

judges discharged, in the mean time. At the calling of the summons Caskieben is absent. The Lords discharge him, and all others, to serve any brieves except before such judges as the Lords shall appoint.

Anent the reason of advocacion of causes, look Act Mar. Par. 6, chap. 39.

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1628. *November 15.* The LAIRD of GLENGARIE *against* The TENANTS of FAIRNTOSH.

SOMETIMES the Lords will advocate causes from inferior judges, even after the act of litiscontestation, and repone the party to his whole defences, so that the craver of the advocacion use no dilator, but propone that exception *peremptorie*, and verify the same *instanter*, so far as consists not *in facto*.

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1628. *November 15.* ———— and ANDREW HENDERSON *against* DAVID MURRAY.

DAVID Murray, merchant in Edinburgh, at the desire of ————, his kinswoman, after her decease intromitted with some of her clothes and household gear, and made the sum of 300 merks thereof, which he lent out, in his own name, to the behoof of the young lass, daughter of the defunct, in the hands of Archibald Adie, bailie of Edinburgh, who afterwards became bankrupt. The lass pursues David Murray, and chooses Andrew Henderson her *curator ad litem*. The defender alleges that he dealt faithfully in the minor's business, and he ought not to refund that gear which Archibald Adie had received; it was sufficient for him to make the minor assignee to Archibald Adie's bond. The Lords assoilyied the defender; and yet moved him to give his bond to the said minor, for a hundred pounds, at her perfect age, and the annualrent thereof in the meantime.

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1628. *July 16, and November 16.* ROBERT NAIRN, Advocate, *against* The LAIRD of FORDELL, BROWN, the LAIRD of KINCAID, and GEORGE CLERK.

How molestations should be pursued before inferior judges, *vide* James VI, Par. 2, cap. 42. In this Act, the members of the College of Justice their privilege is excepted; whereunto Mr Robert Nairn, advocate, adhered, in the molestation pursued, *hinc inde*, by him against the Laird of Fordell, Brown, the Laird of Kincaid, and George Clerk, and by them against him. And the Lords would not urge him to quit his privilege, but if it were with his own consent; but if either party produced, before the Lords, witnesses for proving of their bounds, the Lords declared they would have, at any time, consideration anent the quality of the witnesses.—16th July 1628.