

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.