

ADVOCATE.

1592. *January 2.*

AN advocate cannot disclaim his client's superior, without a special mandate.

*Fol. Dic. v. 1. p. 24. Erskine, MS.**

No. 1.

1605. *June 22.* LORD BALMERINO *against* FORRESTER.

MY Lord of Balmerino President, pursued one Forrester for reduction of certain tacks. Mr Henry Balfour compearing for the defender, refused to take the burden of his cause, unless he had the concurrence of some other; and desired Mr John Ruffell, who absolutely refused to serve against my Lord President; which being reported to the LORDS, by interlocutor They ordained him to serve the party under the pain of deprivation, seeing they were sworn to serve all the King's lieges truly.—That same day a matter being at interlocutor, wherein after interlocutor, and Mr John having borrowed furth a piece out of the process, and being commanded by the Lord Ordinary in the outer-house, to re-deliver the same, and refusing, the LORDS ordained him instantly to re-produce it, under the pain of deprivation.

Fol. Dic. v. 1. p. 24. Haddington, MS. No. 843.

No. 2.
An advocate refusing to act against a Lord of Session, not having a lawful excuse, was compelled under pain of deprivation.

1609. *November 28.* COMMISSARIES of Edinburgh *against* RUSSELL.

MR JOHN RUSSELL, procurator for Bessie Trumbell; and William Trumbell her father, in the action of annulling the pretended marriage betwixt the said Bessie and Robert Naper, depending before the Commissaries of Edinburgh, and in the process of adherence, pursued by the said Robert against the said Bessie, giving in his eiked answers in the said cause of adherence in write, declared that the Commissaries should not be patrons of such a pernicious and shameful cause; and concluded in these terms, And albeit ye knew the said marriage to be altogether

No. 3.
Advocates entitled to procure in all courts of the kingdom; but an inferior judge, to whom they offer any indignity, may amerciate.

* This MS. is not in the Advocates Library. The Editor has reason to expect he shall be able to obtain it; when the particulars of the cases it contains shall be published, in their places of future heads, and in Appendixes for those that may be past.

No 3.
them, or sus-
pend or de-
prive them
from procur-
ing before
him

null and unlawful, yet ye will proceed against all law and justice; wherewith the Commissaries finding themselves highly injured, they ordained Mr John to pay twelve pounds of amand, and suspended him from procuring before them for a year; whereupon Mr John giving in his complaint to the Lords, and the Commissaries warned to answer to the complaint compearing, the matter was at length disputed upon these two heads: *First*, anent the power of the Commissaries in general, whether they might suspend, or deprive an advocate admitted by the Lords; and *next*, if this fact of Mr John Russell merited suspension therein. It was resolved, That the ordinar advocates admitted by the Lords, at their compearance in inferior courts, might so misbehave themselves, as the saids inferior judges might justly and lawfully suspend or deprive them from any farther procuring in their courts; and as to Mr John Russell's particular offence, the LORDS found it rash and indiscreet, and the Commissaries punishment very rigorous; and therefore calling in the saids parties, and the hail advocates who assisted Mr John Russell, as in a common cause concerning all their liberties, the LORDS admonished the advocates to be modest, and not to give occasion, by their contempt to judges, to unlaw, suspend, or deprive them; declaring also, that if any wrong was unjustly offered to modest advocates, the LORDS would censure and repair it; and as for Mr John Russell, the LORDS ordained him to be more reverent to the Commissaries in time coming, and to delete the words, which they found contumelious, in his defences; and ordained them to restore him to his liberty of procuration, and thereafter gave him up his supplication; because they would not have any record of that variance to remain.

Fol. Dic. v. 1. p. 24. Haddington, MS. No 1659.

1627. December 16. KIRKWOOD *against* INGLIS.

No 4.

ADVOCATES and writers being summoned by an incident diligence, as havers of writs; the LORDS found they might purge themselves by oath, that they had them not, nor had fraudulently put them away; and that no other kind of probation could be used against them.

*Fol. Dic. v. 1. p. 26. Auchinleck, MS.**

1528. November 14. BETSON *against* L. GRANGE.

No 5.
In an exhibi-
tion of writs,
an advocate
was obliged
to depone
as a witness,
as to the de-

In an action of exhibition of writs, Betson *contra* L. of Grange, the LORDS found, That the advocate compearing for the defender, in that same cause, might

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