

and other personal punishment. Thus the Insulting a Bailiff of Regality as he was walking in a fair or public Market to preserve the peace and the worst punishment by calling him thusly a damned Villain, Rascall and threatening to throw him with a staff into his hand, was found not to be an offence by the Lord of Justiciary to give an arbitrary punishment 14 Decem^r 1724. The malefactor and was punished and sentenced by them for Injuries. Expressions against the Justice General, tho he was not at the time in the actual Execution of his office 24 February 1673. Richard Hampden. William Rawkins (Capt. Ensign) 21 513 says, it seems the better opinion that such a man cannot be indicted in England for any, lewdness or for contemptuous words spoken of or to the Justice of the Peace not being in the actual Execution of their office; for such an offence seems rather to proceed from ill Breeding, than a Contempt of the Government: and tho it may be a cause to bind a man to his good behaviour, yet it doth not seem to be of such a nature as to be a sufficient ground of a public prosecution, as for an offence against the Common Peace &c. and he sets down several instances where in it hath been resolved agreeably hereto. Sir George Mordaunt is of opinion that in a libel for words the expression of words should be mentioned, and that it is not sufficient to say that he called me a cheat, or used words to that purpose: being not only the words but even the pointing of them doth alter the speakers meaning, Grim. part, Sect. 30 52. But yet an Parliament he found the Court of Justiciary for saying that the King or had the right of blood to the Crown of Britain, and that the said right was good and

Words Directly Insulting the same, and not by the same was sustained 11 March 1712 Mr James Dundas Sheriff of Ayrshire. But tho it is not necessary to label the expression verba: yet the witnesses when they are examined must swear to the precise words uttered, that the Court may consider whether these import the Injury libelled or Not.

Both Real and Written Injuries done to any person may be punished before the Court of Justiciary. Where an arbitrary punishment is to be inflicted for Real Injuries as the beating one by the Breast and beating him 11 November 1672 Robert Barnagie of Menzies. Gled. c. 10 v. 2. Drinking with another in a charge house when that other was going away and refused to drink more, caused them to him down and pour Brandy in it his Mouth, and having damaged him with a stroke upon his head, took off his breeches and beat him by putting tobacco pipes into his fundament, and then laid two fairs into a tub, and sang a Mock dinge over him; was for the said Malicious insult in the several circumstances above found liable to an arbitrary punishment 22 November 1697. Patrick Kinnimonth of that shire. Persons who gave and Intoxicated liquor to a man among his drink, that made him being liable to be Insulted by any Injury done to him, having first Notice his Breaches and discovered his Malicious and privy parts, then fixed a fire brand about his privy parts and tied the other end of it to a flimney and thereafter put fire or a burning candle to his privy parts and again to his great hurt pain and danger of his life, and caused some others into the room to see him in these circumstances in whose presence they did again put the fire or candle to his body in manner aforesaid: the Court found, that they having exposed the parties Maliciousness in manner aforesaid or put fire to his body, or painted in such manner, or having called