

1630. *June 6.* PATERSON *against* Captain ALEXANDER.

If a party and the clerk be summoned to produce the whole minutes of the process, for verifying the reasons of a decret, the clerk is not holden to produce any more signatures of the process than that part against which a reason is libelled.

*Auchinleck, MS. p. 170.*

No 74.

1632. *January 20.* CAMPBELL *against* LAIRD of CADDELL'S VASSALS.

JOHN Campbell of Archattan, infest in the place of the priory and precinct, pursues the Laird of Caddell's Vassals, who was infest in the feu of certain lands by the Prior of Archattan, concerning certain service used to be paid of the priory thereof. The said vassals were obliged to relieve the superior, Laird of Caddel; and for instructing his summons, the said John produced only his sasine. It was *alleged* by the defenders, That the sasine could not give him interest to pursue, for service whereof he was not in possession, without charter. THE LORDS ordained him to produce his charter.

*Fol. Dic. v. 2. p. 181. Auchinleck, MS. p. 253.*

No 75.

1632. *January 31.* REDICK *against* MAXWELL of Logan.

A DEBTOR being incarcerated by letters of caption, at the instance of the assignee constituted by the creditor to the bond, registered at the creditor's instance; after the registration whereof, he having made this assignation to this pursuer; the pursuer, as assignee, having raised letters of horning, and denounced him, and thereafter, by caption, having caused incarcerate the rebel; who escaping, the Magistrate being convened for the debt; he *alleged*, That no process ought to be granted, while the assignation were produced. And the pursuer *replying*, That he needed not produce the assignation to this defender now, who was not convened *nisi ex suo delicto*, for he was not here in pursuing his cause upon his titles, as if he were *in ingressu litis*, where he might be urged to produce the same; but it was enough to him to show, that his debtor was rebel, and that he was apprehended, and that the defender is become liable to the debt, for the debtor's escape; notwithstanding of the which answer, the LORDS found no process while the assignation were produced.

Clerk, *Gibson.*

*Fol. Dic. v. 2. p. 181. Durie, p. 616.*

No 76.

An assignee who had incarcerated a debtor upon caption at his own instance, was found obliged to produce the assignation in an action against magistrates for allowing the debtor to escape.