

Buckstoun and Mr Alexander or Greaves. Again where the Criminal not personally apprehended is cited both at his Dwelling house and at the Market Cross, of the list of Affixors and Witnesses must be left at those places. Because these lists should be given the same way that the summons is given. Albeit the Lord did not sustain an Execution as sufficient, tho it bore only a list of witnesses to have been left at the parties Dwelling house, and not that any list was left at the Market cross. 10 June 1674 *Gilvies & Grainger harden contra McIntoshes*. If the Messengers Execution bear that a copy of the list with a list of the Affixors and Witnesses were given to the Defendant, and he deny that he got any such list, fixed he binds to the Messenger; Unless the Defendant Vouch the contrary by producing the Copy given to him. An Execution was found Null, and the Dist thereupon Deforted, because it bore only that the Defendant got a list of the Names of the Affixors and Witnesses, and not that the list also Mentioned their Designations or Additions 14 January 1717 Mr John Humble. In case, albeit the Article ii of the Regulation 1672 Concerning the Justice Court, Appoints only a list of the witnesses and Affixors to be given to the party Against Whom Criminal summons is Executed, without Mentioning that the list should bear their Designations: Yet seeing by the third Article of the said Regulation, the persons to pass upon the Affixors are to be cited and their Names and Designations to be Insert in a Roll signed by the Judges, the subsequent Article must be understood in the same terms; Especially considering, that the Names of the Witnesses without their Designations, will not furnish the Defendant a sufficient knowledge to Object against them, which is the Reason of giving them up in list to him. But the pursuer is not oblig'd to give to the person Accused any writs he intends to found upon for proving the libel: seeing the Act of Regulation 1672 Requires no such thing. However by Analogy

that Statute, it is Judges Necessary to Relate to in the libel and to give in the Clerk hand some competent time before the trial any writs to be used for Evidence Against the person Accused, to the End he may have time to think of Defences 22 November 1714 *for Robert Dunbar of Northfield and others* 20 June 1715 Mr William Satherland of Roscommon & others 3 January 1726 James Hamilton & others.

Albeit where a wife is pursued in civil cases, her husband must be cited for his Interest, because of the Communion of goods arising by Marriage and her being subpotestata Viri: Yet there is no Necessity to cite a husband for his Interest when his wife is pursued for a crime, 22 November 1714 *Catherine Sinclair Lady Dun*. Because Solita tenet suos Anctores. Nor is it Necessary to Cite the Curators of a Minor, to Assist at his trial.

If the party Charged by Virtue of Criminal Letters, Neglect to find surety Acted in the Books of the Journals for his Appearance, or do not Intimate surety found by him to the Master or Messengers within three days of the Charge, the Master or Messengers may Denounce and put him to the horn at the Market Cross of Edinburgh where the Justice Court sits. Up on which Denunciation his single sheet falls Act 126 Parl. 12 J. 6 and he is obliged to stand a trial. And the libel with the Executions there of being recorded in the Books of Journals within 15 days after Denunciations caption may be issued forth Against the outlaw. But upon his Application by a petition to the Lord, Representing his willingness to stand a trial, and craving to be relaxed from the horns they will grant Warrant for Letters of Relaxation ad hunc effectum only, that he may have personam standi in Judiciis, for Making Defences in his trial; upon his finding surety not only to appear to Answer the law, but also to pay 20 pounds for his sheet and good Act 43 Parl. 6 J. 3. Which Letters of Relaxation are Executed and registred the same way as the Denunciations.