

opprobrious speeches or threats 25 January 1669 the May
 States of Bamf

2.

Who may carry on a Criminal prosecution.
 Criminal causes are brought before the Justices either
 in the first Instance as ordinary Actions, or in the
 second Instance by advocacy suspension Reduction or Action
 of Error.

No person has right to carry on a Criminal prosecution
 and sue for the punishment of a Crime, except the party
 who is injured, and the Public officer to whom the Charge
 is committed viz. the Kings procurator, who is his Majesties
 Advocate or his Deputy in the court of Justice, or
 Circuit courts, or in Commissioners of Oyer and Terminer,
 and the procurator Fiscal in Inferior courts. Steps to them
 made by the private party, tend only to obtain a sen-
 tence of Condemnation for Damages, or a Civil Reparation
 of the loss, which the Crime may have occasioned to
 him, which is called Vindicta privata or the Civil Interest.
 But it is properly the Business of the Kings Procurator,
 to Demand that the party should be condemned to Under-
 go the Punishment which the Crime may Deserve with
 regard to the Public for breaking his Majesties
 peace and laws, and Injuring his Subjects called Vind-
 icta publica. Crimes are prosecuted in the Justice courts
 all the Instances of the Kings Advocate, by Virtue of his
 office as Vindictam publicam, tho' the particular persons
 interested in the Crimes and offenses do not join with
 him in the prosecution Act 140 Parl. 13. J. 1 act 7 6 Parl. 11
 J. 6. Because of the Breach of the Kings peace and laws
 and the wrong thereby done to his Subjects and upon the
 Account of his Majesties special Interest in the penal
 laws and Pleas of Offenders, and to see the publick
 laws put to due Execution. Thus an Indictment at the
 Kings

Kings Advocate Instances for Murder forgery, oppression,
 Spuilzie and plunder Committed against several particular
 persons, was sustained, albeit none of these persons Complain-
 ed or assisted in the pursuit 2 December 1696 Patrick to James
 Head. For as the private parties could not by transacting
 or Agreeing about the Injuries done them Exclude the King
 or Vindictam publicam: so Neither could they do it by not
 Concurring or Delaying to pursue. One having letters of
 pardon from the King of the person he had killed, did not
 hinder a pursuit against him, at the suit of the Kings
 Advocate for his Majesties Interest 5 August 1635 James
 Gordon. Again a pursuit for the ft was sustained at the
 Kings Advocate Pursuit where no private party Complain-
 ed 5 April 1686 Grizel Somervell. If the particular person
 who is interested in the Crime Declines to prosecute, the
 Kings Advocate is obliged or not obliged to pursue on his party,
 according to the quality of the Crime: for if it is heinous,
 and the Criminal Deserve to be Made an Example of,
 the Kings Advocate ought to carry on the prosecution, al-
 tho' the injured party is silent and does not join therein.
 But his Majesties Advocate may pass from Justice
 on such a suit commenced at his Instance, at any time before
 Interlocutor given on the Relevancy, Even after the plead-
 ing about it is Ended; Albeit the party would Desire that
 the trial may go on 20 November 1616 Sir Patrick Thirnes
 and others. Again a person Accused at a private parties
 Instance may, tho' absolved, be prosecuted Again at the suit
 of the Kings Advocate, Reg. Majest. lib. 4 cap. 28. But the his
 Majesties Advocate is pursuer in most cases, he uses frequent-
 ly to Appoint a Deputy in his Room by a written Man-
 date. Which Advocate Deputy can Desert a Dist, tho' his
 Commission bear not Expressly that particular power
 29 November 1639 Mr George Norval procurator for James
 John Rolles. Which is Agreeable to the opinion of the
 Doctors. Tho' Kings Advocate having given a Commission
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