

1671. *February 22.*

Anent TRANSFERRING OF PROCESSES.

IT being questioned whether a process before the Lords, having come the length of an act, and the pursuer dying, his heir or executor might transfer that process before an inferior Judge. Sir G. Lockhart thought he undoubtedly might, seeing that was only done to establish the right of it in his person, providing, when he comes to proceed in the cause, he brings it back again to the Lords. Yet there is a doubt anent sic causes as cannot be intended before inferior judicatories, as improbations, &c. though improbation may be proponed there by way of exception. The cause why it is sought to be transferred rather before an inferior Judge than the Lords, was because it will be cheaper by far than to pay L.3 for every sheet.

Improbations of executions used in processes before themselves may be pursued before inferior Courts, *ult. Nov. 1630. Laird Winstone against Cushine.*

Advocates' MS. No. 140, folio 91.

1671. *February 22.*

Anent SUSPENSIONS.

QUÆRITUR, if a charge of horning be suspended simply, whether this will debar all execution, both personal and real, so that the charger cannot comprise in the mean time? and it is thought it will, unless it reserve expressly apprising of lands: and it is now turned *a brocardicum* that nothing can stop signet letter but signet letters, and so nothing can stop a comprising but a signet suspension: and consequently it was arbitrary and illegal to my Lord President lately on a bill to stop Douchryes' son's apprising of my Lord Monteith's estate, and the messenger should have respected nothing but a signet suspension.

Vide infra, February 1677, No. 555, § 4.

Advocates' MS. No. 141, folio 91.

1671. *February 22.*

Anent EXECUTIONS.

In a pursuit of declarator of escheat, Objected, *1mo*, Not tabled. *2do*, The horning is null, because the execution bears not six knocks to have been given. Both were sustained, and the defender was ordained to table, and take up his executions and mend them.

Advocates' MS. No. 142, folio 91.

1671. *February 22.*

HARY JOUSSIE against Captain LERMONT.

IN an action, Hary Joussie against Captain Lermont, the defender was not found liable for exchange and re-exchange, or protest money, seeing he had