

When the Jury enter again into the Court at the time appointed, their Chancellor deliver their sealed Verdict to the judges or Chairman, who, before opening it, require the Clerk to call the fifteen Assizes to answer to their Names; and if any be absent, the Lord fine them for not attending at the return of the Verdict; and delay opening it till all of them be present. The reason why the whole Jury should be present at opening the Verdict, is that, if any thing be wrong or not clear therein, they may be immediately enclosed again to rectify it which cannot be done where any one of the Jury is absent. In which case the Lord believed to give Judgement Conform to the Verdict as it stands reported, if opened, the Verdict is wrong. If the Jury men be present, the Chairman opens the Verdict and after the Lord have read it privately upon the Bench gives it to the Clerk who recites, and then reads it to the pannel in open Court. Upon which the Clerk calls in Name of the Jury, and the same to be their Verdict. When the principal Verdict is sealed up again, the Verdict be opened except by order of a quorum of the Lords; and committed to the custody of the Clerk, who if he open it warrantably, is to be deprived of his office and further punished as the Judges shall think fit. Act of the Justice Court, 1672. But 9. The Chancellor owning before the Court a Verdict finding the pannel guilty, is called an Act of Conviction; and his owning a Verdict finding the pannel not guilty is termed an Act of Absolution, whereupon the party in whose favour the Verdict runs, takes Instruments in the Clerk's Hand. The Jury who bring in a pannel not guilty, is called a White Assize. Verdicts of Assize either find the libel, or the points found relevant by the Lord, proved or not proved, or find the pannel guilty or Not guilty, which are called General Verdicts; or they find only certain points or matters of fact proved, whereof the Relevancy was not determined by any Branch of the Lord's Interlocutory, which

which are termed Special Verdicts. I remember one case where the assize gave their Verdict contrary to the intention of the Judges 23 July 1673 Francis Irving of Hilltown. The Assize having by their Verdict found one indicted of slaughter Clean and Innocent thereof, but in respect the Deceased in a struggle with him fell to the ground, intreated the Lord Justice to deal with him to give Satisfaction to the poor Children and friends of the Deceased for that riot; and the pannel having Declined to give any such Satisfaction at the sight of the Justice, the King's Advocate protested, that he might have liberty to pursue him before the privy council of Holland for Contumacy 17 March 1677 James Stuart.

After the Verdict returned by the Assize is recorded and read, and the principal Verdict sealed up again, the Lord either give sentence presently; or delay pronouncing of it till some other day, which is ordinarily done if the libel be found proven, that in the mean time they may think what Judge ment to give, and the pannel prepare for it. A Woman with Child convicted of a capital Crime, is allowed to plead her belly, for obtaining a delay of sentence against her. Upon which the Lord grant warrants to cite Midwives, to appear and try whether she be with Child or not. Which Midwives appearing do swear, and remove out of court to another room with the pannel; and after some little time return in to the Court, and give their opinion in the Matter referred to them 11 August 1714. A good M^{rs} Donald & Jean Bailie. According to which the Lord proceed, or delay to give sentence. If a Criminal die before sentence, nulla sententia profertur, Nulla ergo irrogatur pena, nisi pro sumptibus litis ac omnia praeterita quod Interest privati Accusatoris, stat. Grav. Scot. tit. de Accus. def. 15. McKenzie Crim. part 2 tit. 31 & 10. This one Against whom a Caption was offered to be executed being convicted with others by Verdict of an Assize for having Deformed the Messenger, and lying before sentence, and his Death testified in face of court.