries in relation to the place where committed, 659
how extinguished, 653
ordinary injuries, 654
real injuries, 656, 658
to whom they may be done, 531, 651 verbal, 654, 658, 663
what falls under the denomination of injuries, 652
when tried, 658
with respect to the persons offended, 662
written, 657, 660
inns, 660
inn-keepers, 213
innovation, 144
inquest
see assize, jury
inquisition of crimes
see precognition
insolvent criminals, 534, 566, 567, 569, 697, 689
interlocutor upon the relevancy, 863
interpreters, 797, 801, 814
institors, 214
insurance, policy of, 191
interdiction, 60, 61, 62
interlocutors, 479
interruptions, 318, 319
intromission
vitious, 376
wrongous, 219, 411
intrusion, 219, 411
invasion and insurrection, 828
inventories
of executors, $361,362,364,373$
of heirs, 330, 331, 340
of minors' estates, 46
irritancies
see clauses irritant
jaylors, 832
jogs, 534
judges, 489, 535, 576, 719
see also courts, jurisdiction
inferior judges, 763, 828
judges in the Court of Justiciary, 746
judgment
see also sentences, doom
for high treason, 581
judgment possessory, 99, 411
judicata res, 539
jurisdiction, 388, 489, 585, 772
see also courts, judges
barons, 771
criminal, 735
cumulative, $736,762,776$
Justices of Peace, 763, 771, 772
of the Admiral, 758
of the Court of Justiciary, 741
of Sheriffs, 759
ordinary and extraordinary, 738
privative, 737,761
prorogated jurisdiction, 737
regalities, 743, 856
Stewarts, 761
jury
challenged, 807, 808
grand, 788, 789, 793, 800
in a Commission of Oyer and Terminer (see assize)
jury (cont)
jury of matrons to try if a woman sentenced to die be with quick child, 826
jury to try if a prisoner refusing to plead be dumb, 802
petty jury summoned and returned, 805
quasi jury of peers in the trial of peers, 782
their oath and charge, 810,816
jus
accrescendi, 355
coronae, 132, 134
devolutum, 71
mariti, 81, 84
relictae, 85, 353, 354, 359
repraesentationis, 323
retractus, 200
justice air
see circuit courts
Justice Clerk, 747
Justice Deputies, 746
Justice General, 747, 756
Justices of Peace, 535, 544, 753
see also surety
Justiciary (Court of), 535, 771, 825
advocates there, 749
Lords therein, 535, 576, 747
kidnapping
see plagium
kindred, the degrees and lines thereof, 78, 79
King, 26, 63, 132, 325, 420, 472, 571, 586, 762
see also authority royal
annuity out of tithes, 111
decreets arbitral, 110
King's Ease, 110
King's Advocate
see advocate
knights, 74, 75
laity, 73
law
as a science, 22
civil, 21, 22, 26
considered as a command, 20
divine, 20, 23
feudal, 29, 30
law (cont)
law canon, 27, 28
municipal, 21, 22
of nations, $21,22,24,25$
of nature, $2,22,23$
of Scotland, 22 ff
positive, 20
private and publick, 34, 35
lawborrows, 602
leasing-making, 586
see also scandalum magnatum
legacies, 354 ff
legitim, 86, 353, 354, 359 ff
legitimation, 89
letters criminal, 838
see also dittay
execution thereof, 844
letters of reconvention or recrimination, 848, 854
of advocation, 848
letting out and hiring, 200
levying war against the King, 872
libels criminal, 627, 643, 658, 699, 708, $727,732,734,841,854$
liberation from prison, 832
see also deliverance by proclamation
licence to pursue, 369
liege poustie, 333, 334
liferents, 162 ff
by law, 163
by paction, 166
by reservation, 166
lis finita
see judicata res
litiscontestation, 473, 478, 479
loan
of money and other things to be restored in kind, 185
of things to be restored in specie, 186
Lords of Session, 419, 420, 421, 440 ff
see also Ordinaries
their business in the Inner House, 463 ff
lucrative successor, \&rc., 348, 349
lunaticks, 528
lyning (brieve of), 221
Lyon King at Arms, 683
Lyon-office, 437
macers, 428
in the Court of Justiciary, 751
madness see furiosity
magick, 552
magistrates, 680, 761, 763, 828, 831
see also burghs, judges
maiden (the), 534
mails and duties, 411
maintenance, 722
malice (forethought), 618
malversing in office see offices
malum regimen, 626, 629
mandates see command
manses, 104
manslaughter, 622
marches, 130, 220 see also molestation
marginal notes, 195
marriage, 76 ff
marriage casualty, 151
masters and servants, 91, 530, 531, 606, 679, 770, 829
mayhem, 647
measures false, 684
medietas linguœe, 581
members of the body, 647
men, 37
messengers, 633
Messengers at Arms, 437
mills, 670
mines and minerals, 135
minima res, 692
ministers, 68, 70, 195
see also parsons, vicars, probationers
Episcopal ministers, 593, 610
ministers assaulted or robbed, or beaten, 663
of the established Church, 594
minors and minority, 37,41
privileges thereof, 56
minute-book, 426, 479
misapplication, 668
misconstruing the King's proceedings, 586
misprision of high treason, 683
mistake of the person offended, 618
mob, 828
see also sedition, rabble
mobilia sequuntur personam, 534
molestation, 220, 400
monopoly, 709
monks, 65
mora
see delay
mortancestry (brieve of), 325, 326
mortification
see holdings
mothers, 38
moveables
see heritable and moveable rights
mournings, 359
muir-burn, 614, 769
mulct
see fines
multiple-poinding, 492
murder, 617, 625
under trust, 621
mute upon trial, 580, 782, 802
mutilation, 647 ff
титиит
see loan
names of persons tried, 798
narrative, 130
naturalization, 64
nautae caupones, \&rc., 213
necessity, 668, 697
necromancy, 552, 555
negligence (gross), 523, 678
negligence in office, 721
negotiorum gestor, 214
night walkers, 766
nonconformity, 592
see also recusancy
non-entry, 140, 141, 403
notaries, 194, 195, 424, 426, 427
notoriety, 169
novodamus, 129
nusances, 614
oaths
decisive, 236
in litem, 395
of assizers and jurymen, 791, 810, 865
of bailiff to keep the grand jury, 793
the petty jury, 816
a jury of matrons, 821
of calumny, 395,476
given by a pursuer, 857, 867
of credulity, 395
oaths (cont)
of husband or wife, 80
of interpreter in trials, 797, 801
of jury of matrons, 820, 877
of Justice of Peace, 764
of minors, 58, 237
of party, 393, 455, 477
of physicians and chirurgeons upon the nature of a wound, 629
of verity, 394
of witnesses, $456,457,458,794,815$, 870
promissory, 237
taken to ly in retentis, 847, 852
objections, 388
obligations
accessory, 229 ff
arising from contracts, 183
arising from quasi contracts, 211 ff
arising from trespasses, 215 ff .
how extinguished, 238 ff
several kinds of them, 179
occupancy, 126
offences
see crimes
offers, 192
offices
crimes relating to them, 683, 718
officium nobile, 420, 478, 484
relative to the Session, 431 ff
open-doors (letters of), 279
oppression
see also extortion
in contempt of law, 704, 717
under colour of law, 700
orchards, 672, 769
order
see command
order of judicial proceedings
against commoners for high treason and misprision thereof, 787,833
against peers, 777
before circuit courts, 881
for other crimes before the Court of Justiciary, 825
orders
ecclesiastical, 66
religious, 108
Ordinaries
at the fore Bar betwixt nine and ten, 442

Ordinaries (cont)
at the side Bar, 453
in rankings and count and reckonings, 460
in the Outer House, 442
on concluded causes, 459
on the bills, 445
on the witnesses, 455
reporters, 453, 454, 464, 465
overseers, 55
outlawry, $303,304,533,633,779,796$, 809, 813
see also denunciation, fugitives
overt acts of high treason, 573, 574
Oyer and Terminer
see Commission of Oyer, \&c.
paction, 192
legis commisseriae, 231
pactum de quota litis, 184
palinodia
see recantation
pannel
a person under trial, 856
a roll of jurors, $789,806,820$
the bar, 856
paraphernalia, 83, 85
pardons, 543, 699, 724, 813
see also indemnity
parents, 88, 530, 531
correcting their children, 606
cursed or beat by their children, 536, 663
parishes, union and dismembering thereof, 505, 506
Parliament, 31, 32, 576, 585
parricide, 620
parsonage (see tithes), 66
parsons, 66
partiality, 720
parts and pertinents, 130, 136, 137
partnership, 202
pasquil or pasquin, 657
see also libels infamous
passage, the right of, 157
passing
from a forged writ, 682
from a suit, 646, 664, 686
passive titles, 343
pasturage common, 657
patronage, 67, 71, 109
payment, 239
peace (breaches of the), 601, 762, 766, 769
see also surety, Justices of Peace
peers, $73,581,665,739,764,779$
see also trial of peers, scandalum magnatum
pensions, 169, 331, 338
perambulation, 221
perjury, 561
personating others, 682, 690
see also falshood
persons
in their civil capacities, 63
in their natural capacities, 36
pestilence, 673, 770
petitions
see bills
physicians, 629
pillory, 534
pimps
see bawdry
piracy, 795
plagium, 772
plague
see pestilence
planting and policy, 686, 762, 769
play-house, 660
pleading
in a common trial, 858
in a trial of high treason or misprision thereof, 803
pleading of a cause, 390
pleas of the Crown, 625, 678
pleas (buying of), 723
pledges, 230
see also hypothecks
plough and plough gear, 718
poinding, 278, 380
poinding beasts of the plough, 704
poison and poisoning, 620, 622, 629
polygamy
see bigamy
Pope and popery, 79, 85, 88 ff
Porteous Roll, 883
posse comitatus, 609, 770
possession, 94
bona fide, 96, 99
civil, 95, 96
decennalis \& triennalis, 99
effects of it, 97, 98, 99
possession (cont)
how attained and lost, 97, 98
mala fide, 96, 100
natural, 95
seven years, 99, 411
triennalis, 99
potion taken or given to procure abortion, 619
practiques, 33
preaching, 585, 587, 653
precept
of clare constat, 311, 328, 330
of seisin, 132, 134, 311
precognition of witnesses, 774,837
prelacy, 69
premonition, 260
premunire, 586
prebendaries, 68
presbytery, 69
prescription, 137, 309
of crimes, 541
presence at the commission of a crime, 524
presentation and collation, 69
Preses of the Court of Justiciary see chairman
presumptions, 397, 558, 628
pretender, 575, 582, 799
prevention (right of), 736, 776
praevento termino, 452
primogeniture, 33,89
prince and principality, 63
priests popish, 579, 589, 590, 742
Prince the King's eldest son, 571
printing, 575, 657
priors and priories, 65
prison breaking, 732
prison private, 716
privateers, 25
Privy Counsellors, 535, 662, 685
prizes, 25, 26
probatio probate, 685
probationers, 70
Procurator-fiscal, 763, 828
procuratories of resignation, 249, 250, 311
procurators and protutors, 55
profaneness, 565, 762, 770
profits, violent, 175
promises, 192
promissory notes, 195
proof, 391, 397, 460, 475, 484, 485, 486
by confession, 537,569
by oath of party, 867
by presumptions, 628, 644, 678, 868
by witnesses, $560,564,643,661,678$, 985, 694, 868, 869
taken viva voce in a Commission of Oyer and Terminer, 816
their oaths in the justice court recorded, 871
by writ, 868
property
absolute, 114
and the kinds of it, 100, 101
limited, 115
to universal successors, 319
transmission thereof to singular successors, 247
protections, 24, 272
protestations, 473, 479, 488, 492, 493
protests for remedy of law, 498
see also appeals
prothocals, 427
protutors
see procurators
provosts, 67, 68
punishment of crimes, 532
arbitrary, 538
ordinary punishments, 533
pupils and pupillarity, 37, 432
purprusion, 139

Quakers, 563, 595, 640, 792, 809, 869
quasi contracts
see obligations
quasi tutors and curators, 55
Queen, 63
Queen consort, 571, 575, 739
Queen dowager, 572, 575, 739
Quoniam Attachiamenta, 31
quotes of testaments, 364
rabble, 594, 611, 664
ranking
see Ordinaries
rape, 645
ratihabition
see approbation
real and heritable rights, 138
rebellion, 701
recantation, 534, 658
recognition
in general, 138
in special, 149
reconvention or recrimination, 859, 871
see also letters of recrimination
recusancy, 588
red hand, 625, 760
reddendo, 130, 138
redemption, 260, 295
reduction, 404
reduction of decreets, 494, 497
reduction and improbation, 407
simple, 405
regalia, 135
regalities, 743, 761, 856
Regiam Majestatem, 31
registers and registration, 132, 435
regrating, 705
regress, 30
regulation roll, 472
relapsing into crimes, 536, 580, 671, 672
relaxation, 270
relaxation from the horn, 846
relevancy, 390, 475
relevancy of a libel, and exculpation by whom determined, 860, 872
relief
infeftments of, 130
relief mutual due to co-obligants, 213, 234
relief at the entry of heirs, 142
relocation (tacite), 171
remission
see pardon
remit, 490
removing (action of), 175, 410
rentals, 172, 176
rents, $95,99,100$
renunciation to enter heir, 345
repentance, 537, 682
repledging, 743, 761, 856
reprieve, 543
reprisals, 24, 25
reprobatures, 457
requisition, 235, 263
res judicata, 249, 250
see judicata res
reset (see art and part)
of criminals, 524, 525, 615, 674, 769
of stolen goods, 675
respite from trial for a time, 834
restitution of minors, 57
retaliation, 652
retention, 380
retinues in travelling, 609
retired bonds, 240
retours, 432
general, 326
special, 327
retoured duties see extent
retrocession, 265
reversions, 254, 258, 259, 264, 296, 331, 428
reviewing of criminal sentences, 881
revocation by King Charles I, 109
rights a me, and de me, 249
riots, 611, 633, 701, 762, 766, 769, 828
rixa, 624, 630
roads see ways
robbery, 690 ff
rolls, 428
roup, 197
of a bankrupt's estate, 301
rusticity see ignorance

Sabbath-breaking, 567, 701, 770, 828
Sabbaths of witches, 554
sacrilege, 773
sale, 472
see also adjudication and sale
salters, $91,669,701,827$
sanctuary, 272
sanctuaries, 623
scandalum magnatum, 536, 665
schoolmasters
see correction
seals, 251, 432
seals (the King's), 577
sedition, 607
see also mob, rabble, riots, convocation
seisin, 133
self-murder see suicide
selling and buying, 197
sentences, 398
sentences criminal, 581, 582, 583, 625, $745,760,819,878$
see also attainders
sepulchres violated, 531, 670
sequestration, 189
servants, 530, 590, 669, 679
see also masters
service of heirs
general, 325
special, 326
services, 154, 403, 432
city, 161
personal, 162
real, 157
rural, 157
Session, 416
see also Lords Ordinaries
Court of, 535, 719
Lords of, 576, 764
sex distinguished, 36
Sheriffs, 625, 759, 764
ship, 660
ships
matters thereof, 213
owners or freighters thereof, 214
shipwreck, 673
shop, 660
signatures how past in Exchequer, 251
Signet-office, and Writers to it, 420, 433
simony, 718, 867
slains (letters of), 546
slander
see injuries
slaves and slavery, 91
sleep, 529
small things
see minima res
socii criminis, 560, 685, 855, 869
see also accessories, art and part
sodomy, 636
solicitation, 389, 421
Solicitor (the King's), 422
sorcery, 552
sorners
see vagrancy
spectators
see presence at a crime
spulzie, 218, 411, 704
stellionate, 227, 689

Steward (Lord high) before whom peers are tried, 779
Stewarts and Stewartries, 761
stipends, 71, 72, 500, 503
see also ministers
stops to decreets, \&c., 479, 480
strangers
see aliens
strays, 306, 670
subjects, 63,526
submissions, 382
subornation of witnesses, 564, 565
subpoena, 811
subscriptions, 194
sub-tacks, 172, 173
succession, 33,320
in heritage, 321
lineal succession how regulated, 323
succession in moveables, 350
to one dying intestate, 358
successors
singular, 247
universal, 319
successor in the vice, 175
suicide, 617
summons criminal
see letters
summonses, 385
suns (three), 625, 760
superintendents, 68
superiority, 134, 137 ff.
ecclesiastical superiorities, 110
supposititious births
see changing infants
surety
see also caution, bail, peace, Justices of Peace
for the good behaviour, 603, 770, 773
for the peace, $603 \mathrm{ff}, 770,773$
suspected persons, 766
suspension, 446, 492
suspension of criminal sentences, 568
swearing
see cursing
symbols, 97, 133, 249, 326
tacks, 171, 331, 338
tailzies, 621
see also heirs of tailzie
talio
see retaliation
taverns, 566, 684, 770
taxations, 32, 177, 178
tenants, 679
tendency to a crime, 623, 771
see also attempting to commit a crime
tenendas, 632
tenor of writs lost, 411, 501
terce, $85,163,432$
testaments, 195, 350, 356
dative, 358
testamentary, 351
theft
art and part of theft, 674, 675
if a thief may be killed by private authority, 673
punishment of it, 536, 671
several kinds of it, 670
what it is, 667
where theft may be tried, 760,776
thirlage, 158
threatening
to kill, 767
to raise fire, 677, 767
tithes, 107 ff
inhibition, 284
sale, 110, 505
valuation, 110,506
toleration to dissencers, 593, 610
torture, 533
Traistis Roll, 883
transactions, 381
transference, 411, 415, 472
translation, 265
transporting persons
from one prison to another, 835
out of Scotland, 702
transumpts, 213, 411
treason, 303
arrest of judgment, 819
evidence of high treason and misprision thereof, 811
high and the several kinds of it, 571 ff
in what cases persons indicted for these crimes are allowed council, and a copy of the indictment, 782, 798 and where not, 823
treason (cont)
in what time high treason and misprision thereof prescribes, 541
judgment and forfeiture for high treason, 581, 582, 583
misprision of high treason, 583
overt acts of high treason, 573, 574
where high treason and misprision thereof must be tried, 759,825
who may or may not be witnesses, 812
treasures, 135
trial of commoners, in cases of high treason and misprision thereof
how according to the common law of England, 823
how after the bill is found, such trial proceeds by the statute 7 W.III. Cap. 523, 797
in finding the bill by the grand jury, 793
trial of peers out of Parliament
before a Lord high Steward, 779
before the Lords in Parliament, 785
trials, how prisoners may get themselves
brought to a speedy trial, 831
trust, 308
trust (breach of), 721
tumults
see riots, mob
tutors, 38, 39, 40, 44 ff
see also curators
udal rights, 252, 328
ultimus heres, 304, 305, 325, 403
uncertainty about which of several persons committed a crime, 619, 624
union of lands, 135, 136
university
see incorporations
unlaw
see fines
usury, 227, 259, 260
improper and indirect, 714
proof of usury, 715,867
proper and direct, 711
punishment, 714
usurious brokage, 715
what it is, 710
vacation time, 763
vagrancy, 591, 701, 762, 766, 769, 827
see also beggars, Egyptians
vassals, 137, 303
of church-lands in Orkney, \&rc., 252, 328
vassals of bishops, 252
venire facias, 788, 804
verdicts
of a grand jury in a Commission of Oyer and Terminer, 795
of a petty jury, 814,817
of assizes in the Court of Justiciary, 873, 877
of peers, 783
veritas convicii non excusat, 656
vicarage
see tithes
vicars, 66, 67
viles personce, 532
violation of the Queen, \&c., 575
voire dire, 809, 814
volenti non fit injuria, 531, 575, 646, 651, 668
wadsets, 228, 230, 258 ff
wagering
see gaming unlawful
waifs, 306,670
waived women, 796
wakening, 411, 416
wand of peace, 727
war, 24
ward
see holdings ward
Warding (Act of), 272
warning to remove, 174
warrandice, 131, 173, 235, 248
ways, $615,717,769$
weapons (unlawful), 600
weights and measures, 684
whores, 644
will, latter, 357
see also testaments
witchcraft
compact with the devil express, 553
devil's mark, 553, 559
proof of it, 558, 559
punishment of witchcraft, 555, 561
tacite, 554
witchcraft (cont)
the author's reasons for his treating of witchcraft in the way he hath done, 891
things relevant to infer it, 556
what it is, 552
white and black witches, 554
works of witches, 554
witnesses
see also precognition, proof
absent witnesses fined, 853
adduced for proof, 393, 455 ff
a list of them given to the party accused, 843, 858
by him to the other, 847
a pannel's witnesses cited as accomplices first tried, 855
examined ad futuram rei memoriam, 847, 852
expences of witnesses, 871
instrumentary, 194, 195, 196, 271
who may be witnesses in crimes, 812, 868
witnesses to the prisoner's reputation, 815
wives, 76, 80 ff, 530, 531, 534, 535, 566
see also husbands
women, 37
how long under pupillarity in crimes, 527
judgment against a woman for high treason, 583
when allowed as witnesses, 560,643 , 869
women pleading their bellies, 820,877
words
a libel for words, 658
how words are to be interpreted, 655
if words be an overt act of high treason, 574
in criminal cases proved by witnesses, 566, 869
wound, how proved to have been mortal, 626, 629
wreck, 306
writ
see proof
writs
foreign, 197
private, 193, 194, 195
publick, 196, 392

