

Arbitrary punishment; the Earl of Selkirk (the he ad Justice  
General according to the Rule of Court was obliged to  
sign it) declared by a Writing Under his hand Recorded  
in the Books of the Journal 7 October 1725 that it is in  
his opinion contrary to the Law. A single Convocation of  
the Burghs is freedom trade and distinct from the  
and singly as the aggravating Circumstances or quality  
of a Riot or other Crime McLenzie Crim. par. 17  
§ 3 in fin.

It is incumbent upon Magistrates of Burghs to  
show out most Endeavours to Suppress humbly  
the Government, and all the publick Disorders and  
assist the Magistrate and their officers for quelling of  
tumults and the pain of being punished by the Magistrate  
and Council of the Burgh as witnesses of such tumults  
Act 17 Parl. 18. § 6. The pain of Land was fixed for not  
fining those who burned the Post at their Cross in the Year  
1681. The pain of Glasgow was fixed

and private burghs pay a part of such  
fines, the they were not required to Concur by the Magistrate  
traders, because it is their Duty to Concur at the sight of  
such tumults; and Magistrates are often in a better  
Concurrence, McLenzie's observ. on Act 17 Parl. 18. § 6.

As the assembling for a time irregularly together  
when the people who Concur them has no interest  
is discharged: so the bringing many persons to another  
Protect of a Rioting, is prohibited. For those who ride  
go in the Country with more Men than they can sustain  
are to be arrested, and under such a Burrowd (as it is  
till the King declares his will Act 5. Parl. 1. § 1) that is, the  
who travel with more Men than their ordinary household  
are liable to an arbitrary Punishment. Which is not  
to be understood, as if it were unlawful for one at some  
Occasions to Ride with his friends and Followers; but  
only that one ought not to Ride ordinarily with great  
trains, which might argue that they gather or keep  
Men together upon some sinister Design against  
the Government or their Neighbourhood. McLenzie's  
par. on Act 5. Parl. 1. § 1. A Man is restrained from

keeping too great a Retinue for ordinary service; which  
is not in his power to do, and is not in his power to do  
ne Vicini Republicae.  
An assembly of a Man  
friends for the Defense of his person against those who  
threatened to beat him if he go to such a market. It is  
lawful: for he who is in fear of such assaults must provide  
for his safety, by Demanding of security of the peace against  
the person by whom he is threatened, and not made up of  
such Violent Methods, which cannot but be attended with  
the Danger of raising tumults and Disorders to the publick  
peace. But an assembly of a Man is forbidden in his own house  
for Defense of the possession thereof against those who threaten  
to make an unlawful entry there into, or for the Defense of  
his person against those who threaten to beat him therein  
is indulged by Law: for a Mans house is looked upon  
as his Castle, Hale pl. 8. 127 Hawkins pl. 6. l. 1. chapp.  
65 510.

Convocations of the Magistrate are allowed in some cases,  
as for punishing thieves and forners Act 17 Parl. 18. § 6. or  
when they assemble in a riotous or tumultuous manner, the  
Lord of Regality or other superior Magistrate to arrest 17 Parl.  
14. § 2. Act 34 Parl. 2. § 4. and 34 Parl. 2. § 4. For an  
being rising in arms without Command of the Law officer  
being discharged chapt. 77 Parl. 14. § 2. There is an Argument  
that the Command of the Magistrate doth in things belonging  
to his office. Except the Riots rising in a riotous manner  
McLenzie Crim. par. 1. § 2. He who is a Sheriff, Justice  
of peace, or other inferior Magistrate, has power of  
the County, and who are able to put on Armour, all sorts of  
Money, in order to suppress the Riots, or Riots, or when  
in executing the Kings Writs. McLenzie's pl. 8. l. 1.  
1. Chap. 65. § 2. But no Command of the Magistrate  
can justify an Invasion or rising up in a riotous manner  
of his Magistrate's authority, l. 1. § 2. That is, McLenzie's  
on Act 34 Parl. 3. § 4.