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 ff, 400 ff, 409, 410, 411 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 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, 121 153 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. &c., 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 Over 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 Over 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 ff, 48, 50 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, 87 640 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 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, 338 341 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, &c., 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 linguæ, 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 mutuum see loan names of persons tried, 798 narrative, 130 naturalization, 64 nautae caupones, &c., 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,

*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 Over 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 Over 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 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, &c., 252, 328 vassals of bishops, 252 venire facias, 788, 804 verdicts of a grand jury in a Commission of Over 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 personæ, 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