

tary to the Civil law l. 3 pr. *Pro accid.* And to our own
 whose the Names of the par ties are a Necessary Part
 in a Criminal libel. *Alm. Att. Chap. 80.* And the parti-
 cular Statute allowing of General libels against
 = *Holland and Egyptians* do plainly Argue the Necessi-
 ty of them against other Criminals: For that
 otherwise such a Special Indulgence had been
 = *offery* *Whewer's Crim. part 2. tit. 21. § 2.* Besides that
 not naming the person Injured is highly Inconvenient
 and Unreasonable: because, if such a Defendant be
 Deprived the pannel of Defences that might otherwise
 be Competent to him, as to prove that the person said to
 be Robbed was alibi at such a time; or that he was not
 = *from* *Legg;* or that Robbed the pannel Immediately after
 such a General libel might be a hindrance to bringing the person
 injured as a Witness, under the penalty of having
 been done to some body else. If the Pannel were Required
 upon such a General libel, the Court could not be
 = *as* *the* *Judicata* in her of a prosecution the suit of
 private party Injured. It was Required for the pursuer, libel
 must be framed according to the different Circumstances
 and facts, and Interest of the pursuer. About whose
 private party pursued for his Interest or Reparation
 = *Damage.* The Nature of the thing Requires the person
 Injured to be Named for Bearing that such a one is
 = *alibi* *to* *accuse,* as having Received the Injury or Not
 Concerned in the person Injured: Yet in a prosecution
 the suit of the King, whose Interest it is to prove
 all his Subjects free from Injuries, it suffices to
 = *the* *Crime* and set forth a proper charge of Delinquency
 that being the same who over is Injured; Unless the
 = *quality* of it Depends upon the Circumstances of the
 party Injured, as when one is accused of Adultery;
 which case the libel must bear the Name of the

person with whom Adultery was committed l. 3. *Pro accid.*
 = *libel* being Necessary to prove such a Crime. For in other Crimes
 as Robbery upon the High way, Murder &c. it were Unreasonable
 that the Pannel could not prosecute a Robber, because the Wit-
 = *nesses* who saw the fact Committed and Approbated Criminal
 knowing the person Robbed could swear only to the Crime; or
 that the Murder of a stranger known to the Pannel or a per-
 = *son* so Mangled that he cannot be known, should go Unpun-
 = *ished,* because he cannot be Named. Upon a libel of two Kings
 = *Justice* hearing frequent Robbing of the benef. of two further
 = *more* *tenants,* without Naming the persons was sustained
 = *McKenzie's* *Crime* part 1. tit. 34. § 8. Albeit the pannel was
 = *thrust* in some Measure at the discretion of the Approvers, of proving
 = *himself* *alibi.* Which is not so to be understood as if the Cri-
 = *me* *Retained* any Exemption from the Common Rule of
 = *law:* for there is no Contrary General Rule; and the Nature
 of the Crime and Interest of the prosecutor Determined in
 every case whether the person Injured should be Named or not.
 = *Nor* are those things of any weight that are urged as for
 = *convenience* arising to the pannel from a General libel,
 = *that* *set* *not* *forth* the person Injured. For if the pursuer
 = *is* *not* *bound* to frame his libel in such Manner as may
 = *be* *easy* *for* the pannel to lack, it is more than sufficient
 = *libel* *what* *Colours* of horse the Pannel Ride on, or that
 = *he* *was,* to afford him an opportunity of contradicting
 = *such* *Circumstances.* And the Law allows a pannel to prove
 = *himself* *alibi* Contrary to the libel; if he will not allow him
 = *to* *prove* the person Injured alibi, whereby two Useful wit-
 = *nesses* might Defeat every trial. When it is proved upon
 = *the* *pannel,* that he did Commit Robbery upon a person,
 = *his* *proving* that such a person was alibi, amounts to
 = *to* *that,* that the Witnesses who saw the Crime did know
 = *the* *Committee,* Mistook the person Injured; that with
 = *standing* whose of the pannel is still guilty, and should
 = *not* *be* *unpunished,* because the Witnesses were not
 = *acquainted* with the other, against the person Injured