

1678. *November 13.* THOMAS WYLIE and RICHARD LOTHIAN *against* FOULLER.

THOMAS Wylie and Richard Lothian, merchants in Edinburgh, against one Fouller, a skipper, for implement of his charter-party.

The Lords, in this case, approved of the Admiral's custom of taking caution *judicio sisti et judicatum solvi*, of sea-faring men; yet they caused try whether the defender was poor, and if the affair might be summarily discussed in a short time, in which cases they might have inclined to favour him with a dispensation; but in regard this matter would run to some time, and probably would require commissions for examining witnesses in Holland, therefore they refused to recede from the custom, but ordained him to find caution. See *25th July 1678, Williamson*. And Dury, *16th November 1636, Stewart*.

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1678. *November 14.* CLERK of PITTENCRIEFF *against* The TOWN of EDINBURGH.

IN Clerk of Pittencrieff's discharge, which he offered to the Town of Edinburgh, of their bond, and the decret he had obtained against them; being minor, Sir G. Lockhart thought his tutors could not be forced nor obliged in law to cause him ratify at his majority, (as was demanded of them,) but only were bound to consent to his receipt of the money, if he was past fourteen, or acknowledge the receipt of it themselves, in his name, if he was within pupillarity. *De plenissima securitate obtinenda*, in paying to minors, see *Tit. Instit. quib. alienare licet vel non, § ult.*

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1678. *November 20.* The TOWN of EDINBURGH *against* The COLLEGE of JUSTICE.

THE Good Town of Edinburgh against Mr Thomas Learmonth, advocate, and the remanent members of the College of Justice, for their annuities. Though this cause took up four or five days pleading in the Inner-House, and the fame of it spread wide, yet I shall contract it, and shall only touch some few of the heads I made use of, in deducing the charge, and point at the rest of the debate.

It was ALLEGED for the Good Town,—That they judged it their misfortune to contend with so powerful an adversary as the College of Justice was; (for the Lords had only commanded Sir G. Mackenzie, the King's Advocate, and myself, to be advocates for the Town,) but the justice and piety of the cause was what balanced these disadvantages. That the cause was founded in religion, for the sustenance of their ministers, for whom all nations, even the very heathens, had made, by nature's light, honourable allowances; and it is no more but just, that they should participate of our temporal things. The Good Town, with much satisfaction, had its gates always open to receive in gentlemen's sons, and others, who came from all parts of the kingdom towards this illustrious society, and were no less glad to see them arrive at so great improvements of their fortunes. That, by a bountiful reciprocation, like the circulating of the blood in our veins, she, as a kindly mother, sends forth her colonies back to the country