

In which case if the Reptor fail to administer Justice upon the person Repted in due time, <sup>by</sup> times his court ad v. frazo it for Year and day; the Pursuach or Cautioner who borrowed the Criminal is liable to an Unlaw or Amoviamment and the Lord of Justiciary out of whose hand he was taken may proceed to do Justice upon him Edin. Attach. cap. 8. 9 & 17. The form of Baron courts cap. 25. Shon de Verb. p. nife Criminals Dwelling within any of the Isles of Scotland, except Orkney & Zetland, and a part of the Isle of Man are upon Application Made in the Name of the Duke of Argyll (who is Hereditary Justice General in these parts) Remitted to be tried by his grace and his Deputies in their Justiciary court 25 July 1709 Justices of peace and Constables of the shire of Bute. However there is this Difference betwixt Laick Regalities, and Ecclesiastical Regalities which were Referred to the Erection Lords, after Suppression of those Religious houses they formerly belonged to that the Lords of Laick Regalities may always Reptidge whereas the Repting privilege is allowed to Ecclesiastical Regalities only when they prevent the Council of Justiciary, by first biting the Criminals, with whom otherwise they can only sit upon the trial; the without preventing or Concurring, they have right to the Escheat and fines of those Condemned by the Justices act 29 Parl. II. 6. and farther the said honorable Stewart 22 July 1664 Earl Sutherland contra McIntosh of Connaught before the court of session 19 March 1606 Doctor Turnbull and his sons 3 November 1629 John Simpson 24 May 1609 John McNeil 29 July 1661 Johnstone Loch & others. The Reason of which Difference betwixt Laick and Ecclesiastical Regalities is, because those Ecclesiastical Regalities having become Extinct with the Religious houses in whose favour they had been Erected, the King thought he abundantly Gratified the Lord of Erection by Renewing their Offices to them only that without allowing them power to Exclude his own Justices in case of prevention. But before the Act of

Parliament 1567 (d. act 29) a Bailie of an Ecclesiastical Regality was allowed to Reptidge, and not found obliged to sit down immediately and Concur in Judging the Pannel sought to be Repted to his Jurisdiction 7 May 1586 William Jel & Alexander Balman. No Judge of any Regality can Reptidge Pannels from the Justices bar, but only Concur therein Judging them d. act 29. Sir James Stewart (answer to Dir. l. doubts q. advo. cation by the Justices) says, it may be thought that by the act of Regulation 1672 (act 16 Parl. 2 Sept. 3 Ch. 2) the sovereignty of the Justices court in Criminals is fully Established, and that Bailies of Regality ought no more to Reptidge from them, nor to be allowed to sit with them; but should only Enjoy the Unlaw and penalties as when Repting was in use. But the Lord Stewart (Just. lib. 4 Tit. 37 54) will have it not to be Determined by the said Act of Regulation, whether the Bailies of Regality are Restricted in their Jurisdiction from having a Vote with the Justices in the ordinary or Circuit courts: but thinks it more Rational, that these Bailies should have a Vote when there are many Criminal Judges than when there was but one. Vide Infra page

Before the Union of Scotland and England Protests for Remedy of Law were in use to be taken against sentences of the Justices Court 9 May 1605 George Gordon 5 July 1626 Alexander Gairny 24 January 1627 Thomas & William Hunter. Appeals since the Union of Scotland and England have been Made from sentences of the court of Justiciary to the house of Peers 2 March 1710 William Housloun & his Tutor 25 July 1709 Mr John Stewart of Arco & others 16 November 1713 Mr William Dugid 9 Feb. 1713 George Jones 2 January 1716 Mr Robert Dundas in the case of Mr Alexander Robertson & others. But in England no Appeal lies against a Criminal Judgement Wood's Inst. of the Imper. Law pag. 402. Also an Attainder there may be Reversed by a party