

supplication, remitted the bill to one of their number, to hear the parties, and to do as he found just, or to report, which gave him the same power as of the whole Lords; and though the bill cannot now be found, yet he who both passed the bill, and the Clerk, will depon thereupon. It was replied, That this warrant could not authorise one Lord in the vacation time to pass the bill, when the charger was neither obliged to attend, nor could get the Lords' answer upon amand.

No. 12.

The Lords, without considering the reasons of suspension, found the letters orderly proceeded, as being unwarrantably passed.

*Stair, v. 2. p. 56.*

1674. January 14. M<sup>c</sup>INTOSH against M<sup>c</sup>KENZIE.

Collin M<sup>c</sup>Kenzie of Kinraig having apprised the lands of Multovie and others, and having thereupon charged the superior, pursues a removing against Lauchlane M<sup>c</sup>Intosh of Kinrara, who had apprised the same lands, and was infest. The said Lauchlane raised suspension and reduction; and the charger having called upon the copy of suspension, the suspension being produced, the charge was given out to see to the suspender, and was returned, inrolled, and now called by the Ordinary. The charger did not insist, or produce the decreet of removing, which was the charge. But the suspender produced the suspension, and a copy of the decreet, and alleged, his reason being relevant, and instructed by the charge, he referred the same to the Lords to be advised, that the letters might be suspended *simpliciter*. The reason of suspension was, that the charger was not infest, but did only charge the superior, which could be no warrant for removing.

No. 13.  
A copy is not sufficient to produce as the charge.

The Lords found, That the reason could not be instructed by the copy, and therefore suspended the letters till the charge were produced. But seeing the suspender had come from the farthest part of the north, to keep the diet of compearance, conform to the books of inrolment, they modified to him £.200 of expenses, if the charge were not produced; but if the advocate compearing for the charger should depon that, since the first calling by the Ordinary, he was not master of the process, restricted the expenses to £.100.

*Stair, v. 2. p. 252.*

1681. December 1.

ALEXANDER GORDON, Procurator-Fiscal of Kincardine, against DAVID JAMY.

The Sheriff of Kincardine having declared a man fugitive, for theft, upon an irrelevant dittay, and this being suspended by the Lords, through some mistake, they found the letters orderly proceeded, seeing the party ought to have suspended before the Justices, who are the proper judges.

No. 14.

*Harcarse, No. 943. p. 265.*