

1709. *February 26.* JAMES FORREST *against* JOHN CRAIG.

IN a competition for the mails and duties of some tenements in Edinburgh, betwixt James Forrest and John Craig, servant to Sir Walter Pringle, advocate, upon two adjudications, Craig OBJECTED,---Your adjudication is null; because there is a day assigned for the debtor to produce a progress, and yet the decret is of the same day's date; which Forrest observing to have been a mere error and mistake in the extractor, in making the decret of the same date with the act assigning a day to the defender to give in a progress, in terms of the Act of Parliament in 1672; and that the minutes and warrants were right and tight; therefore he, at his own hand, takes up his decret, and causes mend it; and then, reproducing it in the clerk's hand, he competes. But it being challenged as not the decret of adjudication which he had made use of before, he acknowledged the same, but affirmed he might lawfully mend it, conform to the principal minutes and warnings of process in the clerk's office.

The Lords found his adjudication null; seeing he should have applied to them, representing the mistake, and craved their authority to have been interposed to the emendation thereof.

Then he, by a bill, craved the Lords would allow him yet to extract a new decret of adjudication, conform to the true minutes and warrants.

This the Lords also refused, to deter any from manufacturing of writs, or putting their hands to them, without warrant of a judge; and remembered they had done the like some years ago, betwixt Mr David Dewar, advocate, and David French, writer in Edinburgh.

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1709. *June 1.* The OWNERS of the KATHARINE of ROTTERDAM *against* CAPTAIN GORDON and the OFFICERS of STATE.

[See the Report of this Case, Dictionary 11,936. The following procedure was the consequence of it.]

THE President produced a writ of subpcena served against him and the clerks, directed from a court of delegates of the Admiralty of England, in pursuance of a treaty of commerce betwixt them and the States of Holland, narrating, that the ship called the Katharine of Rotterdam was condemned by the Scots Admiralty, and then, in a reduction, by the Lords, as a lawful prize; whereof the States having complained, they now served inhibition by a *certiorari* against the Scots judicatories, not to raise horning, or use other execution thereon, till it be reviewed.

The Lords thought this an encroachment and invasion upon their supreme power and jurisdiction, and contrary to the nineteenth article of the Union, confirming the privileges of the Session. And, however their sentences may be cognosed by the Parliament and House of Peers, yet they owned none others above them. Some were for slighting it, as expecting no satisfactory reparation. Others thought, the Lords being guardians and keepers of the liberties and privileges of the Session, they could not pass it unnoticed; and so the generality