

judges discharged, in the mean time. At the calling of the summons Caskieben is absent. The Lords discharge him, and all others, to serve any brieves except before such judges as the Lords shall appoint.

Anent the reason of advocacion of causes, look Act Mar. Par. 6, chap. 39.

Page 8.

1628. *November 15.* The LAIRD of GLENGARIE *against* The TENANTS of FAIRNTOSH.

SOMETIMES the Lords will advocate causes from inferior judges, even after the act of litiscontestation, and repone the party to his whole defences, so that the craver of the advocacion use no dilator, but propone that exception *peremptorie*, and verify the same *instanter*, so far as consists not *in facto*.

Page 8.

1628. *November 15.* ————— and ANDREW HENDERSON *against* DAVID MURRAY.

DAVID Murray, merchant in Edinburgh, at the desire of —————, his kinswoman, after her decease intromitted with some of her clothes and household gear, and made the sum of 300 merks thereof, which he lent out, in his own name, to the behoof of the young lass, daughter of the defunct, in the hands of Archibald Adie, bailie of Edinburgh, who afterwards became bankrupt. The lass pursues David Murray, and chooses Andrew Henderson her *curator ad litem*. The defender alleges that he dealt faithfully in the minor's business, and he ought not to refund that gear which Archibald Adie had received; it was sufficient for him to make the minor assignee to Archibald Adie's bond. The Lords assoilyied the defender; and yet moved him to give his bond to the said minor, for a hundred pounds, at her perfect age, and the annualrent thereof in the meantime.

Page 103.

1628. *July 16, and November 16.* ROBERT NAIRN, Advocate, *against* The LAIRD of FORDELL, BROWN, the LAIRD of KINCAID, and GEORGE CLERK.

How molestations should be pursued before inferior judges, *vide* James VI, Par. 2, cap. 42. In this Act, the members of the College of Justice their privilege is excepted; whereunto Mr Robert Nairn, advocate, adhered, in the molestation pursued, *hinc inde*, by him against the Laird of Fordell, Brown, the Laird of Kincaid, and George Clerk, and by them against him. And the Lords would not urge him to quit his privilege, but if it were with his own consent; but if either party produced, before the Lords, witnesses for proving of their bounds, the Lords declared they would have, at any time, consideration anent the quality of the witnesses.—16th July 1628.

This action being called in the Innerhouse, 16th November 1628, the Lords appointed three of their number to visit the ground in May 1629, to take trial of the matter, according to their best judgment; and if need be, to report.

*Page 137.*

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1628. *November 21.* ————— *against* The MAGISTRATES of GLASGOW.

THE Magistrates of Glasgow are convened to pay debt for suffering of ———, put in ward, to escape. It was alleged for the town, That the said warder escaped in the night, having by him some instrument of iron, wherewith he raised the lintel stone of a window; and that, how soon they were advertised thereof, they rang the common bell, and convened the town; and not only searched the town for him, but also sundry rode forth in the country. The Lords assoilyied the Bailies, in respect of their diligence, and the circumstances of his escape.

*Page 248.*

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1628. *November 22.* CLERK *against* BENNET.

BENNET gives a bond to four men in Kirkaldie, obliging him, betwixt and a certain day, to report a discharge of a bond made by him to a merchant in Middleburgh, under the pain of 500 merks, which the said merchant had assigned to a merchant in Kirkaldie, called Clerk; and the said Bennet alleged, that he had paid the debt to the cedent. The said four men registrate Bennet's bond, and charge for the penalty of 500 merks, seeing he reported not the discharge mentioned in the said bond. The defender suspends, and alleges, The chargers had no interest. The Lords gave him a day yet to report the acquittance; and if he failed therein, they would consider what to decern anent the penalty.

*Page 149.*

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1628. *November 25.* The MALTMEN of PERTH *against* the TACKSMEN of the MILL of PERTH.

THE maltmen of Perth obtained advocation against the tacksmen of the mill of Perth, after litiscontestation, and that, as *ab initio*.

*Page 9.*

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1628. *November 25.* The LAIRD of FRENDRAUGHT *against* CRIGHTOUN of CREICHY.

THE Laird of Frendraught having the gift of his goodsir's escheat of all goods pertaining to him the time of his rebellion, and which shall thereafter