Injured were an out law, that would not Justify the Robbery
what ever he be the pannels Crime is the same. And the
quality could alter the Nature of the Crime, it would ly upo
the Pannel to prove for his Justification that the Person
Robbed was such as that it was no Crime to Rob him. 2d
When the person Injured is not a pursuer, he may be An
Evidence Against the Robber: seeing otherways any Robbery
could hardly be proved; and the Nature of the Crime is
that which ought to Determine the Nature of the Evid
3d An Absolvitory Sentence upon such a General libel,
would free the Pannel from Farther prosecution at
the suit of the party Injured, as effectually as if he had
Named: for when the time and place and other Circum
stances Agree, the person is presumed to be the same
Unless the pursuer prove the persons and facts to be d
ferent. It was Duplied for the Pannel. The Essentials
of a Criminal libel ought to be the same in all cases
who ever be the pursuer. Nor is there more Speciality
quired in a libel for Adultery, than in other libels
less where an Unmarried person is Charged with Adul
tery: for if the party Accused is Married, the Crime is
same who ever the person be with whom he or she had
lawfull Carnal Dealing. And the Naming of time and pla
in a libel might for the same Reason be Dispensed with,
as the Naming of the person Injured: because it is a Crime
to Rob or Murder any person at any time or in Any place
within the Kings Dominions. Upon which Supposition
of time and place and person left out of the libel, it wo
Next to Impossible for the Pannel, tho assoilzied, on
on such a General libel, to Get his Acquittal to Mo
and be Sustained in bar of a New prosecution at the
suit of the Unknown Injured party. The Lords Sustain
ed the libel not withstanding of the Generallity afore
said, and found the pannels having Robbed the person
Named therein or any other person, or being Art and
part thereof, Relevant to infer the pains of death and

and Confiscation of Moveables 10 September 1723 James
Cranstoun Formerly in a trial for Depredations master
full Reiffs and Spuilzies before the Justice court, when
the pannel pleaded that what he did take by force was
his own or he had Right to it; the trial stopped, till the
Matter was first Civilly Discussed Act 34 Parl. 4 J. 5. But
Sir George McKenzie (Crim. part, Tit. 34 § 7 pr.) holds that
practice to be now in Disuse as to Robbery, and that the
Justices constantly try that Crime without any Civil pre
cognition. And (ibid. vers. That Remains then to be Considered)
that it doth not Exculpate from Robbery that the pannel
offers Instantly to prove he had Right to What he took
away. Because it tends to the Disturbance of the publick
quiet, for men to Judge in their own causes; and the Usur
ping Jurisdiction is a Crime of it self, and far more pu
nishable when Violence is used. However that same Author
in Another place (observ. on Act 34 Parl. 4 J. 5) says, that
tho the Justices use to sustain Criminal pursuits in the
first Instance for Depredations Reiff and Spuilzies;
Yet if a Defence be offered upon Matter of Right, as if
the Pannel alledge he had a Disposition or other Right
to the goods pretended to be Robbed or Spuilzied, they
Supersede to give Answer to the Criminal pursuit, till
the Civil Right and title be first Discussed.

Seeing the Nature of a Crime Determines the Na
ture of the Evidence, proof that might be Excepted
Against in other Crimes, is Received in a trial of Rob
bery, because it is often privately Committed. There
fore it may not only be inferred from presumptions
21 November 1720 Christopher Hog. Yea One's having
Invaded a Certain Man Named in the Indictment or
any other person with a Pistol in his hand and De
manded the Money of that Man or other persons
and when people came upon the Alarm given, being
seen Standing with the said man or other person who
then