

Protestation against the purport either to suggest or that the
 Defender be acquitted from that instance. The Extracting this
 Act of Protestation will be stayed by sleeping to the sleep of the
 Minute Book that the summons is called. And the summons
 be not called, the purport may infer at any time upon any Court
 day within the year while the Protestation is not extracted.
 Summons before the session being with continuation of days.
 But after Extracting of the Protestation, the Defender is not
 bound to answer, till he be cited again; and the protestation
 money which is fifteen pound paid him with all his ex-
 pences.

When the pursuer Intend to suggest, he causeth an Under-
 Clerk call his summons in the Outer house (According to a
 Note on the Margin bearing, call per Dr. F. that is, the Pursuer
 Advocate, the B. that is, the Pursuer, contra Dr. that is, the
 Defender) After the session Roll is rung. For then the Under-
 Clerks come to their tables; and each of them by horns read
 and call the writs put in their hands Conform to the Roll
 which Calling, if no Advocate present before his Master to
 be Marked for the Defender, the Clerk writes under the Note
 afore said given him to Call by, the date of the Calling, and the
 Dr. F. Alter absent to the Great Meets Roll, then the summons
 goes to the Regulation Roll. And if at Calling the Defender the
 Court of that Roll, none do yet appear for the Defender the
 Lord Ordinary in the Outer house pronounced the Act or Decree
 in absence as the purport Desired Act of Regul. 1695 Act 2
 But if then appearance be made for the Defender, his advoc-
 ate will be allowed to see the process in the Clerk's hands
 and be ready to Debate at the next Calling. For he is not
 Indulged to see it in Common form, in order to oblige the
 pursuer to enroll the cause 18 Novemb. 1709 Grant contra
 Braichen of Ghossein 28 & Decemb. 1709 Brown & Ham-
 ton contra Grownhale.

If at the first Calling of a summons by the Clerk
 an Advocate present have his Master Marked
 for the Defender, the Clerk writes under the Note afore said
 the Name of the Advocate for the Defender, the Name of the
 Advocate for the Pursuer, the Names of the Advocates for one
 Defender, or several Defenders having different Advocates All

All their Names are Marked, and the process is given out to be
 seen by the Deft. Advocate, or him who is Marked for the Great
 Number of the Defenders. This Calling hinders the summons to fall,
 and keeps it up for a Year longer. But if it be not prosecuted with-
 in that time, it sleeps as we say, and must be Rowted by a sum-
 mons of Wading Executed against the Defenders, before any
 further steps can be Made therein. This sleeping of a summons
 the never given out to be seen by the Defenders Ad vocat for
 only to be hindered by the Clerk's calling the summons over
 again within the Year, and writing on the Margin of the sum-
 mons when no ordinary was present, the date of the Calling
 peribut it supping which was thence termed a partitio;
 and so the summons was kept waiting for a Year to Year.
 But now after the first Calling of a summons, it is not law-
 ful for the Clerk to Mark any other part of the sum-
 mons, till it be given out seen and returned, and judicially Rotted
 before an Ordinary, and all Callings or partitio's Marked
 thereafter on the said process must be signed by the ordinat-
 ry, other ways they are null act of Decr. 28 Feb. 1708. A brief
 was found not to be sleeping, the Calling was one there in,
 from 14 February 1706 till 30 June 1707 in respect thereof
 was under Rejournment from the 1 of November 1706
 to the 4 February 1707 and in order to the sleeping of a cause,
 the time of Rejournment was to be considered as tempus praesens,
 and to be made up with so long of session, without reckoning
 the Vacation 22 July 1707 Martland contra Brand. In an action
 against heirs of line and larkie, the process cannot sleep
 as the latter, during the time of sleeping against the heir
 of line who must be first dismissed, because the action
 solves in a Comparison betwixt these, which of them should
 be liable for the Debt. But two Defenders being called in one
 summons continuing a Right to an apprising against the
 one and that the other should be liable for payment of the
 sums therein contained: process was found to sleep as to the
 latter, not with standing the pursuer continued resisting
 against the former, to remove all objections against his
 Active title, which seemed a prejudicial question to be deter-
 mined, before he could Effectually suggest upon the Con-
 dition of payment 2 Feb. 1710 & Laid on the contract
 Yester & Heaton of Burns. Because perinde est, whether
 different parties be called in one or in separate summons
 -es where the Conclusions are different.