

thereto a list of the Name and Designation of the Affixors and witnesses d. Act of Regul. Art. 3 & 11 and a short Copy Under the hand of the Mayor or Messenger commanding and charging the supposed Criminal to find surety within 80. days after the Charge, that he shall compare to Under the law the 80. day of 80. with Certification, conform to the principal letters. If the supposed Criminal be out of Scotland, the letters must be executed at the Market Cross of Edinburgh and per of both as in civil cases McKenzie Crim. part 2 Epit. 21 55. persons were declared fugitives for not appearing to And by the law for Murder, altho they being out of the country were not cited upon 60 days, ii Top. tomber, 1662 John & son William Bannatynes. If there be not safe access to the Criminal dwelling house, he may be charged Equally at the Market Cross of the head burgh of the Jurisdiction where he haunts, conform to a warrant allowed to be put into the letters when the Lord sees reason for it. As to the letters are duly forw'd, the Mayor or Messenger Return an Execution of the Charge subscribed by him and the witnesses. Act 4 sess. 2 Parl. G. 7. otherwise it is null.

Indicted, and persons Against whom Criminal letters are forw'd must have a Double of the Judicment or letters 15 days before the trial, that they may come prepared to Make Defense, or may raise Exculpation and cite witnesses for proving thereof: seeing the Bids of the Justices court are peremptory, and libels there are not given out to be seen by the Defendants. Altho the law (d. Act of Regul. 1672) doth not Express any particular time to be put into to Criminals. Because it having Mentioned the reason for such Indulgence of Delay, viz. that they may exculpate themselves or cast the witnesses or affixors, a sufficient time should be Allowed for that end: according to the Rule Quando Aliquid Conceditur, omnia Concessa Videntur sine quibus hoc fieri Noquit. As the Mayor or Messenger commanding the per of both as in civil cases McKenzie Crim. part 2 Epit. 21 55. persons were declared fugitives for not appearing to And by the law for Murder, altho they being out of the country were not cited upon 60 days, ii Top. tomber, 1662 John & son William Bannatynes.

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But it was found, that offenders apprehended flagrante Crimine, need not to be cited on 15 days 6 May 1682 Alexander Blair and others. The Messenger or Mayor must, under the pain of 500 Marks Deprivation and further punishment, And as to the Copy of the Judicment or letters given by him to the party accused, a list of the Affixors and witnesses to be produced Against him, Act 6 Parl. G. 6 junct. d. Act of Regul. 1672 and 3811 that he may know what to object Against either, why they ought not to be admitted to pass upon his affixor, or to bear witness Against him; and may take out Diligence for proving his objections. Which list of Affixors and witnesses must be given to him upon the same paper with the double of the libel, otherwise the Diet will be Defective. Altho the Messengers Execution given to the pursuer, bear that a copy of the libel with a list of the Affixors and witnesses was given by him to the Defendant, or left for him at his dwelling house ult. Feb. 1681 As to the Trial on at the dwelling house and at the Market cross with lists of the Affixors and witnesses left there if the party was not personally apprehended, be sufficient to oblige him to appear to Under the law: yet where a person accused of a Crime was first cited personally without receiving a list of the Affixors and witnesses to be used Against him, and thereafter cited at his dwelling house and at the Market Cross of the place where he lived, at both which places Doubles of the libel and lists of the witnesses and Affixors were left; the Diet of appearance was Defective, and the issuing forth New letters without a warrant in person discharged. In regard the defect of the first Citation personally given up on which the parties cited had reason to rely, could not be supplied by the subsequent Citation at the dwelling place and Market Cross, which law presume to have been Decreefully given 6 January 1671 Margraf Black