

sent one of their macers to put it into execution, with an order to the Sheriff of Kincarden and his deputes to assist him; and farther, got a warrant from the Commander-in-chief of the forces to the nearest garrisons and regiments lying thereabout, to give their concurrence in securing their persons and bringing them to Edinburgh Tolbooth: For the Lords thought the honour of the judicatory concerned, that they be not threatened for their steady and equal administration of justice in their office, conform to their oaths. And the assassination committed on Sir George Lockhart was an instance to prevent such attempts in time coming.

*Vol. I. Page 734.*

*December 29.*—The Lords having considered the petition given in by William Rait of Halgreen, acknowledging his fault in writing that rash and minatory letter to my Lord Whitelaw, for opposing his protection; and reasoning what punishment it deserved, seeing he had nothing to pay a fine with, in respect of his great debts, some proposed, because of his ingenuity and long continuance in prison, that the Lords might accept of an humble acknowledgment on his knees; others said, this neither repaired the reputation of the bench, who were injured, nor tended to secure them against assassinations, (as Dalry proved to Sir G. Lockhart;) and proposed confinement benorth the river of Spey, or relegation to the isles of Orkney or Shetland. But banishment out of the kingdom carried by a plurality of votes, and to lie in prison till he found caution, under the penalty of 20,000 merks, not to return. What hindered confinement, was the creditors' application that he disturbed them in the possession of his estate, and lifted his rents by violence from the tenants.

*Vol. I. Page 748.*

*1697. February 27.*—The Laird of Halgreen, mentioned 18th November 1696, and Mr Andrew Darling, had petitions craving to be set at liberty, upon acknowledgment of their offences, in what terms the Lords should prescribe: But many of the Lords thinking fit they should find caution for their good deportment in time coming, it was delayed, in regard they were not able to get such caution at this time. Some think, in all such cases, Tacitus's advice both politic and true: *Spreta exolescunt opprobria; sin irascaris pro agnitis habebuntur,—si sileas, magnam dedisti plagam.* Some make a difference where the injury is done not to a private person but to a society; yet we generally see the affront offered to us personally sinks more, and produces higher resentments than what is done to us in conjunction with an aggregate body. But, in all these cases, *quando cum stercore certo, sive vinco, sive vincor, semper ego maculor;* and he certainly *objecta probra digno supplicio punit, qui festivo contemptu, oblivione et misericordia elevat.* This is the noblest victory and revenge.

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1696 and 1697. SIR ALEXANDER ANSTRUTHER OF NEW WARK'S MOTION.

*1696. November 19.*—A MOTION was made for Sir Alexander Anstruther of New Wark, one of the clerks of the bills, that he might be likewise permitted to plead as an ordinary advocate.

The Lords thought the case singular, and that it might be very prejudicial and incompatible, that one should both exercise the office of a clerk and of an

advocate before the same court; and that it had been refused to Mr James Graham, when he was clerk to the bills. The Lords resolved to consider farther anent it, in regard he represented that Blackness was to exerce as clerk. But he still continued *in titulo*, and had right to the half of the profits, and might enhance, monopolize, and thirle much of the employment of suspensions and advocations to himself; and yet it was not doubted but before the Privy Council, Commission of Teinds, or any other judicatory, except the Session, one of their clerks might plead as an advocate; and he offered to restrict himself to ordinary actions, and not to meddle with bills of suspension and advocacy.

*Vol. I. Page 735.*

1697. *February 27.*—We observed *supra*, 19th November 1696, that Sir Alexander Anstruther was dealing to officiate both as clerk to the bills and as an advocate, (at which the Lords connived without giving any allowance or approbation.) He now transacts his office, and makes over the right of it to Mr William Thomson and John Inglis, two Writers to the Signet, who reimburse him of the money he gave out for it: But the other writers threaten to deprive them; in regard, by acts of their calling, they must accept of no other office during their exercising as writers, and that thir were incompatible places; and it might be prejudicial to the rest by their enhancing and monopolizing all the employment. To this they ANSWERED,—They were content to renounce the writing of any suspensions or advocations; but it were hard to deprive them *quoad* expeding signatures at Exchequer, of being clerks to services, and the like, seeing they are willing to be restricted in manner foresaid. *Vol. I. Page 772.*

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1697. *July 11.* ELPHISTON *against* CREDITORS of SIR WILLIAM and ANDREW DICK.

MR James Elphiston, Writer to the Signet, having acquired a wadset on the lands of Craighouse, and resolving to reside there in summer; but the mansion and office-houses being very ruinous and decayed, he applies by a bill to the Lords, craving they may nominate some of their number to visit the place, and call for tradesmen, and see, by their advice, what sum will be necessary for repairing the houses, and putting them in a habitable condition. The creditors of Sir William and Andrew Dicks appeared, and craved, since this was to be a burden and eik to the reversion, he might, in the first place, expend the £10 sterling they have hitherto got of yearly rent for the house, park, and yards; and that it be not bestowed upon voluptuary reparations, for pleasure or conveniency, but only for what is absolutely necessary to keep the houses up; else they would not answer *hoc loco* till they were called *via ordinaria* in a process; which would be a vast expense, they being so numerous and dispersed *per omnes regni angulos*. Yet the Lords named two of their number to visit and report, and withal to hear the creditors on their interest and prejudice; seeing, if the buildings decay, the lands will give the less price when exposed to sale.

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