

1610. *February 23.* SANDS *against* LOTHIAN.

No 3.

THE action pursued against the relict of a Lord of Session, advocated to the Lords, she remaining widow.

Fol. Dic. v. 1. p. 151. Haddington, MS. No 1823.

1610. *March 9.* SIR ROBERT MELVILLE *against* DAVID LIVINGSTON.

No 4.

ANE Lord of Session, either ordinar or extraordinary, hes privilege to have his actions callit in the inner-house, and may not be compellit to answer in the outer-house.

Fol. Dic. v. 1. p. 151. Haddington, MS. No 1858.

1611. *June 27.* MR P. HAMILTON *against* The TENANTS of Bowschielhill.

No 5.
Found as above.

THE tenants of Bowschielhill being pursued for their viccarage lands by Mr Patrick Hamilton, minister; my Lord Justice Clerk alleging that he was their master, and had interest to defend in the cause; and, that the Lords of Session had that privilege that their actions should be called in the inner-house, and that they were not holden to answer in the outer-house; THE LORDS found the allegiance relevant, and ordained the matter to be heard in their hail presence.

Fol. Dic. v. 1. p. 151. Haddington, MS. No 2249.

1669. *January 22.*

THE COLLECTOR-GENERAL of the TAXATION *against* THE DIRECTOR of the CHANCELLARY.

No 6.

The Director of the Chancery is a member of the College of Justice.

THE Director of the Chancery being charged for the present taxation, imposed in *anno* 1665 by the Convention of Estates, suspended on this reason, That he is a member of the College of Justice, which by the act of Convention are exempted.—It was *answered*, That the members of the College of Justice were never further extended than the Lords, Advocates, Clerks of Session, and Writers to the Signet.—It was *answered*, That the signet depends immediately and chiefly upon the Lords of Session, and writers thereto are of the College of Justice; so the Chancery depends in the same way upon the Lords, who issue orders thereto from time to time, to give out precepts direct to superiors, or to Bailies, Sheriffs for infesting of supplicants; and therefore the Director of the Chancery, being writer in that office, must enjoy that privilege, as well as the Writers to the Signet; for albeit the Director gives out precepts and

briefes of course, without the Lords' warrant, so do the Writers to the Signet give out many summons of course, without warrant.

No 6.

THE LORDS found the Director of the Chancellery to be a member of the College of Justice, and therefore suspended the letters.

Fol. Dic. v. 1. p. 151. Stair, v. 1. p. 588.

1675. June 24.

MUIR against MAXWELL.

JOHN MUIR having married one of the daughters of John Maxwell of Dalswinton, did pursue the eldest daughter, and Mr Hugh Maxwell her husband, to denude themselves of the half of the lands of Dalswinton, and to grant a back-bond for that effect, by sight of the Lords of Exchequer, who had granted a signator to Mr Hugh and his spouse of that estate, upon recognition, and had taken only back-bond to pay John Muir's wife 2000 merks, whereas she ought to have had equal interest with her sister, being only two heirs-portioners of John Maxwell. This being disputed before the Exchequer, Mr Hugh *alleged*, That he being infest in that estate, and having obtained decret of declarator against John Muir's wife, compearing before the Lords, the Exchequer were not Judges competent in the point of right; whereupon the Exchequer did remit the cause to the Lords, to be determined by them in common form. John Muir raised a reduction before the Lords, and gives in a bill, desiring that the process before the Exchequer, and the reduction, might be summarily discuss, in respect that Mr Hugh is an agent, and so a dependant upon the College of Justice.—It was *answered*, That there could be no insisting upon the process before the Exchequer upon the remit, because the Exchequer was no superior judicatory, which could remit to the Session; but by their remit they had sustained the declinator, which was equivalent to an absolutor. *2do*, Mr Hugh refuseth to be any member of the College of Justice, and is content to renounce any privilege therein; and though he were, the members or dependants of the College of Justice are now secured by the act of regulation, not to answer before their causes come in by the roll; neither were ever members of the College of Justice put to discuss their rights by declarators or reductions summarily upon bills.

THE LORDS found, That there could be no process upon the procedure before the Exchequer, and that the members or dependants of the College of Justice, were only obliged to answer upon bills as to what concerned their offices, or what was acted by them upon that account.

Fol. Dic. v. 1. p. 152. Stair, v. 2. p. 336.

No 7.

Members of the College of Justice are only obliged to answer summarily upon bill, as to what concerns their offices, or what is acted by them in that quality.