

As to the present case, the Lords were of opinion, that, in the absence of the Ordinary, the application ought to have been made to the Lords in presence, and that the representation was incompetent; so that it was needless to enter into the other points of form; however, they remitted the petition to the Ordinary,—it being understood, all circumstances considered, that, if his interlocutor, 23d February, needed review, he would review it.

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FLOCKHART *against* STEEL.

IN a process of scandal brought by Mr Flockhart before the Commissaries of Edinburgh, against Mr Steel, the Commissaries found:—"That the expression of                    was injurious to the pursuer; and therefore fined and amerced the defender in the sum of L. 10 sterling, payable to the treasurer of the Royal Infirmary; but, in the event of the defender appearing in Court, and judicially signing the palinode hereunto annexed, restricted the fine to 10s. sterling," &c.

The palinode was in these words:—"Whereas I, George Steel, have been convicted, by sentence of the Commissaries of Edinburgh, of injuring the character of John Flockhart, by calling him                    in manner mentioned in their interlocutor, dated                   ; therefore I hereby do, in obedience to said interlocutor, acknowledge that what I so said was injurious to Mr Flockhart's character; and I beg pardon of God,—of the said John Flockhart, and of all good men, for my said injury."

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1776. *June 21.* PROCURATOR-FISCAL of the LYON COURT *against* MURRAY of POLMAISE.

This day, *viz.* 14th June 1776, I was desired to move a reclaiming petition of the Procurator-fiscal of the Lyon Court, reclaiming against an interlocutor of Lord Hailes, in a dispute betwixt said Procurator-fiscal and Murray of Polmaise, (14th June 1776.)

The reclaiming days were long ago elapsed; but the agent for Mr Murray having given a signed consent to prorogate them to this day, it was alleged, that this was sufficient.

The Lords thought the practice irregular; for, although it is true that the consent of parties may dispense with certain forms, as wakenings, &c. yet the reclaiming days are fixed, as well for the benefit of the Court as of the party; and ought not to be dispensed with.

And this day, 21st June 1776, when the petition was moved, in presence, by the Lord President, his Lordship declared, that though the objection was to be past over for this time, yet it would not be so in time coming.