

No 28.  
such lodgings  
is not com-  
monly given  
sooner than 20  
days after the  
term.

judge;—the LORDS nevertheless sustained the reason, and suspended the charges upon the contract against them *simpliciter*.

Act. *Hart.*

Alt. ———.

Clerk, *Hay.*

*Fol. Dic. v. 1. p. 204. Durie, p. 687.*

No 29.

Altho', by the general custom of Scotland, sentence-money belonged to the judge, yet the Lords found, that the particular custom of a particular place derogated from the general; and that being proven, they preferred the clerk.

1684. December 17. CATHCART *against* IRVINE.

JAMES CATHCART of Carbiston, clerk of the Canongate, pursues Irvine his depute for the sentence-silver. *Alleged*, That by our law, and the custom of all courts, the sentence-money belongs to the judge, and not to the clerk. *Answered*, By a special custom in Edinburgh and the Canongate, it was a perquisite and a pendicle of the clerk's office; and it is but within these twelve months that the Magistrates of Edinburgh have, by their act, taken it away from the clerks, and annexed it to the bailie's office. 'THE LORDS found the particular custom derogated from the general; and that being proven, they preferred the clerk.'

*Fol. Dic. v. 1. p. 204. Fountainball, v. 1. p. 322.*

1782. March 10.

MARGESTON *against* The PROCURATOR FISCAL and CLERK of the High Court of Admiralty.

No 30.

A practice of giving the officers of the admiral court more than the ordinary dues of court, in cases of prize, discountenanced.

MARGESTON having captured an American vessel, obtained sentence condemning the same as lawful prize, in the High Court of Admiralty; and demanded an extract of this sentence, upon payment of the usual dues.

The Judge-Admiral found, 'That as the prize was of considerable value, the captors were liable to the deputy clerk of court, for behoof of all concerned, in the sum of L. 40 Sterling; and that over and above the the sums paid as the dues of extract.'

In an advocacy of this judgment, the LORDS

Found, 'That the officers in the Court of Admiralty, in questions of prize, were entitled to no more than the ordinary dues of court.'

Reporter, *Lord Kennet.*

Act. *Henry Erskine.*

Alt. *Monro.*

*Fol. Dic. v. 3. p. 165. Fac. Col. No 43. p. 70.*

*See APPENDIX.*